

**Laws 2021**

**First Session, Fifty-Fifth Legislature**

**Certificate of Authentication**

**CERTIFICATE OF AUTHENTICATION**

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

I, **MAGGIE TOULOUSE OLIVER**, Secretary of State of the State of New Mexico, do hereby certify that the printed law contained herein is a true and correct copy of the **ENROLLED AND ENGROSSED LAW** that was passed by the Fifty-Fifth State Legislature of New Mexico in its First Regular Session, which convened on the 19<sup>th</sup> day of January, 2021, and adjourned on the 20<sup>th</sup> day of March, 2021, in Santa Fe, the Capital of the State, as said copies appear on file in my office.

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

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



Done in the City of Santa Fe,  
the State Capital, this 12th day of  
April, 2021.

*Maggie Toulouse Oliver*

Maggie Toulouse Oliver  
Secretary of State

# **LAWS 2021, CONSTITUTIONAL AMENDMENT 1**

**HEC/House Joint Resolution 1, aa**

## **A JOINT RESOLUTION**

PROPOSING AN AMENDMENT TO ARTICLE 12, SECTION 7 OF THE CONSTITUTION OF NEW MEXICO TO PROVIDE FOR ADDITIONAL ANNUAL DISTRIBUTIONS OF THE PERMANENT SCHOOL FUND FOR ENHANCED INSTRUCTION FOR STUDENTS AT RISK OF FAILURE, EXTENDING THE SCHOOL YEAR, TEACHER COMPENSATION AND EARLY CHILDHOOD EDUCATION; REQUIRING CONGRESSIONAL APPROVAL FOR DISTRIBUTIONS FOR EARLY CHILDHOOD EDUCATION.

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

## **Constitutional Amendment 1 Section 1 Laws 2021**

SECTION 1. It is proposed to amend Article 12, Section 7 of the constitution of New Mexico to read:

"A. As used in this section, "land grant permanent funds" means the permanent school fund described in Article 12, Section 2 of this constitution and all other permanent funds derived from lands granted or confirmed to the state by the act of congress of June 20, 1910, entitled "An act to enable the people of New Mexico to form a constitution and state government and be admitted into the union on an equal footing with the original states."

B. The land grant permanent funds shall be invested by the state investment officer in accordance with policy rules promulgated by the state investment council.

C. In making investments, the state investment officer, under the supervision of the state investment council, shall invest and manage the land grant permanent funds in accordance with the Uniform Prudent Investor Act.

D. The legislature may establish criteria for investing the land grant permanent funds if the criteria are enacted by a three-fourths' vote of the members elected to each house, but investment of the land grant permanent funds is subject to the following restrictions:

(1) not more than sixty-five percent of the book value of the land grant permanent funds shall be invested at any given time in corporate stocks;

(2) not more than ten percent of the voting stock of a corporation shall be held; and

(3) stocks eligible for purchase shall be restricted to those stocks of businesses listed upon a national stock exchange or included in a nationally recognized list of stocks.

E. All additions to the land grant permanent funds and all earnings, including interest, dividends and capital gains from investment of the land grant permanent funds shall be credited to the land grant permanent funds.

F. The annual distributions from the land grant permanent funds to the beneficiaries specified in the Ferguson Act and the Enabling Act shall be five percent of the average of the year-end market values of the land grant permanent funds for the immediately preceding five calendar years.

G. In addition to the annual distributions made pursuant to Subsection F of this section, unless suspended pursuant to Subsection J of this section, an annual distribution of one and one-fourth percent of the average of the year-end market value of the permanent school fund for the immediately preceding five calendar years shall be made as provided in Subsection H of this section; provided that the additional

distribution shall not be made in any fiscal year if the average of the year-end market values of the land grant permanent funds for the immediately preceding five calendar years is less than seventeen billion dollars (\$17,000,000,000).

H. Unless suspended pursuant to Subsection G or J of this section, the additional distribution from the permanent school fund provided for in Subsection G of this section shall be as follows and as provided by law:

(1) forty percent of the additional distribution shall be for the public school permanent fund beneficiary for enhanced instruction for students at risk of failure, extending the school year and public school teacher compensation; and

(2) sixty percent of the additional distribution shall be for the provision of early childhood education.

I. As used in this section, "early childhood education" means nonsectarian and nondenominational education for children until they are eligible for kindergarten.

J. The legislature, by a three-fifths' vote of the members elected to each house, may suspend any additional distribution provided for in Subsection G of this section."

## **Constitutional Amendment 1 Section 2 Laws 2021**

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.

## **Constitutional Amendment 1 Section 3 Laws 2021**

SECTION 3. The distribution provided for in Paragraph (2) of Subsection H of Section 7 of Article 12 of the constitution of New Mexico shall not become effective without the consent of congress.

# **LAWS 2021, CHAPTER 1**

**House Bill 1**

**Approved January 21, 2021**

AN ACT

RELATING TO GENERAL APPROPRIATIONS; MAKING APPROPRIATIONS FOR THE EXPENSE OF THE FIFTY-FIFTH LEGISLATURE, FIRST SESSION, 2021, AND FOR OTHER LEGISLATIVE EXPENSES, INCLUDING THE LEGISLATIVE COUNCIL SERVICE, THE LEGISLATIVE FINANCE COMMITTEE, THE LEGISLATIVE EDUCATION STUDY COMMITTEE, THE SENATE RULES COMMITTEE, THE HOUSE CHIEF CLERK'S OFFICE, THE SENATE CHIEF CLERK'S OFFICE AND OTHER EXPENSES OF THE LEGISLATURE; MAKING APPROPRIATIONS TO THE DEPARTMENT OF PUBLIC SAFETY, THE DEPARTMENT OF MILITARY AFFAIRS AND THE ADMINISTRATIVE OFFICE OF THE COURTS.

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

## **Chapter 1 Section 1 Laws 2021**

### SECTION 1. SESSION EXPENSES.--

- A. There is appropriated from the general fund for the expense of the legislative department of the state of New Mexico for the first session of the fifty-fifth legislature for per diem and mileage of its members, for salaries of employees and for other expenses of the legislature, eight million four hundred eight thousand one hundred dollars (\$8,408,100) 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   | \$ 440,200;   |
| (2) | per diem for members of the house of representatives  | \$ 733,600;   |
| (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  | \$ 6,600;     |
| (4) | mileage traveled by members of the house of representatives going to and returning from the seat of government by the usually traveled route, one round trip  | \$ 10,700;    |
| (5) | salaries and employee benefits of senate employees  | \$ 2,763,600; |
| (6) | salaries and employee benefits of house of representatives employees  | \$ 1,979,800; |
| (7) | for expense of the senate not itemized above, six hundred forty-nine thousand two hundred dollars (\$649,200). 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 twenty-nine thousand nine hundred dollars (\$429,900). No part of this item may be transferred to salaries or employee benefits; and   |               |
| (9) | for session expenses of the legislative council service, the joint billroom and mailroom and joint legislative switchboard, one million three hundred ninety-four thousand five hundred dollars (\$1,394,500) to be disbursed upon vouchers signed by the director of the legislative council service or the director's designee. |               |

C. The expenditures for the senate shall be disbursed on vouchers signed by the chair of the committees' committee and the chief clerk of the senate or the chief



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

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

## **Chapter 1 Section 2 Laws 2021**

SECTION 2. BILLS AND OTHER PRINTED MATERIALS.--For the first session of the fifty-fifth legislature, bills, resolutions, joint resolutions, memorials and joint memorials delivered to the printer shall be returned by the printer to the joint billroom within forty-two hours after they are ordered to be printed. The billroom personnel shall supply a complete file of bills, resolutions, joint resolutions, memorials, joint memorials and other printed distribution materials to the following:

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

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

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

## **Chapter 1 Section 3 Laws 2021**

SECTION 3. LEGISLATIVE COUNCIL SERVICE.--There is appropriated from the general fund to the legislative council service for fiscal year 2022, to be disbursed on vouchers signed by the director of the legislative council service or the director's designee, the following:

Personal Services & Employee Benefits	\$4,857,000
Contractual Services	358,200
Other Costs	985,700
Total	\$6,200,900.

## **Chapter 1 Section 4 Laws 2021**

SECTION 4. LEGISLATURE.--There is appropriated from the general fund, unless otherwise indicated, for the expense of the legislative department, not provided for in Section 1 of this act, for fiscal year 2022, unless otherwise indicated, to be disbursed on vouchers signed by the director of the legislative council service or the director's designee, the following:

A. for travel expenses of legislators other than New Mexico legislative council members, on legislative council business, for committee travel, staff and other necessary expenses for other interim committees and for other necessary legislative expenses, for fiscal years 2021 and 2022, one million dollars (\$1,000,000); provided that the New Mexico legislative council may transfer amounts from the appropriation in this subsection, during the fiscal years for which appropriated, to any other legislative appropriation where they may be needed;

B. for pre-session expenditures and for necessary contracts, supplies and personnel for interim session preparation, four hundred twenty-five thousand dollars (\$425,000);

C. for a statewide legislative intern program, forty-seven thousand five hundred dollars (\$47,500);

D. for dues and fees of national organizations of which the legislature is a member, four hundred nineteen thousand five hundred dollars (\$419,500);

E. for the legislative information system, for fiscal years 2021 and 2022, one million six hundred seventeen thousand one hundred dollars (\$1,617,100);

F. for the interim duties of the senate rules committee, thirty-five thousand dollars (\$35,000); and

G. from legislative cash balances, one hundred fifty thousand dollars (\$150,000) for a rural infrastructure study to be completed as soon as practicable for presentation to and discussion with the appropriate legislative interim committees.

## **Chapter 1 Section 5 Laws 2021**

SECTION 5. LEGISLATIVE FINANCE COMMITTEE.--There is appropriated from the general fund to the legislative finance committee for fiscal year 2022, to be

disbursed on vouchers signed by the chair of the committee or the chair's designated representative, the following:

Personal Services & Employee Benefits	\$3,862,900
Contractual Services	299,900
Other Costs	270,000
Total	\$4,432,800.

## **Chapter 1 Section 6 Laws 2021**

SECTION 6. LEGISLATIVE EDUCATION STUDY COMMITTEE.--There is appropriated from the general fund to the legislative education study committee for fiscal year 2022, to be disbursed on vouchers signed by the chair of the committee or the chair's designated representative, the following:

Personal Services & Employee Benefits	\$1,155,200
Contractual Services	70,000
Other Costs	110,800
Total	\$1,336,000.

## **Chapter 1 Section 7 Laws 2021**

SECTION 7. HOUSE CHIEF CLERK.--There is appropriated from the general fund to the legislative council service for expenditure in fiscal year 2022 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	\$1,545,400
Contractual Services	127,100
Other Costs	45,000
Total	\$1,717,500.

## **Chapter 1 Section 8 Laws 2021**

SECTION 8. SENATE CHIEF CLERK.--There is appropriated from the general fund to the legislative council service for expenditure in fiscal year 2022 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	\$1,494,400
Contractual Services	218,800
Other Costs	53,600
Total	\$1,766,800.

## **Chapter 1 Section 9 Laws 2021**

SECTION 9. OFFICIAL MASTER DATABASE OF LAWS--SELF-PUBLICATION--FREE ACCESS TECHNOLOGY--HARD-COPY PUBLICATION.--There is appropriated from the legislative cash balances for the legislative department's share of the continued development required for the master database of official annotated laws of the state, markup language and tagging and its use for legislative document systems and a tagged database of the session laws and for the costs associated in collaborating with the New Mexico compilation commission on the ongoing development and expanding partnership role with the New Mexico compilation commission in the self-publication of the New Mexico Statutes Annotated 1978, including technology for freely accessible laws and hard-copy publication, four hundred thousand dollars (\$400,000) for expenditure during fiscal years 2021 and 2022.

## **Chapter 1 Section 10 Laws 2021**

SECTION 10. EXECUTIVE APPROPRIATIONS.--

A. One million four hundred eighty-four thousand dollars (\$1,484,000) is appropriated from the general fund to the department of public safety for expenditure in

fiscal year 2021 to provide personnel, equipment and other expenses necessary for the security of the state capitol during the first session of the fifty-fifth legislature.

B. Six hundred seventy-four thousand four hundred dollars (\$674,400) is appropriated from the general fund to the department of military affairs for expenditure in fiscal year 2021 to provide personnel, equipment and other expenses necessary for the security of the state capitol during the first session of the fifty-fifth legislature.

## **Chapter 1 Section 11 Laws 2021**

SECTION 11. JUDICIAL APPROPRIATION.--Two hundred thousand dollars (\$200,000) is appropriated from the general fund to the administrative office of the courts for expenditure in fiscal year 2021 for increased litigation expenses related to the public health orders issued by the secretary of health or executive orders issued by the governor and related to the coronavirus disease 2019 public health emergency.

## **Chapter 1 Section 12 Laws 2021**

SECTION 12. CATEGORY TRANSFER.--Amounts set out in Sections 3 through 8 of this act are provided for informational purposes only and may be transferred among categories.

## **Chapter 1 Section 13 Laws 2021**

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.

# **LAWS 2021, CHAPTER 2**

**Senate Bill 10, aa**

**Approved February 26, 2021**

AN ACT

REPEALING SECTIONS 30-5-1 THROUGH 30-5-3 NMSA 1978 (BEING LAWS 1969, CHAPTER 67, SECTIONS 1 THROUGH 3), WHICH PROVIDE DEFINITIONS, EXEMPTIONS AND CRIMINAL PENALTIES FOR CERTAIN ABORTIONS.

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

**Chapter 2 Section 1 Laws 2021**

SECTION 1. REPEAL.--Sections 30-5-1 through 30-5-3 NMSA 1978 (being Laws 1969, Chapter 67, Sections 1 through 3) are repealed.

**LAWS 2021, CHAPTER 3**

**HTRC/House Bill 11, aa, w/ec**  
**Approved February 26, 2021**

AN ACT

RELATING TO BUSINESS; AMENDING DEFINITIONS IN THE LOCAL ECONOMIC DEVELOPMENT ACT AND CONFORMING RELATED SECTIONS OF THE ACT; CHANGING THE NAME OF THE "LOCAL AND REGIONAL ECONOMIC DEVELOPMENT SUPPORT FUND" TO THE "LOCAL ECONOMIC DEVELOPMENT ACT FUND" AND THE PERMITTED USES OF THE FUND; CREATING A PROGRAM BETWEEN THE ECONOMIC DEVELOPMENT DEPARTMENT AND THE NEW MEXICO FINANCE AUTHORITY TO PROVIDE GRANTS TO CERTAIN BUSINESSES FOR REIMBURSEMENT OF RENT, LEASE AND MORTGAGE PAYMENTS; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

### **Chapter 3 Section 1 Laws 2021**

SECTION 1. Section 5-10-3 NMSA 1978 (being Laws 1993, Chapter 297, Section 3, as amended) is amended to read:

"5-10-3. DEFINITIONS.--As used in the Local Economic Development Act:

A. "arts and cultural district" means a developed district of public and private uses that is created pursuant to the Arts and Cultural District Act;

B. "broadband telecommunications network facilities" means the electronics, equipment, transmission facilities, fiber-optic cables and any other item directly related to a system capable of transmission of internet protocol or other formatted data at current federal communications commission baseline speed standard, all of which will be owned and used by a provider of internet access services;

C. "cultural facility" means a facility that is owned by the state, a county, a municipality or a qualifying entity that serves the public through preserving, educating and promoting the arts and culture of a particular locale, including theaters, museums, libraries, galleries, cultural compounds, educational organizations, performing arts venues and organizations, fine arts organizations, studios and media laboratories and live-work housing facilities;

D. "department" means the economic development department;

E. "economic development project" or "project" means the project of a qualifying entity for which public support may be provided pursuant to the Local Economic Development Act;



F. "governing body" means the city council, city commission or board of trustees of a municipality or the board of county commissioners of a county;

G. "local government" means a municipality or county;

H. "municipality" means an incorporated city, town or village;

I. "new full-time economic base job" means a job:

(1) that is primarily performed in New Mexico;

(2) that is held by an employee who is hired to work an average of at least thirty-two hours per week for at least forty-eight weeks per year;

(3) that is:

(a) involved, directly or in a supervisory capacity, with the production of: 1) a service; provided that the majority of the revenue generated from the service is from sources outside the state; or 2) tangible or intangible personal property for sale; or

(b) held by an employee who is employed at a regional, national or international headquarters operation or at an operation that primarily provides services for other operations of the qualifying entity that are located outside the state; and

(4) that is not directly involved with natural resources extraction or processing, on-site services where the customer is present for the delivery of the service, retail, construction or agriculture except for value-added processing performed on agricultural products that would then be sold for wholesale or retail consumption;

J. "person" means an individual, corporation, association, partnership or other legal entity;

K. "public support" means the provision of assistance by the state to a local or regional government or the provision of direct or indirect assistance to a qualifying entity by a local or regional government for an economic development project. "Public support":

(1) includes the provision of:

(a) land, buildings or other infrastructure, by purchase, lease, grant, construction, reconstruction, improvement or other acquisition or conveyance;

(b) the placement of new broadband telecommunications network facilities; provided that the facilities shall not serve a public facility or location that already meets federal communications commission baseline speed standards;

(c) rights-of-way infrastructure, including trenching and conduit, for the placement of new broadband telecommunications network facilities;

(d) public works improvements essential to the location or expansion of a qualifying entity;

(e) payments for professional services contracts necessary for local or regional governments to implement a plan or provide public support for a project;

(f) direct loans or grants for land, buildings or infrastructure;

(g) technical assistance to cultural facilities;

(h) loan guarantees securing the cost of land, buildings or infrastructure in an amount not to exceed the revenue that may be derived from an increment of the: 1) municipal gross receipts tax imposed at a rate not to exceed one-fourth percent and dedicated by the ordinance imposing the increment for projects; or 2)

county gross receipts tax imposed at a rate not to exceed one-eighth percent and dedicated by the ordinance imposing the increment for projects;

(i) grants for public works infrastructure improvements essential to the location or expansion of a qualifying entity and grants or subsidies to cultural facilities;

(j) land for a publicly held industrial park or a publicly owned cultural facility, by purchase; and

(k) the construction of a building for use by a qualifying entity;  
but

(2) does not include the purchase, lease, grant or other acquisition or conveyance of water rights;

L. "qualifying entity" means a corporation, limited liability company, partnership, joint venture, syndicate, association or other person that is one or a combination of two or more of the following:

(1) an industry for the manufacturing, processing or assembling of agricultural or manufactured products;

(2) a commercial enterprise for storing, warehousing, distributing or selling products of agriculture, mining or industry, but, other than as provided in Paragraph (5), (6) or (9) of this subsection, not including any enterprise for sale of goods or commodities at retail or for distribution to the public of electricity, gas, water or telephone or other services commonly classified as public utilities;

(3) a business, including a restaurant or lodging establishment, in which all or part of the activities of the business involves the supplying of services to the general public or to governmental agencies or to a specific industry or customer, but,

other than as provided in Paragraph (5) or (9) of this subsection, not including businesses primarily engaged in the sale of goods or commodities at retail;

(4) an Indian nation, tribe or pueblo or a federally chartered tribal corporation;

(5) a telecommunications sales enterprise that makes the majority of its sales to persons outside New Mexico;

(6) a facility for the direct sales by growers of agricultural products, commonly known as farmers' markets;

(7) a business that is the developer of a metropolitan redevelopment project;

(8) a cultural facility; and

(9) a retail business;

M. "regional government" means any combination of municipalities and counties that enter into a joint powers agreement to provide public support for economic development projects pursuant to a plan adopted by all parties to the joint powers agreement; and

N. "retail business" means a business that is primarily engaged in the sale of goods or commodities at retail and that is located in a municipality with a population, according to the most recent federal decennial census, of:

(1) fifteen thousand or less; or

(2) more than fifteen thousand but less than thirty-five thousand if:

(a) the economic development project is not funded or financed with state government revenues; and

(b) the business created through the project will not directly compete with an existing business that is: 1) in the municipality; and 2) engaged in the sale of the same or similar goods or commodities at retail."

## **Chapter 3 Section 2 Laws 2021**

SECTION 2. Section 5-10-4 NMSA 1978 (being Laws 1993, Chapter 297, Section 4, as amended) is amended to read:

"5-10-4. ECONOMIC DEVELOPMENT PROJECTS--RESTRICTIONS ON PUBLIC EXPENDITURES OR PLEDGES OF CREDIT.--

A. No local or regional government shall provide public support for economic development projects as permitted pursuant to Article 9, Section 14 of the constitution of New Mexico except as provided in the Local Economic Development Act or as otherwise permitted by law.

B. The total amount of public money expended and the value of credit pledged in the fiscal year in which that money is expended by a local government for economic development projects pursuant to Article 9, Section 14 of the constitution of New Mexico and the Local Economic Development Act shall not exceed ten percent of the annual general fund expenditures of the local government in that fiscal year. The limits of this subsection shall not apply to:

(1) the value of any land or building contributed to any project pursuant to a project participation agreement;

(2) revenue generated through the imposition of an increment of the municipal gross receipts tax at a rate not to exceed one-fourth percent and dedicated to

furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act; provided that no more than the greater of fifty thousand dollars (\$50,000) or ten percent of the revenue collected shall be used for promotion and administration of or professional services contracts related to the implementation of any such economic development plan adopted by the governing body;

(3) revenue generated through the imposition of an increment of the county gross receipts tax at a rate not to exceed one-eighth percent and dedicated to furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act; provided that no more than the greater of fifty thousand dollars (\$50,000) or ten percent of the revenue collected shall be used for promotion and administration of or professional services contracts related to the implementation of any such economic development plan adopted by the governing body;

(4) the proceeds of a revenue bond issue to which municipal infrastructure gross receipts tax revenue is pledged;

(5) the proceeds of a revenue bond issue to which the revenue from an increment of the county gross receipts tax, imposed at a rate not to exceed one-eighth percent and dedicated by the ordinance imposing the increment to provide public support for projects, is pledged; or

(6) funds donated by private entities to be used for defraying the cost of a project.

C. A regional or local government that generates revenue for economic development projects to which the limits of Subsection B of this section do not apply shall create an economic development fund into which such revenues shall be deposited. The economic development fund and income from the economic development fund shall be deposited as provided by law. Money in the economic

development fund may be expended only as provided in the Local Economic Development Act or the Statewide Economic Development Finance Act.

D. In order to expend money from an economic development fund for arts and cultural district purposes, cultural facilities or retail businesses, the governing body of a municipality or county that has imposed a municipal or county local option infrastructure gross receipts tax for furthering or implementing economic development plans and providing public support for projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act by referendum of the majority of the voters voting on the question approving the ordinance imposing the municipal or county infrastructure gross receipts tax before July 1, 2013 shall be required to adopt a resolution. The resolution shall call for an election to approve arts and cultural districts as a qualifying purpose and cultural facilities or retail businesses as a qualifying entity before any revenue generated by the municipal or county local option gross receipts tax for furthering or implementing economic development plans and providing public support for projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act can be expended from the economic development fund for arts and cultural district purposes, cultural facilities or retail businesses.

E. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of approving arts and cultural districts as a qualifying purpose and cultural facilities or retail businesses as a qualifying entity eligible to utilize revenue generated by the Municipal Local Option Gross Receipts and Compensating Taxes Act or the County Local Option Gross Receipts and Compensating Taxes Act for furthering or implementing economic development plans and providing public support for projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act.

F. The question shall be submitted to the voters of the municipality or county as a separate question at a regular local or county election or at a special election called for that purpose by the governing body. A special local election shall be called,

conducted and canvassed as provided in the Local Election Act. A special county election shall be called, conducted and canvassed in substantially the same manner as provided by law for general elections.

G. If a majority of the voters voting on the question approves the ordinance adding arts and cultural districts and cultural facilities or retail businesses as an approved use of the local option municipal or county economic development infrastructure gross receipts tax fund, the ordinance shall become effective on July 1 or January 1, whichever date occurs first after the expiration of three months from the date of the adopted ordinance. The ordinance shall include the effective date."

### **Chapter 3 Section 3 Laws 2021**

SECTION 3. Section 5-10-6 NMSA 1978 (being Laws 1993, Chapter 297, Section 6, as amended) is amended to read:

#### **"5-10-6. ECONOMIC DEVELOPMENT PLAN--CONTENTS--PUBLICATION.--**

A. Every local or regional government seeking to pursue economic development projects shall adopt an economic development plan or a comprehensive plan that includes an economic development component, and an economic development plan or comprehensive plan may include an analysis of the role of arts and cultural activities in economic development. The plan may be specific to a single economic development goal or strategy or may include several goals or strategies, including any goals or strategies relating to economic development through arts and cultural activities. Any plan or plan amendment shall be adopted by ordinance of the governing body of the local government or each local government of a regional government proposing the plan or plan amendment.

B. The economic development plan or the ordinance adopting the plan may:



(1) describe the local or regional government's economic development and community goals, including any economic development goals with an arts and cultural component, and assign priority to and strategies for achieving those goals;

(2) describe the types of qualifying entities and economic activities that will qualify for public support;

(3) describe the criteria to be used to determine eligibility for public support and a qualifying entity to participate in an economic development project;

(4) describe the manner in which a qualifying entity may submit an application for public support pursuant to Section 5-10-8 NMSA 1978, including the type of information required from the qualifying entity sufficient to ensure its solvency and ability to perform its contractual obligations, its commitment to remain in the community and its commitment to the stated economic development goals of the local or regional government;

(5) describe the process the local or regional government will use to verify the information submitted on an application for public support pursuant to Section 5-10-8 NMSA 1978;

(6) if an economic development project is determined to be unsuccessful or if a qualifying entity seeks to leave the area, describe the methods the local or regional government will use to terminate the local or regional government's public support and recoup its investment;

(7) identify revenue sources, including those of the local or regional government, that will be used to provide public support for economic development projects;

(8) identify other resources the local or regional government is prepared to offer qualifying entities, including specific land or buildings it is willing to lease, sell or grant a qualifying entity; community infrastructure it is willing to build,

extend or expand, including roads, water, sewers or other utilities; and professional services contracts by local or regional governments necessary to provide these resources;

(9) detail the minimum benefit the local or regional government requires from a qualifying entity, including the number and types of jobs to be created; the proposed payroll; repayment of loans, if any; purchase by the qualifying entity of local or regional government-provided land, buildings or infrastructure; the public to private investment ratio; and direct local tax base expansion;

(10) describe the safeguards of public resources that will be ensured, including specific ways the local or regional government can recover any costs, land, buildings or other thing of value if a qualifying entity ceases operation, relocates or otherwise defaults or reneges on its contractual or implied obligations to the local or regional government; and

(11) if a regional government, describe the joint powers agreement, including whether it can be terminated and, if so, how the contractual or other obligations, risks and any property will be assigned or divided among the local governments who are party to the agreement.

C. The economic development plan shall be printed and made available to the residents within the local or regional government area."

### **Chapter 3 Section 4 Laws 2021**

SECTION 4. Section 5-10-7 NMSA 1978 (being Laws 1993, Chapter 297, Section 7) is amended to read:

"5-10-7. REGIONAL PLANS--JOINT POWERS AGREEMENT--REGIONAL GOVERNMENT.--

A. Two or more municipalities, two or more counties or one or more municipalities and counties may enter into a joint powers agreement pursuant to the Joint Powers Agreements Act to develop a regional economic development plan, which may consist of existing local plans. The parties to the agreement shall be deemed a regional government for the purposes of the Local Economic Development Act.

B. The joint powers agreement shall require that the governing body of each local government approve public support for each economic development project. The agreement may also provide for appointment of a project manager who shall be responsible for the management of projects and project funds. The agreement may provide for a regional body consisting of representatives from the governing bodies of each local government that is a party to the agreement and may determine the powers and duties of that body in implementing the regional government's plan and providing public support for projects."

### **Chapter 3 Section 5 Laws 2021**

SECTION 5. Section 5-10-8 NMSA 1978 (being Laws 1993, Chapter 297, Section 8) is amended to read:

"5-10-8. APPLICATIONS FOR PUBLIC SUPPORT.--

A. After the adoption of an economic development plan by a local or regional government, a qualifying entity shall submit to the local or regional government an application for public support of a qualifying entity's economic development project.

B. The application shall be on a form and require such information as the local or regional government deems necessary."

## **Chapter 3 Section 6 Laws 2021**

SECTION 6. Section 5-10-9 NMSA 1978 (being Laws 1993, Chapter 297, Section 9, as amended) is amended to read:

"5-10-9. PROJECT EVALUATION--DEPARTMENT.--

A. The local or regional government shall review each application for public support submitted pursuant to Section 5-10-8 NMSA 1978, and any public support shall be approved by ordinance.

B. The local or regional government's evaluation of an application shall be based on the provisions of the economic development plan, the financial and management stability of the qualifying entity, the demonstrated commitment of the qualifying entity to the community, a cost-benefit analysis of the project and any other information the local or regional government believes is necessary for a full review of the economic development project application.

C. The local or regional government may negotiate with a qualifying entity on the type or amount of public support to be provided or on the scope of the economic development project."

## **Chapter 3 Section 7 Laws 2021**

SECTION 7. Section 5-10-11 NMSA 1978 (being Laws 1993, Chapter 297, Section 11) is amended to read:

"5-10-11. PROJECT REVENUES--SPECIAL FUND--ANNUAL AUDIT.--

A. Local or regional government revenues dedicated or pledged for public support for economic development projects shall be deposited in a separate account. Separate accounts shall be established for each separate project. Money in the special

account shall be expended only for economic development project purposes, which may include the payment of necessary professional services contract costs.

B. In the case of a regional government, revenues of each local government dedicated or pledged for economic development purposes shall be deposited in a special account of that local government and may be expended only by that local government as provided by the regional government's economic development plan and joint powers agreement.

C. The local or regional government shall provide for an annual independent audit in accordance with the Audit Act of each special fund and project account. The audit shall be submitted to the local or regional government. The audit is a public record."

### **Chapter 3 Section 8 Laws 2021**

SECTION 8. Section 5-10-12 NMSA 1978 (being Laws 1993, Chapter 297, Section 12) is amended to read:

"5-10-12. PLAN AND PROJECT TERMINATION.--

A. At any time after approval of an economic development plan, the governing body of the local government or the governing body of each local government in a regional government may enact an ordinance terminating the economic development plan and dissolving or terminating any or all public support for economic development projects. An ordinance repealing an economic development plan shall not be effective unless the ordinance provides for satisfying existing contracts and the rights of the parties arising from those contracts.

B. Any unexpended and unencumbered balances remaining in any project fund or account upon repeal of a plan and termination of public support for or dissolution of a project may be transferred to the general fund of the local government holding the

fund or account. In the case of funds or accounts of a regional government, the unexpended and unencumbered balances shall be divided among the local governments as provided in the joint powers agreement."

### **Chapter 3 Section 9 Laws 2021**

SECTION 9. Section 5-10-14 NMSA 1978 (being Laws 2020, Chapter 74, Section 1) is amended to read:

"5-10-14. LOCAL ECONOMIC DEVELOPMENT ACT FUND.--The "Local Economic Development Act fund" is created in the state treasury. Income from the fund shall be credited to the fund. Money in the fund shall not revert or be transferred to any other fund at the end of a fiscal year. The department shall administer the fund, and money in the fund is appropriated to the department to pay the cost of administering the fund and for economic development projects pursuant to the Local Economic Development Act. Money in the fund shall be expended on warrants of the department of finance and administration pursuant to vouchers signed by the secretary of economic development."

### **Chapter 3 Section 10 Laws 2021**

SECTION 10. A new section of the Local Economic Development Act is enacted to read:

"GRANTS TO REIMBURSE RENT, LEASE OR MORTGAGE PAYMENTS FOR CERTAIN BUSINESSES.--

A. Prior to January 1, 2023, the department may transfer to the authority funds appropriated by the legislature to the department for the purpose of providing recovery grants to recovery entities pursuant to this section.

B. The department and the authority shall enter into a memorandum of understanding to develop a program for the authority to accept a transfer of funds from the department pursuant to Subsection A of this section, to provide recovery grants to recovery entities, to accept and review applications for recovery grants and to disburse recovery grants to recovery entities. The authority shall require documentation from applicants of employment levels and rent, lease and mortgage payments for taxable year 2020 and subsequent taxable years in which a recovery entity applies for a recovery grant. The authority shall prioritize funding to applicants that had the greatest decline in business revenues between comparable quarters in taxable year 2019 to taxable year 2020. The department shall provide oversight of the program and may set policies and promulgate rules in accordance with this section. The authority may designate one or more application periods and shall review applications received in each period and provide a determination to the applicant within a reasonable amount of time after review. The first application period shall accept applications no later than June 30, 2021, and the last application period shall accept applications no later than December 31, 2021; provided that an application period for funds set aside pursuant to Subsection E of this section shall accept applications no later than June 30, 2022. The authority shall prioritize funding to applicants that had the greatest decline in business revenues between comparable quarters in taxable year 2019 to taxable year 2020.

C. To receive a recovery grant, a recovery entity shall agree to:

(1) use the proceeds of the recovery grant for reimbursement of rent, lease or mortgage obligations of the recovery entity for its business locations within the state of New Mexico;

(2) provide a written certification signed by an appropriate officer of the recovery entity that certifies that:

(a) the officer understands that, pursuant to the Local Economic Development Act, the recovery grant shall be accompanied by new job creation in accordance with department rules and policies and the terms of the agreement issued by the authority to the recovery entity in advance of disbursement of the recovery grant;

(b) all documents submitted in support of the recovery grant application are true and accurate to the best of the officer's knowledge;

(c) the officer has a reasonable basis to believe that, as of the date of a recovery grant application and receipt of any recovery grant, the recovery entity does not expect to permanently cease business operations or file for bankruptcy;

(d) as of the date of a recovery grant application and of receipt of a recovery grant, the recovery entity is current on all obligations pursuant to the Income Tax Act, the Corporate Income and Franchise Tax Act, the Withholding Tax Act, the Gross Receipts and Compensating Tax Act and the Unemployment Compensation Law applicable to the recovery entity's business operations; and

(e) all recovery grant proceeds will be used for the purpose of payment of rent, lease or mortgage payments of the recovery entity pursuant to the Local Economic Development Act;

(3) provide documentation to the authority demonstrating a decline in business revenues between taxable years 2019 and 2020;

(4) upon request, provide the department and the authority with information relevant to the reporting requirements of the department and the authority pursuant to Subsection H of this section; and

(5) submit an application to the authority for a recovery grant pursuant to rules established by the authority, but no later than June 30, 2022.

D. Up to one hundred thousand dollars (\$100,000) in a recovery grant may be provided to each recovery entity in quarterly payments in an amount of up to twenty-five percent of the total amount of the recovery grant awarded to the recovery entity. The department shall promulgate rules to determine the amount of a recovery grant; provided that, for each quarterly payment a recovery entity may be awarded a specified amount for each job created depending on the wages provided and the relative decline



in business revenues for taxable year 2020, not to exceed a total of twenty-five thousand dollars (\$25,000) per quarter. To remain eligible for additional quarterly payments, a recovery entity shall provide documentation to the department and to the authority demonstrating the following:

(1) the recovery entity remains active and open and can demonstrate a net increase in the number of full-time-equivalent employees relative to the immediately preceding quarter, as submitted quarterly to the workforce solutions department from the date of application to the date of receipt of a recovery grant payment;

(2) the recovery entity is current on state and local tax obligations; and

(3) the recovery entity paid rent, lease or mortgage obligations of the recovery entity for its business locations within the state of New Mexico from the date of application to the present request for a subsequent quarterly payment that exceeds all payments to the recovery entity to date pursuant to this section.

E. If, on the effective date of this section, there remains in effect a public health order that requires businesses to remain closed, the department and the authority shall set aside a portion of the funds available for recovery grants until such time as the public health order ceases to be in effect or is changed to permit all businesses subject to the public health order to be open. The portion set aside shall be estimated, at the discretion of the department and the authority, to represent the number of recovery entities and employees impacted by the public health order, but in no case shall exceed twenty percent of the total funds appropriated pursuant to Section 11 of this 2021 act.

F. If a recovery entity loses eligibility in a quarter, the authority shall set aside funds for the recovery entity to access should the recovery entity become eligible again in a succeeding quarter.

G. Information obtained by the department and the authority regarding individual recovery entity grant applicants shall be confidential and not subject to

inspection pursuant to the Inspection of Public Records Act; provided that nothing in this section shall prevent the department and the authority from disclosing broad demographic information and information relating to the total amount of recovery grants made, the total outstanding balance of recovery grants made and the names of the recovery entities that received recovery grants.

H. The department and the authority shall submit an annual report in each year of 2021 through 2023 to the legislature, the legislative finance committee, the New Mexico finance authority oversight committee, the revenue stabilization and tax policy committee and the interim legislative committee concerning economic and rural development. The report shall provide information regarding recovery grants made pursuant to this section. The report shall include:

- (1) the total dollar value of recovery grants made to date, along with breakouts of disbursements by quarterly payment number;
- (2) the number of recovery entities assisted, in total and by county;
- (3) the total number of new jobs created and the total number of employees currently employed by recovery entities that received grants;
- (4) the total projected annual payroll for the jobs created;
- (5) the total number of recovery grant applications;
- (6) the number of recovery entities, if any, that received initial payments but were determined to be ineligible for additional quarterly payments; and
- (7) an overview of the industries and types of business entities represented by recovery entities that received recovery grants.

I. As used in this section:

- (1) "authority" means the New Mexico finance authority;
- (2) "recovery entity" means a corporation, limited liability company, partnership, joint venture, syndicate, association or other person that:
  - (a) is a business operating in New Mexico with one or more employees but with fewer than seventy-five people employed at any of the business's business locations;
  - (b) is current on all state or local tax obligations; and
  - (c) experienced a decline in business revenue between one or more comparable quarters in taxable years 2019 and 2020, as determined by the economic development department and the authority based on documentation provided by the business;
- (3) "recovery grant" means a grant disbursed to a recovery entity by the authority from funds provided by the department for the purpose of reimbursement of rent, lease or mortgage payments of the recovery entity pursuant to the Local Economic Development Act; and
- (4) "taxable year" means "taxable year" as that term is used in the Income Tax Act or the Corporate Income and Franchise Tax Act, as applicable to a recovery entity."

### **Chapter 3 Section 11 Laws 2021**

SECTION 11. APPROPRIATION.--Two hundred million dollars (\$200,000,000) is appropriated from the general fund to the economic development department for expenditure in fiscal years 2021 through 2023 to provide grants pursuant to Section 10 of this act. Any unexpended or unencumbered balance remaining at the end of fiscal year 2023 shall revert to the general fund.

## **Chapter 3 Section 12 Laws 2021**

SECTION 12. EFFECTIVE DATE.--The effective date of the provisions of Sections 1 through 9 of this act is July 1, 2021.

## **Chapter 3 Section 13 Laws 2021**

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

# **LAWS 2021, CHAPTER 4**

**Senate Bill 1, aa, w/ec**  
**Approved March 3, 2021**

AN ACT

RELATING TO TAXATION; CREATING A 2020 INCOME TAX REBATE; CREATING A TEMPORARY GROSS RECEIPTS TAX DEDUCTION FOR CERTAIN FOOD AND BEVERAGE ESTABLISHMENTS; DISTRIBUTING THE LOSS OF LOCAL OPTION GROSS RECEIPTS TAX REVENUE ATTRIBUTABLE TO THE DEDUCTION TO LOCAL GOVERNMENTS; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

## **Chapter 4 Section 1 Laws 2021**

SECTION 1. A new section of the Tax Administration Act is enacted to read:

"DISTRIBUTION--OFFSET FOR FOOD AND BEVERAGE ESTABLISHMENTS DEDUCTION.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to a municipality in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the sum of the deductions claimed pursuant to Section 3 of this 2021 act for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality on January 1, 2021 plus one and two hundred twenty-five thousandths percent.

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to a county in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the sum of the total deductions claimed pursuant to Section 3 of this 2021 act for the month by taxpayers from business locations:

(1) within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect on January 1, 2021 that are imposed in the county; and

(2) in the county but not within a municipality multiplied by the combined rate of all county local option gross receipts taxes in effect on January 1, 2021 that are imposed in the county area not within a municipality.

C. A distribution pursuant to this section may be adjusted for a distribution made to a tax increment development district with respect to a portion of a gross receipts tax increment dedicated by a municipality pursuant to the Tax Increment for Development Act.

D. For the purposes of this section, "business locations attributable to the municipality" means business locations:

(1) within the municipality;

(2) on land owned by the state, commonly known as the "state fairgrounds", within the exterior boundaries of the municipality;

(3) outside the boundaries of the municipality on land owned by the municipality; and

(4) on an Indian reservation or pueblo grant in an area that is contiguous to the municipality and in which the municipality performs services pursuant to a contract between the municipality and the Indian tribe or Indian pueblo if:

(a) the contract describes an area in which the municipality is required to perform services and requires the municipality to perform services that are substantially the same as the services the municipality performs for itself; and

(b) the governing body of the municipality has submitted a copy of the contract to the secretary."

## **Chapter 4 Section 2 Laws 2021**

SECTION 2. A new section of the Income Tax Act is enacted to read:

"2020 INCOME TAX REBATE.--

A. A resident who is not a dependent of another individual and has received a working families tax credit for which the taxpayer was eligible to claim against the resident's income tax liability for taxable year 2020 may be eligible for a tax rebate of six hundred dollars (\$600); provided that the resident had the following adjusted gross income for taxable year 2020:

(1) for single individuals, an adjusted gross income of thirty-one thousand two hundred dollars (\$31,200) or less; and

(2) for heads of household, surviving spouses and married individuals filing joint returns, an adjusted gross income of thirty-nine thousand dollars (\$39,000) or less.

B. The rebate provided by this section may be deducted from the taxpayer's New Mexico income tax liability.

C. If the amount of rebate exceeds the taxpayer's income tax liability, the excess shall be refunded to the taxpayer.

D. The department may require a taxpayer to claim the rebate provided by this section on forms and in a manner required by the department.

E. The rebate provided by this section shall not be allowed after June 30, 2022."

## **Chapter 4 Section 3 Laws 2021**

SECTION 3. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"DEDUCTION--GROSS RECEIPTS--FOOD OR BEVERAGE ESTABLISHMENTS.--

A. Beginning March 1, 2021 and prior to July 1, 2021, receipts of a food or beverage establishment from the sale of prepared food or non-packaged beverages that are served or picked up at the food or beverage establishment by or delivered to customers for immediate consumption may be deducted from gross receipts.

B. The deduction provided by this section shall be applied only to gross receipts remaining after all other allowable deductions available under the Gross

Receipts and Compensating Tax Act have been taken and shall be separately stated by the taxpayer.

C. As used in this section:

(1) "craft distiller" means an establishment owned or managed by person issued a craft distiller's license pursuant to Section 60-6A-6.1 NMSA 1978 that is in good standing;

(2) "dispenser" means an establishment that is held out to the public as a place where alcoholic beverages are prepared and served for on-premises consumption to the general public in consideration of payment and that has the facilities and employees necessary for preparing and serving alcoholic beverages; provided that the dispenser has been issued a license pursuant to the Liquor Control Act as a dispenser;

(3) "food or beverage establishment" means a craft distiller; dispenser; mobile food service establishment; restaurant; small brewer; or winegrower;

(4) "mobile food service establishment" means a mobile establishment where meals are prepared for sale to or consumption by the general public either on or off the premises and has been issued a permit pursuant to Section 25-1-7 NMSA 1978 that is in good standing;

(5) "restaurant" means an establishment that is held out to the public as a place where meals and beverages are prepared and primarily intended to be served for on-premises consumption to the general public in consideration of payment and that has a dining room, a kitchen and the employees necessary for preparing, cooking and serving meals; provided the restaurant has been issued a permit pursuant to Section 25-1-7 NMSA 1978 that is in good standing and, if the restaurant serves alcoholic beverages, has been issued a license pursuant to Section 60-6A-4 NMSA 1978. "Restaurant" does not include an establishment commonly known as a fast food restaurant that dispenses food intended to be ordered, prepared and served quickly,



with minimal or no table service, and prepared in quantity by a standardized method for consumption on and off premises, and that tends to have any of the following characteristics:

(a) a menu consisting primarily of pre-cooked items or items prepared in advance and heated quickly;

(b) placement of orders at a fast serve drive-through or walk-up window;

(c) service of food solely in disposable wrapping or containers;  
or

(d) a menu that exclusively sells hamburgers, sandwiches, salads and other fast foods;

(6) "small brewer" means an establishment owned or managed by a person issued a small brewer's license pursuant to Section 60-6A-26.1 NMSA 1978 that is in good standing; and

(7) "winegrower" means an establishment owned or managed by a person issued a winegrower's license pursuant to Section 60-6A-11 NMSA 1978 that is in good standing."

## **Chapter 4 Section 4 Laws 2021**

SECTION 4. TEMPORARY PROVISION--AMOUNTS IN LIEU OF GROSS RECEIPTS.--Any amount passed on to a customer in lieu of a gross receipts tax on receipts for which a food or beverage establishment may deduct pursuant to Section 3 of this 2021 act shall not be considered gross receipts.

## **Chapter 4 Section 5 Laws 2021**

SECTION 5. APPROPRIATION.--Three hundred thousand dollars (\$300,000) is appropriated from the general fund to the taxation and revenue department for expenditure in fiscal years 2021 and 2022 to administer the income tax rebate and gross receipts tax deduction provided by this act. Any unexpended or unencumbered balance remaining at the end of fiscal year 2022 shall revert to the general fund.

## **Chapter 4 Section 6 Laws 2021**

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

# **LAWS 2021, CHAPTER 5**

**SFC/Senate Bill 3, w/ec  
Approved March 3, 2021**

## **AN ACT**

RELATING TO ECONOMIC RECOVERY; CHANGING THE NAME OF THE SMALL BUSINESS RECOVERY ACT OF 2020 TO THE SMALL BUSINESS RECOVERY AND STIMULUS ACT; CHANGING CERTAIN DEFINITIONS WITHIN THE SMALL BUSINESS RECOVERY AND STIMULUS ACT; EXTENDING THE DEADLINE TO APPLY FOR A SMALL BUSINESS RECOVERY LOAN; DELAYING THE REVERSION OF THE SMALL BUSINESS RECOVERY LOAN FUND; CHANGING THE TERMS OF SMALL BUSINESS RECOVERY LOANS; PERMITTING THE REQUIREMENT OF A PERSONAL GUARANTEE OR COLLATERAL FOR CERTAIN LOANS; ALLOWING A RECIPIENT OF A PREVIOUS SMALL BUSINESS RECOVERY LOAN TO REFINANCE THE LOAN SUBJECT TO THE TERMS OF THIS ACT; INCREASING THE AMOUNT OF THE SEVERANCE TAX PERMANENT FUND INVESTED PURSUANT TO THE SMALL BUSINESS RECOVERY AND STIMULUS ACT; CLARIFYING

CONFIDENTIALITY PROVISIONS; REPEALING SECTION 6-32-6 NMSA 1978 (BEING LAWS 2020 (1ST S.S.), CHAPTER 6, SECTION 6); DECLARING AN EMERGENCY.

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

## **Chapter 5 Section 1 Laws 2021**

SECTION 1. Section 6-32-1 NMSA 1978 (being Laws 2020 (1st S.S.), Chapter 6, Section 1) is amended to read:

"6-32-1. SHORT TITLE.--Chapter 6, Article 32 NMSA 1978 may be cited as the "Small Business Recovery and Stimulus Act"."

## **Chapter 5 Section 2 Laws 2021**

SECTION 2. Section 6-32-2 NMSA 1978 (being Laws 2020 (1st S.S.), Chapter 6, Section 2) is amended to read:

"6-32-2. DEFINITIONS.--As used in the Small Business Recovery and Stimulus Act:

- A. "authority" means the New Mexico finance authority;
- B. "New Mexico resident" means an individual who is domiciled in this state during any part of the year or an individual who is physically present in this state for one hundred eighty-five days or more during the taxable year;
- C. "non-employer business" means a qualifying small business that has no paid employees;

D. "ordinary and necessary business expenses" means all expenses, including expenses and capital expenses incurred to operate the business in compliance with a public health order;

E. "qualifying small business" means a business or nonprofit corporation that:

(1) can demonstrate, as determined by the authority, that it has sustained a substantial decline in gross revenue or a substantial disruption to its operations due to the public health orders issued by the secretary of health and related to the coronavirus disease 2019 public health emergency;

(2) had an annual net revenue of less than five million dollars (\$5,000,000) as determined by the authority; and

(3) is organized and operated as a nonprofit corporation or is owned as follows:

(a) for a sole proprietorship, one hundred percent of the assets of the business are owned or leased by a New Mexico resident; and

(b) for a corporation, partnership, joint venture, limited liability company, limited partnership or other business entity, at least fifty-one percent of the total voting power of the entity and at least fifty-one percent of the total value of the equity is owned by one or more New Mexico residents or the business entity maintains a physical business location within the state and has employed at least ten full-time New Mexico resident employees at any time since January 1, 2019; and

F. "nonprofit corporation" means an organization that has been granted exemption from the federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3), 501(c)(6), 501(c)(8), 501(c)(19) or 501(c)(23) of the United States Internal Revenue Code of 1986 and subject to the provisions of the Nonprofit Corporation Act."

## **Chapter 5 Section 3 Laws 2021**

SECTION 3. Section 6-32-3 NMSA 1978 (being Laws 2020 (1st S.S.), Chapter 6, Section 3) is amended to read:

"6-32-3. SMALL BUSINESS RECOVERY LOAN FUND--CREATED--FUNDING SCHEDULE.--

A. The "small business recovery loan fund" is created in the authority. The fund consists of appropriations, gifts, grants, deposits, transfers and donations to the fund. Money in the fund is appropriated to the authority to administer the provisions of the Small Business Recovery and Stimulus Act. The authority shall administer the fund. Balances remaining in the fund as of December 31, 2022 and not identified by the authority as necessary to administer the Small Business Recovery and Stimulus Act over the life of the loans provided pursuant to that act shall revert to the severance tax permanent fund. The authority may expend no more than two percent of the state investment council's commitment pursuant to Section 7-27-5.15 NMSA 1978 for administering the Small Business Recovery and Stimulus Act.

B. Upon the effective date of this 2021 act, the authority and the state investment council shall coordinate to develop a funding schedule to ensure that sufficient funding, as provided for in Section 7-27-5.15 NMSA 1978, is made available to the authority to carry out the provisions of the Small Business Recovery and Stimulus Act."

## **Chapter 5 Section 4 Laws 2021**

SECTION 4. Section 6-32-4 NMSA 1978 (being Laws 2020 (1st S.S.), Chapter 6, Section 4) is amended to read:

"6-32-4. LOANS--TERMS.--

A. The authority shall receive and review applications for small business recovery loans pursuant to the Small Business Recovery and Stimulus Act. The authority may designate one or more application periods and shall review small business recovery loan applications received in each application period in the order in which the completed applications were received and shall provide a determination to the applicant within a reasonable time period after review. The authority shall make loans to qualifying small businesses; provided that funds are available and the qualifying small business satisfies credit and identification criteria, as determined by the authority. The authority shall adopt rules to govern the application procedures and requirements for disbursing loans under the Small Business Recovery and Stimulus Act, including requirements consistent with the purpose of that act for determining the eligibility of qualifying small businesses for loans; provided that the authority may issue rules to permit a business that does not have a record of actual losses, but can otherwise satisfy the requirements of the Small Business Recovery and Stimulus Act, to apply for a small business recovery loan.

B. The authority shall evaluate an application based on information received from the applicant as well as third-party credit and identification reports.

C. The authority shall make small business recovery loans in accordance with the following:

(1) the loan amount shall be in an amount not to exceed three hundred percent of the qualifying small business's average monthly business expenses as determined by the authority; provided that the maximum loan amount shall be no greater than one hundred fifty thousand dollars (\$150,000);

(2) the terms of the loan shall require that:

(a) for a loan recipient that is not a non-employer business, the recipient shall use a minimum of eighty percent of the proceeds of the loan for: 1) ordinary and necessary business expenses, including capital expenses, other than compensation for an individual who owns equity in the business; 2) making adaptations

or improvements to assets, including real property, that are necessary due to the coronavirus disease 2019 public health emergency to protect the public health; and 3) purchasing or improving any assets for the purpose of developing and growing the qualifying small business's e-commerce production and sales capacity;

(b) for a loan recipient that is a non-employer business, the recipient shall use a minimum of fifty percent of the proceeds of the loan for: 1) ordinary and necessary business expenses, including capital expenses, other than compensation for an individual who owns equity in the business; 2) making adaptations or improvements to assets, including real property, that are necessary due to the coronavirus disease 2019 public health emergency to protect the public health; and 3) purchasing or improving any assets for the purpose of developing and growing the qualifying small business's e-commerce production and sales capacity;

(c) the loan recipient provide a written certification signed by an appropriate officer of the qualifying small business that certifies that: 1) the officer understands that the business is receiving a loan under the Small Business Recovery and Stimulus Act that must be repaid by the business with interest under the terms of the loan agreement; 2) all documents submitted in support of the loan application and all statements and certifications made in the loan application are true and accurate to the best of the officer's knowledge; 3) prior to the issuance of the public health order issued by the secretary of health on March 23, 2020, the business was current on all obligations pursuant to the Income Tax Act, the Corporate Income and Franchise Tax Act, the Withholding Tax Act, the Gross Receipts and Compensating Tax Act and the Unemployment Compensation Law applicable to the business's operations; and 4) all loan proceeds will be used for purposes as provided in the Small Business Recovery and Stimulus Act, including that no more than twenty percent of the proceeds may be used as compensation for employees who own equity in the business; and

(d) the loan recipient provide the authority with ongoing information relevant to the reporting requirements of the authority provided in Section 6-32-7 NMSA 1978;

(3) the terms of the loan shall not require that the qualifying small business provide a personal guarantee or collateral to secure a loan in the amount of seventy-five thousand dollars (\$75,000) or less. For a loan in an amount greater than seventy-five thousand dollars (\$75,000), the authority may require a personal guarantee or collateral to secure the amount of the loan greater than seventy-five thousand dollars (\$75,000); provided that the authority shall define specific guidelines related to personal guarantees or collateral; and

(4) the application for a loan must be received no later than May 31, 2022.

D. The authority may exercise any power provided to the authority in the New Mexico Finance Authority Act to assist in the administration of the Small Business Recovery and Stimulus Act; provided that the power is consistent with the provisions of that act."

## **Chapter 5 Section 5 Laws 2021**

SECTION 5. Section 6-32-5 NMSA 1978 (being Laws 2020 (1st S.S.), Chapter 6, Section 5) is amended to read:

"6-32-5. REPAYMENT.--

A. Small business recovery loans shall be made for loan periods not to exceed ten years, as determined by the authority. The loans shall bear an annual interest rate equal to one-half of the *Wall Street Journal* prime rate on the date the loan is made; provided that no interest shall accrue during the first year of the loan.

B. Interest shall begin to accrue on a small business recovery loan on the first anniversary of the funding date of the loan. Thereafter, for the next two years, the authority shall require interest-only payments on a schedule determined by the authority. Beginning on the third anniversary of the funding date of the loan, payment on



the outstanding principal and interest on the loan shall be due on a schedule determined by the authority for the remainder of the loan period.

C. Receipts from the repayment of principal or interest accrued on the loans made pursuant to the Small Business Recovery and Stimulus Act shall be transferred from the authority to the state investment council and deposited in the severance tax permanent fund.

D. No provision in a small business recovery loan or the evidence of indebtedness of the loan shall include a penalty or premium for prepayment of the balance of the indebtedness."

## **Chapter 5 Section 6 Laws 2021**

SECTION 6. Section 6-32-7 NMSA 1978 (being Laws 2020 (1st S.S.), Chapter 6, Section 7) is amended to read:

### **"6-32-7. REPORTS--CONFIDENTIALITY.--**

A. Prior to October 1, 2021 and each October 1 for the proceeding four years, the authority shall submit a report to the legislature, the legislative finance committee, the New Mexico finance authority oversight committee, the revenue stabilization and tax policy committee and any other appropriate legislative interim committee. The report shall provide details regarding the loans made pursuant to the Small Business Recovery and Stimulus Act. The report shall include:

- (1) the total number of loans made pursuant to that act;
- (2) the total number of loan applications;
- (3) the average amount of money provided to loan applicants;

(4) the total number of loans and the amount of those loans, if any, in a delinquent status or default;

(5) the total number of loan recipients that are in the process of filing or have filed for bankruptcy;

(6) the total number of employees currently employed by a business that received a loan; and

(7) an overview of the industries and types of business entities represented by loan recipients.

B. Information obtained by the authority regarding individual loan applicants, including information used to analyze an application, is confidential and not subject to inspection pursuant to the Inspection of Public Records Act; provided that nothing in this section shall prevent the authority from disclosing broad demographic information and information relating to the total amount of loans made, the total outstanding balance of loans made pursuant to the Small Business Recovery and Stimulus Act and the names of the loan recipients."

## **Chapter 5 Section 7 Laws 2021**

SECTION 7. Section 7-27-5.15 NMSA 1978 (being Laws 1990, Chapter 126, Section 5, as amended) is amended to read:

"7-27-5.15. NEW MEXICO PRIVATE EQUITY FUNDS AND NEW MEXICO BUSINESS INVESTMENTS.--

A. In addition to the investments required by Subsections F and G of this section, no more than eleven percent of the market value of the severance tax permanent fund may be invested in New Mexico private equity funds or New Mexico businesses under this section.

B. In making investments pursuant to Subsection A of this section, the council shall make investments in New Mexico private equity funds or New Mexico businesses whose investments or enterprises enhance the economic development objectives of the state.

C. The state investment officer shall make investments pursuant to Subsection A of this section only upon approval of the council and within guidelines and policies established by the council.

D. As used in this section:

(1) "New Mexico business" means, in the case of a corporation or limited liability company, a business with its principal office and a majority of its full-time employees located in New Mexico or, in the case of a limited partnership, a business with its principal place of business and eighty percent of its assets located in New Mexico; and

(2) "New Mexico private equity fund" means an entity that makes, manages or sources potential investments in New Mexico businesses and that:

(a) has as its primary business activity the investment of funds in return for equity in or debt of businesses for the purpose of providing capital for start-up, expansion, product or market development, recapitalization or similar business purposes;

(b) holds out the prospects for capital appreciation from such investments;

(c) has at least one full-time manager with at least three years of professional experience in assessing the growth prospects of businesses or evaluating business plans;

(d) is committed to investing or helps secure investing by others, in an amount at least equal to the total investment made by the state investment officer in that fund pursuant to this section, in businesses with a principal place of business in New Mexico and that hold promise for attracting additional capital from individual or institutional investors nationwide for businesses in New Mexico; and

(e) accepts investments only from accredited investors as that term is defined in Section 2 of the federal Securities Act of 1933, as amended (15 USCA Section 77(b)), and rules and regulations promulgated pursuant to that section, or federally recognized Indian tribes, nations and pueblos with at least five million dollars (\$5,000,000) in overall investment assets.

E. The state investment officer is authorized to make investments in New Mexico businesses to create new job opportunities and to support new, emerging or expanding businesses in a manner consistent with the constitution of New Mexico if:

(1) the investments are made:

(a) in conjunction with cooperative investment agreements with parties that have demonstrated abilities and relationships in making investments in new, emerging or expanding businesses;

(b) in a New Mexico aerospace business that has received an award from the United States government or one of its agencies or instrumentalities: 1) in an amount, not less than one hundred million dollars (\$100,000,000), that is equal to at least ten times the investment from the severance tax permanent fund; and 2) for the purpose of stimulating commercial enterprises; or

(c) in a New Mexico business that: 1) is established to perform technology transfer, research and development, research commercialization, manufacturing, training, marketing or public relations in any field of science or technology, including but not limited to energy, security, defense, aerospace, automotives, electronics, telecommunications, computer and information science,

environmental science, biomedical science, life science, physical science, materials science or nanoscience, using research developed in whole or in part by a state institution of higher education or a prime contractor designated as a national laboratory by an act of congress that is operating a facility in the state, or an affiliated entity; and 2) has an agreement to operate the business on state lands;

(2) an investment in any one business does not exceed ten percent of the amount available for investment pursuant to this section; and

(3) the investments represent no more than fifty-one percent of the total investment capital in a business; provided, however, that nothing in this subsection prohibits the ownership of more than fifty-one percent of the total investment capital in a New Mexico business if the additional ownership interest:

(a) is due to foreclosure or other action by the state investment officer pursuant to agreements with the business or other investors in that business;

(b) is necessary to protect the investment; and

(c) does not require an additional investment of the severance tax permanent fund.

F. In addition to the investments required by Subsections A and G of this section, the state investment officer shall make a commitment to the small business investment corporation pursuant to the Small Business Investment Act to invest two percent of the market value of the severance tax permanent fund to create new job opportunities by providing capital for land, buildings or infrastructure for facilities to support new or expanding businesses and to otherwise make investments to create new job opportunities to support new or expanding businesses in a manner consistent with the constitution of New Mexico. On July 1 of each year, the state investment officer shall determine whether the invested capital in the small business investment corporation is less than two percent of the market value of the severance tax permanent fund. If the invested capital in the small business investment corporation equals less

than two percent of the market value of the severance tax permanent fund, further commitments shall be made until the invested capital is equal to two percent of the market value of the fund.

G. In addition to the investments provided for in Subsections A and F of this section, the state investment officer shall make a commitment to the New Mexico finance authority to invest five hundred million dollars (\$500,000,000) of the severance tax permanent fund in investments made pursuant to the Small Business Recovery and Stimulus Act; provided that:

(1) investments made pursuant to and in compliance with the Small Business Recovery and Stimulus Act shall be deemed to be in compliance with the prudent investor rule set forth in the Uniform Prudent Investor Act; and

(2) the New Mexico finance authority shall not be held liable for investments made pursuant to this subsection that do not provide a return on investment that is comparable to other differential rate investments made pursuant to the Severance Tax Bonding Act.

H. The state investment officer shall report semiannually on the investments made pursuant to this section. Annually, a report shall be submitted to the legislature prior to the beginning of each regular legislative session and a second report no later than October 1 each year to the legislative finance committee, the revenue stabilization and tax policy committee and any other appropriate interim committee. Each report shall provide the amounts invested in each New Mexico private equity fund, as well as information about the objectives of the funds, the companies in which each private equity fund is invested and how each private equity investment enhances the economic development objectives of the state. Each report also shall provide the amounts invested in each New Mexico business."

## **Chapter 5 Section 8 Laws 2021**

SECTION 8. TEMPORARY PROVISION--REFINANCING OF PREVIOUS LOANS.--For any small business recovery loan provided pursuant to the New Mexico Small Business Recovery Act of 2020 made prior to the effective date of this act, the New Mexico finance authority shall permit the recipient of that loan to refinance the loan subject to terms consistent with this 2021 act.

## **Chapter 5 Section 9 Laws 2021**

SECTION 9. REPEAL.--Section 6-32-6 NMSA 1978 (being Laws 2020 (1st S.S.), Chapter 6, Section 6) is repealed.

## **Chapter 5 Section 10 Laws 2021**

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

# **LAWS 2021, CHAPTER 6**

**Senate Bill 2, aa, w/ec**  
**Approved March 9, 2021**

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; WAIVING THE NEXT ANNUAL RENEWAL FEE FOR LICENSES ISSUED PURSUANT TO THE LIQUOR CONTROL ACT; DECLARING AN EMERGENCY.

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

## Chapter 6 Section 1 Laws 2021

SECTION 1. Section 60-6B-5 NMSA 1978 (being Laws 2015, Chapter 86, Section 2) is amended to read:

### "60-6B-5. EXPIRATION AND RENEWAL OF LICENSES.--

A. All licenses provided for in the Liquor Control Act, except for nonresident licenses and common carrier registrations, shall be issued for a one-year period except for new licenses issued after the beginning of the license year. Nonresident licenses and common carrier registrations shall be issued for a three-year period.

B. The license year for dispenser, retailer and canopy licenses shall end on June 30 of each year. All dispenser, retailer and canopy licenses shall expire on June 30 unless renewed. The annual renewal application and renewal fee are due on April 1 of each year.

C. The license year for restaurant, club, wholesaler and manufacturer licenses shall end on October 31 of each year. All restaurant, club, wholesaler and manufacturer licenses shall expire on October 31 unless renewed. The annual renewal application and renewal fee are due on August 1 of each year.

D. All licenses not provided for in Subsections B and C of this section, except nonresident licenses and common carrier registrations, shall expire on February 28 of each year. The annual renewal application and renewal fee are due on December 1 of each year.

E. Nonresident licenses and common carrier registrations shall expire on June 30 every three years. The renewal application and renewal fee are due on April 1 of each third year.



F. A license shall not be issued or renewed if the applicant or licensee is delinquent in payment of any taxes administered by the taxation and revenue department.

G. The director shall also determine whether there exists any other reason why a license should not be renewed.

H. If the director determines that the license should not be renewed, the director shall enter an order requiring the licensee, after notice, to show cause why the license should be renewed, and the director shall conduct a hearing on the matter. If, after the hearing, the director finds that no reason exists why the license should not be renewed, the director shall renew the license.

I. Beginning on the effective date of this 2021 act, the director shall waive the next annual renewal fee for all licenses provided for in the Liquor Control Act."

## **Chapter 6 Section 2 Laws 2021**

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

# **LAWS 2021, CHAPTER 7**

**HTRC/House Bill 255, aa, w/cc**  
**Approved March 17, 2021**

AN ACT

RELATING TO LIQUOR CONTROL; AMENDING AND ENACTING SECTIONS OF THE LIQUOR CONTROL ACT TO PERMIT CERTAIN PERSONS TO DELIVER ALCOHOLIC BEVERAGES; ADDING A NEW TYPE OF RESTAURANT LICENSE THAT ALLOWS SALE OF ALCOHOLIC BEVERAGES IN RESTAURANTS; IMPOSING

LICENSE ISSUANCE FEES; PROVIDING DEDUCTIONS FROM THE INCOME TAX, CORPORATE INCOME TAX AND GROSS RECEIPTS TAX FOR CERTAIN LICENSE HOLDERS; ALLOWING DISPENSER'S LICENSES TO BE TRANSFERRED OUT OF A LOCAL OPTION DISTRICT INTACT.

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

## **Chapter 7 Section 1 Laws 2021**

SECTION 1. A new section of the Income Tax Act is enacted to read:

"DEDUCTION--INCOME FROM LEASING A LIQUOR LICENSE.--

A. Prior to January 1, 2026, a taxpayer who is a liquor license lessor and who held the license on June 30, 2021 may claim a deduction from net income in an amount equal to the gross receipts from sales of alcoholic beverages made by each liquor license lessee in an amount, if the liquor license is a dispenser's license and sales of alcoholic beverages for consumption off premises are less than fifty percent of total alcoholic beverage sales, not to exceed fifty thousand dollars (\$50,000) for each of four taxable years.

B. Married individuals filing separate returns for a taxable year for which they could have filed a joint return may each claim only one-half of a deduction provided by this section that would have been claimed on a joint return.

C. A taxpayer may claim the deduction provided by this section in proportion to the taxpayer's ownership interest if the taxpayer owns an interest in a business entity that is taxed for federal income tax purposes as a partnership or limited liability company and that business entity has met all of the requirements to be eligible for the deduction. The total deduction claimed in the aggregate by all members of the partnership or association with respect to the deduction shall not exceed the amount of the deduction that could have been claimed by a sole owner of the business.

D. A taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction to the department in a manner required by the department.

E. The department shall compile an annual report on the deduction provided by this section that shall include the number of taxpayers that claimed the deduction, the aggregate amount of deductions claimed and any other information necessary to evaluate the cost of the deduction. The department shall provide the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the deduction.

F. As used in this section:

(1) "alcoholic beverage" means alcoholic beverage as defined in the Liquor Control Act;

(2) "dispenser's license" means a license issued pursuant to the provisions of the Liquor Control Act allowing the licensee to sell, offer for sale or have in the person's possession with the intent to sell alcoholic beverages both by the drink for consumption on the licensed premises and in unbroken packages, including growlers, for consumption and not for resale off the licensed premises;

(3) "growler" means a clean, refillable, resealable container that has a liquid capacity that does not exceed one gallon and that is intended and used for the sale of beer, wine or cider;

(4) "liquor license" means a dispenser's license issued pursuant to Section 60-6A-3 NMSA 1978 or a dispenser's license issued pursuant to Section 60-6A-12 NMSA 1978 issued prior to July 1, 2021;

(5) "liquor license lessee" means a person that leases a liquor license from a liquor license lessor; and

(6) "liquor license lessor" means a person that leases a liquor license to a third party."

## **Chapter 7 Section 2 Laws 2021**

SECTION 2. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

### **"DEDUCTION--INCOME FROM LEASING A LIQUOR LICENSE.--**

A. Prior to January 1, 2026, a taxpayer that is a liquor license lessor and that held the license on June 30, 2021 may claim a deduction from taxable income in an amount equal to the gross receipts from sales of alcoholic beverages made by each liquor license lessee in an amount, if the liquor license is a dispenser's license and sales of alcoholic beverages for consumption off premises are less than fifty percent of total alcoholic beverage sales, not to exceed fifty thousand dollars (\$50,000) for each of four taxable years.

B. A taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction to the department in a manner required by the department.

C. The department shall compile an annual report on the deduction provided by this section that shall include the number of taxpayers that claimed the deduction, the aggregate amount of deductions claimed and any other information necessary to evaluate the cost of the deduction. The department shall provide the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the deduction.

D. As used in this section:

(1) "alcoholic beverage" means alcoholic beverage as defined in the Liquor Control Act;

(2) "dispenser's license" means a license issued pursuant to the provisions of the Liquor Control Act allowing the licensee to sell, offer for sale or have in the person's possession with the intent to sell alcoholic beverages both by the drink for consumption on the licensed premises and in unbroken packages, including growlers, for consumption and not for resale off the licensed premises;

(3) "growler" means a clean, refillable, resealable container that has a liquid capacity that does not exceed one gallon and that is intended and used for the sale of beer, wine or cider;

(4) "liquor license" means a dispenser's license issued pursuant to Section 60-6A-3 NMSA 1978 or a dispenser's license issued pursuant to Section 60-6A-12 NMSA 1978 issued prior to July 1, 2021;

(5) "liquor license lessee" means a person that leases a liquor license from a liquor license lessor; and

(6) "liquor license lessor" means a person that leases a liquor license to a third party."

## **Chapter 7 Section 3 Laws 2021**

SECTION 3. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

### **"DEDUCTION--SALES MADE BY DISPENSER'S LICENSE HOLDER.--**

A. Prior to January 1, 2026, a liquor license holder who held the license on June 30, 2021 may deduct from gross receipts the following receipts, for each dispenser's license for which sales of alcoholic beverages for consumption off premises are less than fifty percent of total alcoholic beverage sales, up to fifty thousand dollars

(\$50,000) of receipts from the sale of alcoholic beverages for taxable years 2022 through 2025.

B. A taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction separately in a manner required by the department.

C. The department shall compile an annual report on the deduction provided by this section that shall include the number of taxpayers that claimed the deduction, the aggregate amount of deductions claimed and any other information necessary to evaluate the effectiveness of the deduction. The department shall compile and present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the deduction.

D. As used in this section:

(1) "alcoholic beverage" means alcoholic beverage as defined in the Liquor Control Act;

(2) "dispenser's license" means a license issued pursuant to the provisions of the Liquor Control Act allowing the licensee to sell, offer for sale or have in the person's possession with the intent to sell alcoholic beverages both by the drink for consumption on the licensed premises and in unbroken packages, including growlers, for consumption and not for resale off the licensed premises;

(3) "growler" means a clean, refillable, resealable container that has a liquid capacity that does not exceed one gallon and that is intended and used for the sale of beer, wine or cider; and

(4) "liquor license holder" means a person that holds a retailer's license issued pursuant to Section 60-6A-2 NMSA 1978, a dispenser's license issued pursuant to Section 60-6A-3 NMSA 1978 or a dispenser's license issued pursuant to Section 60-6A-12 NMSA 1978 issued prior to July 1, 2021."

## Chapter 7 Section 4 Laws 2021

SECTION 4. A new section of the Liquor Control Act is enacted to read:

"ALCOHOLIC BEVERAGE DELIVERY PERMIT--THIRD-PARTY DELIVERY LICENSE.--

A. A person otherwise qualified pursuant to the provisions of the Liquor Control Act may apply for and the department may issue an alcoholic beverage delivery permit authorizing the person to deliver alcoholic beverages if the applicant holds a valid retailer's, dispenser's, craft distiller's, winegrower's, small brewer's or restaurant license; provided, however, that if the licensed premises has indoor retail space greater than ten thousand square feet in size and is located within a class A county, the department may issue an alcoholic beverage delivery permit if:

(1) the license holder uses an identification verification system that meets the department's requirements to establish that the identification of the purchaser was checked, scanned and stored for each delivery transaction;

(2) no spirituous liquors are included in deliveries of alcoholic beverages;

(3) the liquor liability endorsement required pursuant to Paragraph (2) of Subsection H of this section is in an amount of not less than five million dollars (\$5,000,000); and

(4) deliveries of alcoholic beverages are not made using a third-party alcohol delivery service pursuant to Subsection G of this section.

B. An alcoholic beverage delivery permit issued to a valid restaurant licensee shall only convey the authority to deliver alcoholic beverages concurrently with the delivery of a minimum of ten dollars (\$10.00) worth of food; provided that under no

circumstances shall the delivery of alcoholic beverages be more than seven hundred fifty milliliters of wine, six twelve-ounce containers of prepackaged wine, beer, cider or spirituous liquors or one locally produced growler.

C. An alcoholic beverage delivery permit is not transferable from person to person or from one location to another.

D. An alcoholic beverage delivery permit issued pursuant to this section is valid for one year from the date of issuance. An alcoholic beverage delivery permittee may renew an alcoholic beverage delivery permit annually as required by the department.

E. The director shall promulgate rules to implement the provisions of this section, which shall include the following requirements and restrictions:

(1) an alcoholic beverage delivery permittee shall deliver alcoholic beverages only in unbroken packages or growlers;

(2) payment for alcoholic beverages shall be received only at the licensed premises of the selling licensee personally or by other means, including telephonically, electronically, via website, application or internet platform;

(3) a licensee shall not change the price charged for an alcoholic beverage because that beverage is purchased for delivery; provided that a separate fee may be charged for delivery; and further provided that the fee shall be disclosed to the customer at the time of the purchase;

(4) deliveries of alcoholic beverages shall occur only during the hours the selling licensee is authorized to sell alcoholic beverages;

(5) an alcoholic beverage delivery permittee shall not deliver an alcoholic beverage to a business, a commercial establishment, a college or university campus or a school campus that is not a home school;



(6) an alcoholic beverage delivery permittee delivering alcoholic beverages shall obtain valid proof of the recipient's identity and age;

(7) deliveries of alcoholic beverages shall not be made to an intoxicated person in violation of Section 60-7A-16 NMSA 1978 or to a minor in violation of Section 60-7B-1 NMSA 1978;

(8) while delivering alcoholic beverages, an alcoholic beverage delivery permittee shall have in the permittee's possession only alcoholic beverages that have been purchased for delivery; and

(9) while delivering alcoholic beverages, an alcoholic beverage delivery permittee shall have in the permittee's possession the original or an electronic or physical copy of the permittee's alcoholic beverage delivery permit.

F. A licensee that holds an alcoholic beverage delivery permit issued pursuant to this section may utilize an employee who is at least twenty-one years of age and who holds a valid server permit to deliver alcoholic beverages.

G. A licensee that holds an alcoholic beverage delivery permit issued pursuant to this section may contract with a third-party alcohol delivery service licensed by the department; provided that the licensee, the third-party alcohol delivery service and the server who delivers alcohol may be separately liable for violations of the Liquor Control Act, including for the delivery of alcohol to an intoxicated person or to a minor.

H. The department, by rule, shall create a third-party alcohol delivery permit and, at a minimum, condition the issuance of a third-party alcohol delivery permit on:

(1) requiring that all delivery employees or independent contractors of the third-party alcohol delivery service hold a valid New Mexico alcohol server permit; and

(2) requiring proof of general liability insurance coverage with a liquor liability endorsement in an amount not less than one million dollars (\$1,000,000) per occurrence, which endorsement shall provide coverage for employees or independent contractors of the third-party alcohol delivery service.

I. A person, company or licensee that wishes to deliver retail sales of alcohol in New Mexico on behalf of valid retailer's, dispenser's, craft distiller's, winegrower's, small brewer's or restaurant licensees that also hold a valid alcoholic beverage delivery permit shall obtain a third-party alcohol delivery license from the department.

J. An applicant for a third-party alcohol delivery license is required to be authorized to do business in this state, may not share in the profits of the sale of alcohol with a licensee and may only charge a delivery fee that is disclosed to the buyer at the time of sale.

K. A third-party alcohol delivery licensee shall not have the ability to buy, hold or deliver alcohol under its own license but to only allow for delivery of alcohol from a licensed premises and from a qualified licensee with a valid alcoholic beverage delivery permit to the buyer.

L. A third-party alcohol delivery licensee shall be independently liable for the delivery of alcoholic beverages to an intoxicated person or to a minor or for any violation of the Liquor Control Act and be subject to suspension, revocation or administrative fine pursuant to Sections 60-6C-1 through 60-6C-6 NMSA 1978.

M. A third-party alcohol delivery license shall be valid for one year, and may be renewed."

## Chapter 7 Section 5 Laws 2021

SECTION 5. Section 60-3A-3 NMSA 1978 (being Laws 1981, Chapter 39, Section 3, as amended by Laws 2019, Chapter 29, Section 2 and by Laws 2019, Chapter 229, Section 3) is amended to read:

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

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

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

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

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

E. "club" means:

(1) any nonprofit group, including an auxiliary or subsidiary group, organized and operated under the laws of this state, with a membership of not less than fifty members who pay membership dues at the rate of not less than five dollars (\$5.00)

per year and who, under the constitution and bylaws of the club, have all voting rights and full membership privileges, and which group is the owner, lessee or occupant of premises used exclusively for club purposes and which group the director finds:

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

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

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

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

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

H. "director" means the chief of the New Mexico state police division of the department of public safety when the term is used in reference to the enforcement and

investigatory provisions of the Liquor Control Act and means the director of the alcoholic beverage control division of the regulation and licensing department when the term is used in reference to the licensing provisions of the Liquor Control Act;

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

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

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

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

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

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

O. "licensed premises" means the contiguous areas of the structure and the grounds that are under the direct control of the licensee; provided that "licensed premises" includes a restaurant that has operated continuously in two separate structures since July 1, 1987 and that is located in a local option district that has voted

to disapprove the transfer of liquor licenses into that local option district, hotel, golf course, ski area or racetrack and all public and private rooms, facilities and areas in which alcoholic beverages are sold or served in the customary operating procedures of the restaurant, hotel, golf course, ski area or racetrack. "Licensed premises" also includes rural dispenser licenses located in the unincorporated areas of a county with a population of less than thirty thousand, located in buildings in existence as of January 1, 2012, that are within one hundred fifty feet of one another and that are under the direct control of the license holder;

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

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

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

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

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

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

V. "restaurant" means an establishment having a New Mexico resident as a proprietor or manager that is held out to the public as a place where food is prepared and served primarily for on-premises consumption to the general public in consideration of payment and that has a dining room, a kitchen and the employees necessary for preparing, cooking and serving food; provided that "restaurant" does not include establishments as defined in rules promulgated by the director serving only hamburgers, sandwiches, salads and other fast foods;

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

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

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

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

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

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

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

DD. "winer" means a winegrower; and

EE. "winery" means a licensed premises in which a winegrower manufactures and stores wine or cider."

## **Chapter 7 Section 6 Laws 2021**

SECTION 6. A new section of the Liquor Control Act, Section 60-3A-13 NMSA 1978, is enacted to read:

"60-3A-13. PROHIBITED SALE OF CERTAIN SPIRITUOUS LIQUORS.--A liquor license holder shall not sell for consumption off premises closed containers containing fewer than three fluid ounces of spirituous liquors."

## **Chapter 7 Section 7 Laws 2021**

SECTION 7. Section 60-6A-2 NMSA 1978 (being Laws 1981, Chapter 39, Section 19) is amended to read:

"60-6A-2. RETAILER'S LICENSE.--

A. In any local option district, a person qualified under the provisions of the Liquor Control Act may apply for and be issued a retailer's license for the retail sale of alcoholic beverages.

B. A retailer's license, when issued, shall only be used by the person to whom the license is issued and shall only be used within the licensed premises, pursuant to provisions of the Liquor Control Act.



C. In any local option district within a class B county having a population of between fifty-six thousand and fifty-seven thousand according to the 1980 federal decennial census, a person with a retailer's or dispenser's license that sells retail gasoline on the premises shall not sell alcoholic beverages other than beer with less than ten percent alcohol by volume."

## **Chapter 7 Section 8 Laws 2021**

SECTION 8. Section 60-6A-3 NMSA 1978 (being Laws 1981, Chapter 39, Section 20) is amended to read:

"60-6A-3. DISPENSER'S LICENSE.--

A. In any local option district, a person qualified under the provisions of the Liquor Control Act may apply for and be issued a dispenser's license for the sale of alcoholic beverages.

B. A dispenser's license, when issued, shall only be used by the person to whom the license is issued and shall only be used within the licensed premises, pursuant to provisions of the Liquor Control Act.

C. In any local option district within a class B county having a population of between fifty-six thousand and fifty-seven thousand according to the 1980 federal decennial census, a person with a dispenser's license that sells retail gasoline on the premises shall not sell alcoholic beverages other than beer with less than ten percent alcohol by volume."

## **Chapter 7 Section 9 Laws 2021**

SECTION 9. Section 60-6A-4 NMSA 1978 (being Laws 1981, Chapter 39, Section 21, as amended) is amended to read:

#### "60-6A-4. RESTAURANT LICENSE.--

A. A local option district may approve the issuance of restaurant licenses for the sale of beer and wine by holding an election on that question pursuant to the procedures set out in Section 60-5A-1 NMSA 1978. The election also may be initiated by a resolution adopted by the governing body of the local option district without a petition from qualified electors having been submitted.

B. A local option district that has approved the issuance of restaurant licenses for the sale of beer and wine is deemed to have approved the issuance of restaurant licenses for the sale of beer, wine and spirituous liquors in restaurants unless the local option district affirmatively adopts an ordinance prohibiting such licenses, except that a local option district within a class B county having a population of between fifty-six thousand and fifty-seven thousand according to the 1980 federal decennial census that has approved the issuance of restaurant licenses for the sale of beer and wine is deemed not to have approved the issuance of restaurant licenses for the sale of beer, wine and spirituous liquors in restaurants unless the local option district affirmatively adopts an ordinance approving such licenses.

C. A restaurant license issued or renewed on or after July 1, 2021 that permits the sale and service of beer and wine only shall be designated a restaurant A license. The license shall be issued in accordance with the provisions of this section and rules adopted by the department.

D. A restaurant license issued on or after July 1, 2021 that permits the sale and service of beer, wine and spirituous liquors shall be designated a restaurant B license. The license shall be issued in accordance with the provisions of this section and rules adopted by the department.

E. After the approval of restaurant licenses by the qualified electors of the local option district for the sale of beer and wine and upon completion of all requirements in the Liquor Control Act for the issuance of licenses, a restaurant located or to be located within the local option district may receive a restaurant A license to sell,

serve or allow the consumption of beer and wine subject to the following requirements and restrictions:

- (1) the applicant shall submit evidence to the department that the applicant has a current valid food service establishment permit;
- (2) the applicant shall satisfy the director that the primary source of revenue from the operation of the restaurant will be derived from food and not from the sale of beer and wine;
- (3) the director shall condition renewal upon a requirement that no less than sixty percent of gross receipts from the preceding twelve months' operation of the licensed restaurant was derived from the sale of food;
- (4) upon application for renewal, the licensee shall submit an annual report to the director indicating the annual gross receipts from the sale of food and from beer and wine sales;
- (5) all sales, services and consumption of beer and wine authorized by a restaurant A license shall cease at the time food sales and services cease or at 11:00 p.m., whichever time is earlier;
- (6) if Sunday sales have been approved in the local option district, a restaurant licensee may serve beer and wine on Sundays until the time meal sales and services cease or 11:00 p.m., whichever time is earlier; and
- (7) a restaurant A license shall not be transferable from person to person but shall be transferable from one location to another location within the same local option district.

F. Upon completion of all requirements in the Liquor Control Act for the issuance of licenses on and after July 1, 2021, and barring the adoption of an opt-out ordinance by the governing body of a local option district, a restaurant located or to be

located within the local option district may receive a restaurant B license to sell, serve or allow the consumption of beer, wine and spirituous liquors subject to the following requirements and restrictions:

- (1) the applicant shall submit evidence to the department that the applicant has a current valid food service establishment permit;
- (2) the applicant shall satisfy the director that the primary source of revenue from the operation of the restaurant will be derived from the sale of food and not from the sale of beer, wine and spirituous liquors;
- (3) the director shall condition renewal upon a requirement that no less than sixty percent of gross receipts from the preceding twelve months' operation of the licensed restaurant was derived from the sale of food;
- (4) upon application for renewal, the licensee shall submit an annual report to the director indicating the annual gross receipts from the sale of food and from beer, wine and spirituous liquors sales;
- (5) all sales, service and consumption of beer, wine and spirituous liquors authorized by a restaurant B license shall cease at the time food sales and services cease or at 11:00 p.m., whichever time is earlier;
- (6) a restaurant B licensee shall serve a single patron no more than three drinks containing not more than one and one-half ounces of spirituous liquor during any one visit to the restaurant;
- (7) if Sunday sales have been approved in the local option district, a restaurant B licensee may serve beer, wine and spirituous liquors on Sundays until the time meal sales and services cease or 11:00 p.m., whichever time is earlier; and

(8) a restaurant B license shall not be transferable from person to person but shall be transferable from one location to another location within the same local option district.

G. The provisions of Section 60-6A-18 NMSA 1978 shall not apply to restaurant licenses.

H. Nothing in this section shall prevent a restaurant licensee from receiving other licenses pursuant to the Liquor Control Act.

I. A person that has held a restaurant A license in good standing for a period of at least twelve consecutive months shall, upon payment of a fee of five hundred dollars (\$500), be entitled to a restaurant A New Mexico spirituous liquors permit. In addition to being permitted to sell and serve beer and wine as authorized by a restaurant A license, the restaurant A New Mexico spirituous liquors permit shall entitle the licensee to also sell and serve spirituous liquors produced or bottled by or for a craft distiller pursuant to Section 60-6A-6.1 NMSA 1978."

## **Chapter 7 Section 10 Laws 2021**

SECTION 10. Section 60-6A-6.1 NMSA 1978 (being Laws 2011, Chapter 110, Section 3, as amended) is amended to read:

"60-6A-6.1. CRAFT DISTILLER'S LICENSE.--

A. In any local option district, a person qualified pursuant to the provisions of the Liquor Control Act, except as otherwise provided in the Domestic Winery, Small Brewery and Craft Distillery Act, may apply for and be issued a craft distiller's license subject to the following conditions:

(1) the applicant submits evidence to the department that the applicant has a valid and appropriate permit issued by the federal government to be a craft distiller;

(2) renewal of the license shall be conditioned upon:

(a) no less than sixty percent of the gross receipts from the sale of spirituous liquors for the preceding twelve months of the licensee's operation being derived from the sale of spirituous liquors produced by the licensee;

(b) the manufacture of no less than five hundred proof gallons of spirituous liquors per license year at the licensee's premises; and

(c) submission to the department by the licensee of a report showing the number of proof gallons of spirituous liquors manufactured by the licensee at the licensee's premises and the annual gross receipts from the sale of spirituous liquors produced by the licensee and from the licensee's sale of distilled spirituous liquors produced by other New Mexico licensed craft distillers;

(3) a craft distiller's license shall not be transferred from person to person or from one location to another;

(4) the provisions of Section 60-6A-18 NMSA 1978 shall not apply to a craft distiller's license; and

(5) nothing in this section shall prevent a craft distiller from receiving other licenses pursuant to the Liquor Control Act.

B. A person to whom a craft distiller's license is issued pursuant to this section may do any of the following:

(1) manufacture or produce spirituous liquors, including aging, filtering, blending, mixing, flavoring, coloring, bottling and labeling;

- (2) store, transport, import or export spirituous liquors;
- (3) sell only spirituous liquors that are packaged by or for the craft distiller to a person holding a wholesaler's license, a craft distiller's license, a manufacturer's license, a small brewer's license or a winegrower's license;
- (4) deal in warehouse receipts for spirituous liquors;
- (5) buy spirituous liquors from other persons, including licensees and permittees under the Liquor Control Act, for use in blending, flavoring, mixing or bottling of spirituous liquors;
- (6) buy or otherwise obtain beer from a small brewer or wine or cider from a winegrower for the purposes described in this subsection;
- (7) be deemed a manufacturer for purposes of the Gross Receipts and Compensating Tax Act;
- (8) conduct spirituous liquor, wine, cider or beer tastings and sell, by the glass or by the bottle, or in unbroken packages for consumption off the premises but not for resale, spirituous liquors of the craft distiller's own production or spirituous liquors produced by another New Mexico craft distiller or New Mexico manufacturer on the craft distiller's premises, wine or cider produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978 or beer produced and bottled by or for a small brewer pursuant to Section 60-6A-26.1 NMSA 1978; and
- (9) at no more than three other locations off the craft distiller's premises, after the craft distiller has paid the applicable fee for a craft distiller's off-premises permit, after the director has determined that the off-premises locations meet the requirements of the Liquor Control Act and department rules for new liquor license locations and after the director has issued a craft distiller's off-premises permit for each off-premises location, conduct spirituous liquor, wine, cider or beer tastings and sell by the glass, or in unbroken packages for consumption and not for resale, spirituous

liquors produced and bottled by or for the craft distiller or spirituous liquors produced and bottled by or for another New Mexico craft distiller or manufacturer, wine or cider produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978 or beer produced and bottled by or for a small brewer pursuant to Section 60-6A-26.1 NMSA 1978.

C. For a public or private celebration on or off the craft distiller's premises in any local option district permitting the sale of alcoholic beverages, a craft distiller shall pay ten dollars (\$10.00) to the department for a "craft distiller's public celebration permit" or a "craft distiller's private celebration permit" to be issued under rules adopted by the director. Upon request, the department may issue to a craft distiller a public celebration permit for a location at the public celebration that is to be shared with other craft distillers, small brewers and winegrowers.

D. At private celebrations on or off the craft distiller's premises after the craft distiller has paid the applicable fees and been issued the appropriate permit, the craft distiller may sell by the glass spirituous liquors produced by or for the craft distiller, wine or cider produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978 or beer produced and bottled by or for a small brewer pursuant to Section 60-6A-26.1 NMSA 1978.

E. As used in this section:

(1) "private celebration" means any celebratory activity that is held in a private or public venue not open to the general public and for which attendance is subject to private invitation; and

(2) "public celebration" includes any state or county fair, community fiesta, cultural or artistic event, sporting competition of a seasonal nature or activities held on an intermittent basis."



## Chapter 7 Section 11 Laws 2021

SECTION 11. Section 60-6A-10 NMSA 1978 (being Laws 1981, Chapter 39, Section 27, as amended) is amended to read:

"60-6A-10. GOVERNMENTAL LICENSE.--

A. A governmental entity may sell alcoholic beverages directly or through its lessee at a governmental facility if the governing body applies to the director for a governmental license. The governmental entity and its lessee shall be subject to all state laws and regulations governing dispensers.

B. A governmental license may be leased to a qualified lessee and may only be used by the lessee for its operation during events authorized by the governmental entity at the governmental facility designated on the governmental license. The governmental entity and its lessee shall not sell alcoholic beverages for consumption off the licensed premises. On the licensed premises of a governmental facility, the sale or service of alcoholic beverages in unbroken packages is allowed. Alcoholic beverages shall not be removed from the licensed premises of a governmental facility. A server as defined in Section 60-6E-3 NMSA 1978 is not required to be present in a suite to serve alcoholic beverages to the person leasing the suite or the person's guests.

C. A governmental entity holding a governmental license shall annually and not less than sixty days prior to the date for renewal of its license submit to the director documentary proof that its lessee is fully qualified to be a lessee of a governmental license. If the director finds that the lessee is qualified to lease a governmental license, the director shall renew the license for an additional period of one year. If the director determines that the proof is inadequate, the director shall notify the governing body of the decision and shall conduct a hearing as provided by law. If the director finds that the lessee does not qualify and the governmental entity does not change its lessee, the director shall revoke the license.

D. The provisions of Section 60-6A-18 NMSA 1978 shall not apply to governmental licenses.

E. For the purposes of this section:

(1) "governmental entity" means a municipality, a county, a state fair that is held for less than ten days per year, the state fair commission, a state museum, a state university or the spaceport authority;

(2) "governmental facility" means locations on property owned or operated by a governmental entity, including county fairs; state fairs held for less than ten days per year; convention centers; airports; civic centers; food service facilities in state museums; auditoriums; all facilities on the New Mexico state fairgrounds; facilities used for athletic competitions; golf courses, including golf courses required to be used for municipal purposes notwithstanding that there may be an existing club license at the same location operated by the same club licensee; other facilities used for cultural or artistic performances; and all spaceport authority facilities;

(3) "lessee" means an individual, corporation, partnership, firm or association that fulfills the requirements set forth in Subsections A through D of Section 60-6B-2 NMSA 1978; and

(4) "suite" means a room or area of seating at an event, separated from the general seating, leased to a person for that person's exclusive use during events and at any other time throughout the year.

F. The provisions of Section 60-6B-10 NMSA 1978, with respect to golf courses owned by a governmental entity and civic centers owned and operated by a governmental entity, shall not apply to governmental licenses."

## Chapter 7 Section 12 Laws 2021

SECTION 12. Section 60-6A-11 NMSA 1978 (being Laws 1981, Chapter 39, Section 28, as amended) is amended to read:

"60-6A-11. WINEGROWER'S LICENSE.--

A. A person in this state who produces wine or cider is exempt from the procurement of any other license pursuant to the terms of the Liquor Control Act, but not from the procurement of a winegrower's license. Except during periods of shortage or reduced availability, at least fifty percent of a winegrower's overall annual production of wine shall be produced from grapes or other agricultural products grown in this state pursuant to rules adopted by the director; provided, however, that, for purposes of determining annual production and compliance with the fifty percent New Mexico grown provision of this subsection, the calculation of a winegrower's overall annual production of wine shall not include the winegrower's production of wine for out-of-state wine producer license holders.

B. A person issued a winegrower's license pursuant to this section may do any of the following:

(1) manufacture or produce wine or cider, including blending, mixing, flavoring, coloring, bottling and labeling, whether the wine or cider is manufactured or produced for a winegrower or an out-of-state wine producer holding a permit issued pursuant to the Federal Alcohol Administration Act and a valid license in a state that authorizes the wine or cider producer to manufacture, produce, store or sell wine or cider;

(2) store, transport, import or export wines or ciders;

(3) sell wines or ciders to a holder of a New Mexico winegrower's, wine wholesaler's, wholesaler's, wine exporter's, craft distiller's or small brewer's license or to a winegrower's agent;

(4) transport not more than two hundred cases of wine in a calendar year to another location within New Mexico by common carrier;

(5) deal in warehouse receipts for wine or cider;

(6) sell wines or ciders in other states or foreign jurisdictions to the holders of a license issued under the authority of that state or foreign jurisdiction authorizing the purchase of wine or cider;

(7) buy wine or cider or distilled wine products from other persons, including licensees and permittees under the Liquor Control Act, for use in blending, mixing or bottling of wines or ciders;

(8) buy or otherwise obtain beer from a small brewer or spirituous liquor from a craft distiller for the purposes described in this subsection;

(9) conduct wine, cider, beer or spirituous liquor tastings and sell, by the glass or by the bottle, or sell in unbroken packages for consumption off the premises, but not for resale, wine or cider of the winegrower's own production, wine or cider produced by another New Mexico winegrower on the winegrower's premises, beer produced and bottled by or for a small brewer pursuant to Section 60-6A-26.1 NMSA 1978 or spirituous liquor produced and bottled by or for a craft distiller pursuant to Section 60-6A-6.1 NMSA 1978;

(10) at no more than three off-premises locations, conduct wine, cider, beer or spirituous liquor tastings, sell by the glass and sell in unbroken packages for consumption off premises, but not for resale, wine or cider of the winegrower's own production, wine or cider produced by another New Mexico winegrower or beer produced and bottled by or for a small brewer pursuant to Section 60-6A-26.1 NMSA

1978 or spirituous liquor produced and bottled by or for a craft distiller pursuant to Section 60-6A-6.1 NMSA 1978 after the director has determined that the off-premises locations meet the requirements of the Liquor Control Act and the department rules for new liquor license locations;

(11) be deemed a manufacturer for purposes of the Gross Receipts and Compensating Tax Act;

(12) at public celebrations on or off the winegrower's premises, after the winegrower has paid the applicable fees and been issued the appropriate permit, to conduct wine or cider tastings, sell by the glass or the bottle, or sell in unbroken packages, for consumption off premises, but not for resale, wine or cider produced by or for the winegrower, beer produced and bottled by or for a small brewer pursuant to Section 60-6A-26.1 NMSA 1978 or spirituous liquor produced and bottled by or for a craft distiller pursuant to Section 60-6A-6.1 NMSA 1978;

(13) at private celebrations on or off the winegrower's premises after the winegrower has paid the applicable fees and been issued the appropriate permit, sell:

(a) by the glass or bottle, wine or cider produced by or for the winegrower;

(b) by the glass, beer produced by a small brewer pursuant to Section 60-6A-26.1 NMSA 1978; or

(c) by the drink, spirituous liquors produced and bottled by or for a craft distiller pursuant to Section 60-6A-6.1 NMSA 1978;

(14) sell wine or cider in a growler for consumption off premises; and

(15) in accordance with the provisions of this section that relate to the sale of wine or cider, accept and fulfill an order for wine or cider that is placed via an

internet website, whether the financial transaction related to the order is administered by the licensee or the licensee's agent.

C. At public and private celebrations on or off the winegrower's premises in any local option district permitting the sale of alcoholic beverages, the holder of a winegrower's license shall pay ten dollars (\$10.00) to the alcoholic beverage control division of the regulation and licensing department for a "winegrower's public celebration permit" or a "winegrower's private celebration permit" to be issued under rules adopted by the director. Upon request, the alcoholic beverage control division of the regulation and licensing department may issue to a holder of a winegrower's license a public celebration permit for a location at the public celebration that is to be shared with other winegrowers and small brewers.

D. Every application for the issuance or annual renewal of a winegrower's license shall be on a form prescribed by the director and accompanied by a license fee to be computed as follows on the basis of total annual wine or cider produced or blended:

- (1) less than five thousand gallons per year, twenty-five dollars (\$25.00) per year;
- (2) between five thousand and one hundred thousand gallons per year, one hundred dollars (\$100) per year; and
- (3) over one hundred thousand gallons per year, two hundred fifty dollars (\$250) per year.

E. As used in this section:

- (1) "private celebration" means any celebratory activity that is held in a private or public venue not open to the general public and for which attendance is subject to private invitation; and

(2) "public celebration" includes any state or county fair, community fiesta, cultural or artistic event, sporting competition of a seasonal nature or activities held on an intermittent basis."

## **Chapter 7 Section 13 Laws 2021**

SECTION 13. Section 60-6A-15 NMSA 1978 (being Laws 1981, Chapter 39, Section 32, as amended) is amended to read:

"60-6A-15. LICENSE AND PERMIT FEES.--Except for calendar years 2022 through 2031 for license holders who purchased their license during the calendar years 2017 through 2021, who shall be charged no fee for the issuance or renewal of a license, every application for the issuance or renewal of the following licenses and permits shall be accompanied by a fee in the following specified amounts:

- A. manufacturer's license as a distiller, except a brandy manufacturer, three thousand dollars (\$3,000);
- B. manufacturer's license as a brewer, three thousand dollars (\$3,000);
- C. manufacturer's license as a rectifier, one thousand fifty dollars (\$1,050);
- D. wholesaler's license to sell all alcoholic beverages for resale only, two thousand five hundred dollars (\$2,500);
- E. wholesaler's license to sell spirituous liquors and wine for resale only, one thousand seven hundred fifty dollars (\$1,750);
- F. wholesaler's license to sell spirituous liquors for resale only, one thousand five hundred dollars (\$1,500);

- G. wholesaler's license to sell beer and wine for resale only, one thousand five hundred dollars (\$1,500);
- H. wholesaler's license to sell beer for resale only, one thousand dollars (\$1,000);
- I. wholesaler's license to sell wine for resale only, seven hundred fifty dollars (\$750);
- J. retailer's license, one thousand three hundred dollars (\$1,300);
- K. dispenser's license, one thousand three hundred dollars (\$1,300);
- L. canopy license, one thousand three hundred dollars (\$1,300);
- M. restaurant A license, one thousand fifty dollars (\$1,050);
- N. restaurant B license, ten thousand dollars (\$10,000);
- O. club license, for clubs with more than two hundred fifty members, one thousand two hundred fifty dollars (\$1,250), and for clubs with two hundred fifty members or fewer, two hundred fifty dollars (\$250);
- P. wine bottler's license to sell to wholesalers only, five hundred dollars (\$500);
- Q. public service license, one thousand two hundred fifty dollars (\$1,250);
- R. nonresident licenses, for a total billing to New Mexico wholesalers:
  - (1) in excess of:



\$3,000,000 annually	\$10,500;
1,000,000 annually	5,250;
500,000 annually	3,750;
200,000 annually	2,700;
100,000 annually	1,800;
and	
50,000 annually	900;
and	
(2) of \$50,000 or less	\$300;

S. wine wholesaler's license, for persons with sales of five thousand gallons of wine per year or less, twenty-five dollars (\$25.00), and for persons with sales in excess of five thousand gallons of wine per year, one hundred dollars (\$100);

T. beer bottler's license, two hundred dollars (\$200);

U. third-party alcohol delivery license, not to exceed one thousand dollars (\$1,000);

V. alcoholic beverage delivery permit, not to exceed three hundred dollars (\$300); and

W. retailer's, dispenser's or canopy licenses, if the licensee held the license on June 30, 2021, there shall be no renewal fee for applications filed by the licensee or successor licensees on or before June 30, 2026."

## **Chapter 7 Section 14 Laws 2021**

SECTION 14. Section 60-6A-26.1 NMSA 1978 (being Laws 1985, Chapter 217, Section 5, as amended) is amended to read:

"60-6A-26.1. SMALL BREWER'S LICENSE.--

A. In a local option district, a person qualified pursuant to the provisions of the Liquor Control Act, except as otherwise provided in the Domestic Winery, Small Brewery and Craft Distillery Act, may apply for and be issued a small brewer's license.

B. A small brewer's license authorizes the person to whom it is issued to:

- (1) manufacture or produce beer;
- (2) package, label and export beer, whether manufactured, bottled or produced by the licensee or any other person;
- (3) sell only beer that is packaged by or for the licensee to a person holding a wholesaler's license, a small brewer's license, a craft distiller's license or a winegrower's license;
- (4) deal in warehouse receipts for beer;
- (5) conduct beer, wine, cider and spirituous liquor tastings and sell for consumption on or off premises, but not for resale, beer produced and bottled by, or produced and packaged for, the licensee, beer produced and bottled by or for another New Mexico small brewer on the small brewer's premises or wine or cider produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978 or spirituous liquor produced and bottled by or for a craft distiller pursuant to Section 60-6A-6.1 NMSA 1978;
- (6) be deemed a manufacturer for purposes of the Gross Receipts and Compensating Tax Act;
- (7) at public celebrations off the small brewer's premises, after the small brewer has paid the applicable fee for a small brewer's public celebration permit, conduct tastings and sell by the glass or in unbroken packages, but not for resale, beer produced and bottled by or for the small brewer or wine or cider produced by a

winegrower pursuant to Section 60-6A-11 NMSA 1978 or spirituous liquor produced and bottled by or for a craft distiller pursuant to Section 60-6A-6.1 NMSA 1978;

(8) at private celebrations on or off the small brewer's premises after the small brewer has paid the applicable fees for a private celebration permit, sell by the glass, beer produced and bottled by or for the small brewer or wine or cider produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978 or spirituous liquor produced and bottled by or for a craft distiller pursuant to Section 60-6A-6.1 NMSA 1978;

(9) buy or otherwise obtain wine or cider from a winegrower or spirituous liquor from a craft distiller;

(10) for the purposes described in this subsection, at no more than three other locations off the small brewer's premises, after the small brewer has paid the applicable fee for a small brewer's off-premises permit, after the director has determined that the off-premises locations meet the requirements of the Liquor Control Act and department rules for new liquor license locations and after the director has issued a small brewer's off-premises permit for each off-premises location, conduct beer tastings and sell by the glass or in unbroken packages for consumption off the small brewer's off-premises location, but not for resale, beer produced and bottled by or for the small brewer, beer produced and bottled by or for another New Mexico small brewer, wine or cider produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978 or spirituous liquor produced and bottled by or for a craft distiller pursuant to Section 60-6A-6.1 NMSA 1978;

(11) allow members of the public, on the licensed premises and under the direct supervision of the licensee, to manufacture beer for personal consumption and not for resale using the licensee's equipment and ingredients; and

(12) sell beer in a growler for consumption off premises.

C. Renewal of a small brewer's license shall be conditioned upon submission to the department by the licensee of a report showing proof that:

(1) no less than fifty percent of the gross receipts from the sale of beer for the preceding twelve months of the licensee's operation are derived from the sale of beer produced by the licensee; or

(2) the licensee manufactures no less than fifty barrels of beer per license year at the licensee's premises.

D. At public and private celebrations on or off the small brewer's premises in a local option district permitting the sale of alcoholic beverages, the holder of a small brewer's license shall pay ten dollars (\$10.00) to the alcoholic beverage control division of the regulation and licensing department for a "small brewer's public celebration permit" or a "small brewer's private celebration permit" to be issued under rules adopted by the director. Upon request, the alcoholic beverage control division of the regulation and licensing department may issue to a holder of a small brewer's license a public celebration permit for a location at the public celebration that is to be shared with other small brewers and winegrowers.

E. As used in this section:

(1) "private celebration" means any celebratory activity that is held in a private or public venue not open to the general public and for which attendance is subject to private invitation; and

(2) "public celebration" includes any state or county fair, community fiesta, cultural or artistic event, sporting competition of a seasonal nature or activities held on an intermittent basis."

## Chapter 7 Section 15 Laws 2021

SECTION 15. Section 60-6A-32 NMSA 1978 (being Laws 1998, Chapter 109, Section 7) is amended to read:

"60-6A-32. INTERSTATE WINE TASTINGS--COMPETITIONS--PERMITS.--

A. Exempt from the procurement of any other license or permit issued pursuant to the terms of the Liquor Control Act, but not exempt from the procurement of a competition permit, is a winemaker or winery licensed outside of New Mexico that desires to participate in a regional wine, cider, beer or spirituous liquor tasting or competition within New Mexico. One permit shall be issued by the director to an out-of-state winemaker or winery for the duration of the wine tasting or competition.

B. A person issued a competition permit pursuant to this section may do any of the following:

(1) bring no more than twenty-five cases of wine into New Mexico after indicating on the permit application the number of cases to be brought into the state;

(2) participate in the regional competition and wine tastings associated with the competition for which the competition permit is issued;

(3) participate in the regional wine tasting for which the competition permit is issued; and

(4) at a wine tasting for which the person is issued the permit, conduct tasting of wine and sell by the glass or bottle or in unbroken packages for consumption off the wine-tasting premises but not for resale, wine brought into the state by the person for the wine tasting or competition.

C. Every application for the issuance of a competition permit shall be on a form prescribed by the director and accompanied by a permit fee of twenty-five dollars (\$25.00).

D. As used in this section:

(1) "competition" means an event at which a jury of wine tasters compares the quality of the wines entered for judging and at which prizes are offered for the wines judged to be of the best quality;

(2) "regional competition" means a competition at which the wines to be judged are from more than one state or country;

(3) "regional wine tasting" means a wine tasting at which the wines offered for tasting are from more than one state or country;

(4) "winemaker" means a person who manufactures or produces wine;

(5) "winery" means an establishment at which wine is manufactured or produced and that is licensed for that purpose by the state or country in which it is located; and

(6) "wine tasting" means an event at which wines are offered for tasting but not necessarily for sale and not for comparison for the purpose of awarding prizes to the wines of the best quality."

## **Chapter 7 Section 16 Laws 2021**

SECTION 16. Section 60-6B-12 NMSA 1978 (being Laws 1981, Chapter 39, Section 113, as amended) is amended to read:

"60-6B-12. INTER-LOCAL OPTION DISTRICT AND INTER-COUNTY TRANSFERS.--

A. Dispenser's and retailer's licenses originally issued before July 1, 1981, except rural dispenser's and rural retailer's licenses that were replaced by dispenser's licenses pursuant to Section 60-6B-16 NMSA 1978, and except canopy licenses replaced by dispenser's licenses pursuant to Section 60-6B-16 NMSA 1978 before calendar year 2017 or after calendar year 2020, may be transferred to any location within the state, except class B counties having a population of between fifty-six thousand and fifty-seven thousand according to the 1980 federal decennial census, the municipalities located within those class B counties and any municipality or county that prohibits by election the transfer of a license from another local option district, without regard to the limitations on the maximum number of licenses provided in Section 60-6A-18 NMSA 1978, not otherwise contrary to law, subject to the approval of transferring locations of those liquor licenses by the governing body for that location; provided that the requirements of the Liquor Control Act and department regulations for the transfer of licenses are fulfilled; and provided further that:

(1) beginning in calendar year 1997, no more than ten dispenser's or retailer's licenses shall be transferred to any local option district in any calendar year; and

(2) the dispenser's or retailer's licenses transferred under this section shall count in the computation of the limitation of the maximum number of licenses that may be issued in the future in any local option district as provided in Section 60-6A-18 NMSA 1978 for the purpose of determining whether additional licenses may be issued in the local option district under the provisions of Subsection H of Section 60-6B-2 NMSA 1978.

B. Transfer of location of a liquor license pursuant to Subsection A of this section shall become effective upon approval of the local governing body, unless within one hundred twenty days after the effective date of the Liquor Control Act a petition requesting an election on the question of approval of statewide transfers of liquor

licenses into that local option district is filed with the clerk of the local option district and the petition is signed by at least five percent of the number of registered voters of the district. The clerk of the district shall verify the petition signatures. If the petition is verified as containing the required number of signatures of registered voters, the governing body shall adopt a resolution calling an election on the question of approving or disapproving statewide transfers of liquor licenses into that district. Notice of such election shall be published as provided in the Local Election Act, and the election shall be held within sixty days after the date the petition is verified or it may be held in conjunction with a regular election of the governing body if such election occurs within sixty days after the date of verification. If a majority of the registered voters of the district voting in such election votes to approve statewide transfers of liquor licenses into the local option district, each license proposing to be transferred shall be subject to the approval of the governing body. If the voters of the district voting in the election vote against the approval, then all statewide transfers of liquor licenses pursuant to Subsection A of this section shall be prohibited in that district, unless a petition is filed requesting the question be again submitted to the voters as provided in this subsection. The question of approving or disapproving statewide transfers of liquor licenses into the local option district shall not be submitted again within two years from the date of the last election on the question.

C. Any dispenser's license transferred pursuant to this section outside its local option district shall only entitle the licensee to sell, serve or permit the consumption of alcoholic beverages by the drink on the licensed premises. This subsection shall not apply to any license transferred out of a class B county having a population of between fifty-six thousand and fifty-seven thousand according to the 1980 federal decennial census.

D. Rural dispenser's, rural retailer's and rural club licenses issued under any former act may be transferred to any location, subject to the restrictions as to location contained in the Liquor Control Act, within the unincorporated area of the county in which they are currently located; provided that they shall not be transferred to any location within ten miles of another licensed premises; and provided further that all



requirements of the Liquor Control Act and department regulations for the transfer of licenses are fulfilled."

## **Chapter 7 Section 17 Laws 2021**

SECTION 17. Section 60-6C-1 NMSA 1978 (being Laws 1981, Chapter 39, Section 97, as amended) is amended to read:

"60-6C-1. GROUNDS FOR SUSPENSION, REVOCATION OR ADMINISTRATIVE FINE--REPORTING REQUIREMENT.--

A. The director may suspend or revoke the license or permit or fine the licensee in an amount not more than ten thousand dollars (\$10,000), or both, when the director finds that a licensee has:

(1) violated any provision of the Liquor Control Act or any rule or order promulgated pursuant to that act;

(2) been convicted of a felony pursuant to the provisions of the Criminal Code, the Liquor Control Act or federal law; or

(3) permitted the licensee's licensed premises to remain a public nuisance in the neighborhood where it is located after written notice from the director that investigation by the department has revealed that the establishment is a public nuisance in the neighborhood.

B. The director shall suspend or revoke the license or permit and may fine the licensee in an amount not to exceed ten thousand dollars (\$10,000), or both, when the director finds that any licensee or:

(1) the licensee's employee or agent knowingly has sold, served, delivered or given an alcoholic beverage to a minor in violation of Section 60-7B-1

NMSA 1978 or to an intoxicated person in violation of Section 60-7A-16 NMSA 1978, on two separate occasions within any twelve-month period; or

(2) the licensee's agent has made any material false statement or concealed any material facts in the licensee's application for the license or permit granted the licensee pursuant to the provisions of the Liquor Control Act.

C. A licensee aggrieved by a revocation, suspension or fine proposed to be imposed by the director pursuant to this section shall be entitled to the hearing procedures set forth in Chapter 60, Article 6C NMSA 1978 before the revocation, suspension or fine shall be effective.

D. A charge filed against a licensee by the department and the resulting disposition of the charge shall be reported to the department of public safety.

E. For purposes of this section, "licensee" includes any person issued an alcoholic beverage delivery permit."

## **Chapter 7 Section 18 Laws 2021**

SECTION 18. Section 60-6C-2 NMSA 1978 (being Laws 1981, Chapter 39, Section 98, as amended) is amended to read:

"60-6C-2. HEARINGS--LOCATION--OPEN TO PUBLIC--HEARING OFFICER.-- All hearings held pursuant to the provisions of the Liquor Control Act shall be conducted by the director or a hearing officer appointed by the director and shall be held in the county in which the licensed premises or the business of the person issued an alcoholic beverage delivery permit that is the subject matter of the hearing is located. All such hearings shall be open to the public."

## Chapter 7 Section 19 Laws 2021

SECTION 19. Section 60-6C-4 NMSA 1978 (being Laws 1981, Chapter 39, Section 100, as amended) is amended to read:

"60-6C-4. ADMINISTRATIVE PROCEEDINGS--COMPLAINTS--  
INVESTIGATION--ORDER TO SHOW CAUSE--SERVICE--HEARINGS.--

A. Whenever a person lodges a signed, written complaint with the department alleging that a licensee has violated any of the provisions of the Liquor Control Act, unless the complaint is deficient on its face, the director shall request that the department of public safety investigate the complaint.

B. The department of public safety shall investigate the complaint and make a written report to the director.

C. If the director believes from the report that probable cause exists for filing charges against the licensee for the revocation or suspension of the licensee's license or permit or for fining the licensee, or for both, the director or the director's designee shall file in the department a charge against the licensee in the name of the state, stating the nature of the grounds relied upon for the filing, the approximate date of the alleged violation and the names and addresses of the witnesses who are expected to give testimony or evidence against the licensee.

D. After charges have been filed, the director shall issue a signed order for the licensee to appear at a hearing to explain, on the basis of any ground set out in the charge, why the license or permit should not be revoked or suspended or why the licensee should not be fined, or both.

E. The director shall keep the original of the charge and the order to show cause on file in the director's office.

F. The director shall appoint a hearing officer no later than ten days prior to the date set for the hearing at which the licensee shall appear to explain why the licensee's license or permit should not be revoked or suspended or why the licensee should not be fined, or both.

G. The director shall have a copy of the charge and a copy of the order to show cause sent to the licensee or the licensee's resident agent at the agent's last known address by certified mail at least fourteen days before the date set for the hearing on the order to show cause.

H. At a hearing on an order to show cause, the director shall cause a record of hearing to be made, which shall record:

- (1) the style of the proceedings;
- (2) the nature of the proceedings, including a copy of the charge and a copy of the order to show cause;
- (3) the place, date and time of the hearing and all continuances or recesses of the hearing;
- (4) the appearance or nonappearance of the licensee;
- (5) if the licensee appears with an attorney, the name and address of the attorney;
- (6) a record of all evidence and testimony and a copy or record of all exhibits introduced in evidence;
- (7) the findings of fact and law as to whether the licensee has violated the Liquor Control Act as set out in the charge; and
- (8) the decision of the director.

I. If the licensee fails to appear without good cause at the time and place designated in the order to show cause for the hearing, the director shall order the nonappearance of the licensee to be entered in the record of hearing and shall order the license or permit revoked or suspended or the licensee fined, or both, on all the grounds alleged in the charge and shall cause the record of hearing to show the particulars in detail. In such a case, there shall be no reopening, appeal or review of the proceedings unless pursued by a co-owner of a license who did not receive notice of the hearing.

J. If the licensee admits guilt on all grounds set out in the charge, the director shall order the revocation or suspension of the license or permit or the licensee fined, or both, and cause a record of hearing to be made showing the facts and particulars of the director's order of revocation or suspension of the license or permit or fine of the licensee, or both. In such a case, there shall be no review or appeal of the proceedings.

K. If the licensee appears at the hearing and does not testify or denies guilt of any of the grounds set out in the charge, the hearing shall proceed as follows:

(1) the director or the hearing officer shall administer oaths to all witnesses, the department shall cause all testimony and evidence in support of the grounds alleged in the charge to be presented in the presence of the licensee and the director shall allow the licensee or the licensee's attorney to cross-examine all witnesses;

(2) the licensee shall be allowed to present testimony and evidence the licensee may have in denial or in mitigation of the grounds set out in the charge;

(3) the department shall have the right to cross-examine the licensee or any witness testifying in the licensee's favor;

(4) the department shall present any evidence or testimony in rebuttal of that produced by the licensee;

(5) the director or the hearing officer shall make a finding on each ground alleged and a finding of the guilt or innocence of the licensee on each ground;

(6) if the licensee is found guilty on any ground alleged and proved, the director shall make an order of revocation or suspension of the license or permit or fine of the licensee, or both; and

(7) the rules of evidence shall not be required to be observed, but the order of suspension or revocation or fine, or both, shall be based upon substantial, competent and relevant evidence and testimony appearing in the record of hearing.

L. No admission of guilt, admission against interest or transcript of testimony made or given in a hearing pursuant to this section shall be received or used in criminal proceedings wherein the licensee is a defendant; provided, however, if the licensee commits perjury in a hearing, the evidence shall be admissible in a perjury trial if otherwise competent and relevant.

M. The director shall adopt reasonable rules setting forth uniform standards of penalties concerning fines and suspensions imposed by the director.

N. For purposes of this section, "licensee" includes a person issued an alcoholic beverage delivery permit."

## **Chapter 7 Section 20 Laws 2021**

SECTION 20. Section 60-6C-6 NMSA 1978 (being Laws 1981, Chapter 39, Section 102, as amended by Laws 1999, Chapter 265, Section 75 and by Laws 1999, Chapter 277, Section 1) is amended to read:

"60-6C-6. APPEAL.--

A. A licensee aggrieved or adversely affected by an order of revocation, suspension or fine shall have the right to appeal to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

B. No appeal shall have the effect of suspending the operation of the order of suspension, revocation or fine, but the liquor control hearing officer may, for good cause shown and upon such terms and conditions as the officer may find are just, in the officer's discretion suspend the operation of the order of suspension, revocation or fine pending the appeal. The court shall tax costs against the losing party.

C. For purposes of this section, "licensee" includes a person issued an alcoholic beverage delivery permit and includes a person issued a server permit pursuant to the Alcohol Server Education Article of the Liquor Control Act."

## **Chapter 7 Section 21 Laws 2021**

SECTION 21. Section 60-6E-3 NMSA 1978 (being Laws 1999, Chapter 277, Section 4) is amended to read:

"60-6E-3. DEFINITIONS.--As used in the Alcohol Server Education Article of the Liquor Control Act:

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

B. "division" means the alcoholic beverage control division of the regulation and licensing department;

C. "licensee" means a person issued a license pursuant to the provisions of the Liquor Control Act to sell, serve or dispense alcoholic beverages for consumption and not for resale;

D. "program" means an alcohol server education course and examination approved by the director to be administered by providers;

E. "provider" means an individual, partnership, corporation, public or private school or any other legal entity certified by the director to provide a program;

F. "server" means an individual who sells, serves, or dispenses alcoholic beverages for consumption on or off licensed premises, including persons who manage, direct or control the sale or service of alcohol and when the context requires, includes a person who delivers alcoholic beverages. "Server" does not include officers of a corporate licensee or lessee who do not manage, direct or control the sale, delivery or service of alcohol; and

G. "server permit" means an authorization issued by the director for a person to be employed or engaged to sell, serve or dispense alcoholic beverages."

## **Chapter 7 Section 22 Laws 2021**

SECTION 22. Section 60-6E-8 NMSA 1978 (being Laws 1999, Chapter 277, Section 9) is amended to read:

"60-6E-8. SERVER PERMIT--SUSPENSION--REVOCATION--ADMINISTRATIVE FINES--PENALTIES.--The following penalties are in addition to any other penalties available for sales to minors or intoxicated persons in violation of the provisions of the Liquor Control Act or rules of the division:

A. the director may suspend a server's server permit for a period of thirty days or fine the server in an amount not to exceed five hundred dollars (\$500), or both, when the director finds that the server is guilty of a first offense of selling, serving, delivering or dispensing an alcoholic beverage to an intoxicated person in violation of Section 60-7A-16 NMSA 1978 or to a minor in violation of Section 60-7B-1 NMSA 1978;



B. the director shall suspend a server's server permit for a period of one year when the director finds that the server is guilty of a second offense of selling, serving, delivering or dispensing alcoholic beverages to intoxicated persons in violation of Section 60-7A-16 NMSA 1978 or to minors in violation of Section 60-7B-1 NMSA 1978 arising separately from the incident giving rise to the server's first offense;

C. the director shall permanently revoke a server's server permit when the director finds that the server is guilty of a third offense of selling, serving, delivering or dispensing alcoholic beverages to intoxicated persons in violation of Section 60-7A-16 NMSA 1978 or to minors in violation of Section 60-7B-1 NMSA 1978 arising separately from the incidents giving rise to the server's first and second offenses;

D. no person whose server permit is suspended or revoked pursuant to the provisions of this section may be a server of alcoholic beverages on a licensed premises or deliver alcoholic beverages during the period of suspension or revocation;

E. no person whose server permit is suspended may serve or deliver alcoholic beverages on or after the date of suspension unless the person obtains a new server permit in accordance with the provisions of the Alcohol Server Education Article of the Liquor Control Act; and

F. nothing in the Alcohol Server Education Article of the Liquor Control Act shall be interpreted to waive a permit holder's or license holder's liability that may arise pursuant to the provisions of the Liquor Control Act."

## **Chapter 7 Section 23 Laws 2021**

SECTION 23. Section 60-6E-9 NMSA 1978 (being Laws 1999, Chapter 277, Section 10) is amended to read:

"60-6E-9. ALCOHOL SERVER EDUCATION--REQUIRED FOR LICENSE RENEWAL.--A licensee seeking renewal of a license shall submit to the division, as a

condition of license renewal, proof that the licensee, the lessee, if any, and each server employed by the licensee or lessee during the prior licensing year have or had valid server permits at all times that alcoholic beverages were sold, served, delivered or dispensed."

## **Chapter 7 Section 24 Laws 2021**

SECTION 24. Section 60-6E-10 NMSA 1978 (being Laws 1999, Chapter 277, Section 11) is amended to read:

"60-6E-10. ADMINISTRATIVE PROCEEDINGS--HEARINGS.--

A. Hearings for the suspension or revocation of any server's server permit or delivery permit or for imposing a fine on the server, or both, shall be conducted in accordance with the provisions of Sections 60-6C-2 through 60-6C-6 NMSA 1978.

B. The director may suspend or revoke a server permit or delivery permit or impose a fine on a server, or impose a combination of those penalties, only if the server violates the provisions of Section 60-7A-16 or 60-7B-1 NMSA 1978."

## **Chapter 7 Section 25 Laws 2021**

SECTION 25. Section 60-7A-1 NMSA 1978 (being Laws 1981, Chapter 39, Section 47, as amended) is amended to read:

"60-7A-1. HOURS AND DAYS OF BUSINESS.--

A. Provided that nothing in this section shall prohibit the consumption at any time of alcoholic beverages in guest rooms of hotels, alcoholic beverages shall be sold, served and consumed on licensed premises only from 7:00 a.m. until 2:00 a.m. on the following day.

B. Except as provided in Subsection C of this section, alcoholic beverages may be sold by a dispenser or a retailer in unbroken packages, for consumption off the licensed premises and not for resale from 7:00 a.m. until midnight.

C. The governing body of a local option district that is a class B county with a population greater than seventy thousand and less than seventy-six thousand according to the most recent federal decennial census or that is a municipality located within a class B county with a population greater than seventy thousand and less than seventy-six thousand according to the most recent federal decennial census may pass an ordinance to place restrictions, in addition to those provided in this section, on the hours during which a dispenser or retailer may sell alcoholic beverages in unbroken packages for consumption off the licensed premises and not for resale. The ordinance may restrict sales between 7:00 a.m. and 10:00 a.m. and shall provide the hours between 7:00 a.m. and 10:00 a.m., if any, during which a dispenser or retailer may sell alcoholic beverages in unbroken packages for consumption off the licensed premises and not for resale."

## **Chapter 7 Section 26 Laws 2021**

SECTION 26. Section 60-7A-4 NMSA 1978 (being Laws 1981, Chapter 39, Section 50, as amended) is amended to read:

"60-7A-4. SALE, SHIPMENT AND DELIVERY UNLAWFUL.--

A. It is unlawful for a person on the person's own behalf or as the agent of another person, except a licensed New Mexico wholesaler or manufacturer or the agent of either, to directly or indirectly sell or offer for sale for shipment into the state or ship into the state, except as provided in Section 60-7A-3 NMSA 1978, alcoholic beverages unless the person or the person's principals have secured a nonresident license as provided in Section 60-6A-7 NMSA 1978.

B. It is a violation of the Liquor Control Act to deliver any alcoholic beverages transported into the state unless the delivery is made in accordance with Section 60-7A-3 NMSA 1978 or Section 4 of this 2021 act.

C. As used in this section, "into the state" means into the exterior boundaries of the state."

## **Chapter 7 Section 27 Laws 2021**

SECTION 27. Section 60-7A-12 NMSA 1978 (being Laws 1981, Chapter 39, Section 78, as amended) is amended to read:

"60-7A-12. OFFENSES BY DISPENSERS, CANOPY LICENSEES, RESTAURANT LICENSEES, GOVERNMENTAL LICENSEES OR THEIR LESSEES AND CLUBS.--It is a violation of the Liquor Control Act for any dispenser, canopy licensee, restaurant licensee, governmental licensee or its lessee or club to:

A. receive any alcoholic beverages for the purpose or with the intent of reselling the alcoholic beverages from any person unless the person is duly licensed to sell alcoholic beverages to dispensers for resale;

B. sell; possess for the purpose of sale; or bottle bulk wine for sale other than by the drink for immediate consumption on its licensed premises;

C. directly, indirectly or through subterfuge, own, operate or control any interest in a wholesale liquor establishment or liquor manufacturing or wine bottling firm; provided that this section shall not prevent:

(1) a dispenser from owning an interest in a legal entity, directly or indirectly or through an affiliate, that wholesales alcoholic beverages and that operates or controls an interest in an establishment operating pursuant to the provisions of Subsection B of Section 60-7A-10 NMSA 1978; or

(2) a small brewer or winegrower licensed pursuant to the Domestic Winery, Small Brewery and Craft Distillery Act from holding an interest in a legal entity, directly or indirectly or through an affiliate, that holds a restaurant or a dispenser's license and a small brewer and winegrower limited wholesaler's license issued pursuant to the Liquor Control Act;

D. sell or possess for the purpose of sale any alcoholic beverages at any location or place except its licensed premises or the location permitted pursuant to the provisions of Section 60-6A-12 NMSA 1978;

E. employ or engage a person to sell, serve or dispense alcoholic beverages if the person has not received alcohol server training within thirty days of employment; or

F. employ or engage a person to sell, serve, deliver or dispense alcoholic beverages during a period when the server permit of that person is suspended or revoked."

## **Chapter 7 Section 28 Laws 2021**

SECTION 28. Section 60-7A-13 NMSA 1978 (being Laws 1981, Chapter 39, Section 79, as amended) is amended to read:

"60-7A-13. SALES BY CLUBS.--

A. Any club licensed pursuant to the provisions of the Liquor Control Act shall only have the right to sell alcoholic beverages by the drink and wine by the bottle for consumption on the premises.

B. Except as otherwise provided in this section, it is unlawful and grounds for suspension or revocation of its license for a club to:

(1) solicit by advertising or any other means public patronage of its alcoholic beverage facilities. In the event the club solicits public patronage of its other facilities, alcoholic beverages shall not be sold, served or consumed on the premises while the other facilities are being used by or operated for the benefit of the general public, unless the alcoholic beverage facilities are separate from the other facilities and the general public is not permitted to enter any part of the facilities where alcoholic beverages are being sold, served or consumed; or

(2) serve, sell or permit the consumption of alcoholic beverages to persons other than members and their bona fide guests.

C. A club licensed pursuant to the provisions of the Liquor Control Act may allow its facilities, including its licensed premises, to be used, for activities other than its own, no more than four times in a calendar year for fundraising events held by other nonprofit organizations.

D. For the purposes of this section:

(1) "bona fide guest" means a person whose presence in the club is in response to a specific invitation by a member and for whom the member assumes responsibility; and

(2) "member" includes the adult spouse and the children of a member who pays membership dues or of a deceased member who paid membership dues or a member of an official auxiliary or subsidiary group of the club who has been issued a personal identification card in accordance with the rules and regulations of the club."

## **Chapter 7 Section 29 Laws 2021**

SECTION 29. Section 60-7A-16 NMSA 1978 (being Laws 1981, Chapter 39, Section 93, as amended) is amended to read:

"60-7A-16. SALE TO INTOXICATED PERSONS.--It is a violation of the Liquor Control Act for a person to sell, deliver or serve alcoholic beverages to or to procure or aid in the procurement of alcoholic beverages for an intoxicated person if the person selling, delivering, serving, procuring or aiding in procurement knows or has reason to know that the person is selling, delivering, serving, procuring or aiding in procurement of alcoholic beverages for a person who is intoxicated."

## **Chapter 7 Section 30 Laws 2021**

SECTION 30. Section 60-7B-2 NMSA 1978 (being Laws 1981, Chapter 39, Section 82, as amended) is amended to read:

"60-7B-2. DOCUMENTARY EVIDENCE OF AGE AND IDENTITY.--

A. Evidence of the age and identity of the person may be shown by any document that contains a picture of the person issued by a federal, state, county or municipal government, or subdivision or agency thereof, including but not limited to a motor vehicle operator's license or an identification card issued to a member of the armed forces.

B. An identity document is valid for the purposes of the Liquor Control Act even if it has expired.

C. Except for deliveries of alcoholic beverages pursuant to Section 4 of this 2021 act, it is unnecessary to ask for an identity document if the person clearly looks older than thirty-five years of age."

## **Chapter 7 Section 31 Laws 2021**

SECTION 31. Section 60-7B-5 NMSA 1978 (being Laws 1981, Chapter 39, Section 85, as amended) is amended to read:

**"60-7B-5. REFUSAL TO SELL, SERVE OR DELIVER ALCOHOLIC BEVERAGES TO PERSON UNABLE TO PRODUCE IDENTITY CARD.--**

A. A person licensed pursuant to the provisions of the Liquor Control Act or any employee, agent or lessee of that person may refuse to deliver, sell or serve alcoholic beverages to any person who is unable to produce an identity card as evidence that the person is twenty-one years of age or over.

B. An identity document is valid for the purposes of the Liquor Control Act even if it has expired.

C. Except for deliveries of alcoholic beverages pursuant to Section 4 of this 2021 act, it is unnecessary to ask for an identity document if the person clearly looks older than thirty-five years of age."

**Chapter 7 Section 32 Laws 2021**

SECTION 32. Section 60-7B-6 NMSA 1978 (being Laws 1981, Chapter 39, Section 86, as amended) is amended to read:

"60-7B-6. DEMANDING AND SEEING IDENTITY CARD BEFORE FURNISHING ALCOHOLIC BEVERAGES.--In any criminal prosecution or in any proceedings for the suspension or revocation of a license or alcoholic beverage delivery permit or in any proceeding for violation of a municipal or county ordinance prohibiting the gift, sale or service of alcoholic beverages to minors, proof that the accused licensee or alcoholic beverage delivery permittee in good faith demanded and was shown an identity card as evidence the person is twenty-one years of age or older before furnishing any alcoholic beverages to a minor shall be a defense to the prosecution or proceedings."



## Chapter 7 Section 33 Laws 2021

SECTION 33. Section 60-7B-11 NMSA 1978 (being Laws 1981, Chapter 39, Section 91, as amended) is amended to read:

"60-7B-11. EMPLOYMENT OF MINORS.--

A. Except as provided in Subsection B or C of this section, it is a violation of the Liquor Control Act for any person licensed pursuant to the provisions of the Liquor Control Act or for any employee, agent or lessee of that person knowingly to employ or use the service of any minor in the sale and service of alcoholic beverages.

B. A person holding a dispenser's, restaurant or club license may employ persons eighteen years of age or older to sell or serve alcoholic beverages in an establishment that is held out to the public as a place where meals are prepared and served and the primary source of revenue is food, and where the sale or consumption of alcoholic beverages is not the primary activity, except that a person under twenty-one years of age shall not be employed as a bartender or deliverer.

C. A person holding a wholesaler's license may employ persons eighteen years of age or older who are licensed pursuant to the New Mexico Commercial Driver's License Act to engage in activities customary to warehouse operations and to handle and deliver alcoholic beverages to licensees holding a dispenser's, retailer's, restaurant, club, small brewer, winegrower, craft distiller, manufacturer's, rectifier or any other license that allows for the purchase and delivery of alcoholic beverages by a licensed wholesaler, as long as the minor delivers sealed, unbroken packages, including containers such as bottles, cans and kegs. A person under the age of twenty-one shall not be allowed to sample alcoholic beverages to accounts."

## **Chapter 7 Section 34 Laws 2021**

SECTION 34. Section 60-6B-10 NMSA 1978 (being Laws 1981, Chapter 39, Section 45, as amended) is amended to read:

"60-6B-10. LOCATIONS NEAR CHURCH OR SCHOOL--RESTRICTIONS ON LICENSING.--No license shall be issued by the director for the sale of alcoholic beverages at a licensed premises where alcoholic beverages were not sold prior to July 1, 1981 that is within three hundred feet of a church or school. A license may be granted for a proposed licensed premises if the owner or lessee has, prior to establishment of a church or school located within three hundred feet of the proposed licensed premises, applied for, been granted and maintained a valid building permit for the construction or renovation of the proposed licensed premises and has filed on a form prescribed by the director a notice of intention to apply for transfer of a license to the proposed licensed premises. A license may be granted for a proposed licensed premises if a person has obtained a waiver from a local option district governing body for the proposed licensed premises. A license may be granted for a proposed licensed premises if a person has obtained a restaurant A license or a restaurant B license pursuant to Section 60-6A-4 NMSA 1978. For the purposes of this section, all measurements taken in order to determine the location of licensed premises in relation to churches or schools shall be the straight line distance from the property line of the licensed premises to the property line of the church or school. This provision shall not apply to a church that has been designated as a historical site by the cultural properties review committee and that does not have a regular congregation."

## **Chapter 7 Section 35 Laws 2021**

SECTION 35. STUDY EFFECTS OF DELIVERY OF ALCOHOL.--Five years after the enactment of the law, the department of health shall conduct a study of impacts of the delivery of alcohol, evaluating consumption trends and public safety impacts of the delivery of alcohol.

## **Chapter 7 Section 36 Laws 2021**

SECTION 36. REPEAL.--Sections 60-6A-25, 60-6B-1.1, 60-6B-11, 60-6B-15, 60-6E-6, 60-7A-2 and 60-7A-18 NMSA 1978 (being Laws 1983, Chapter 280, Section 6, Laws 1989, Chapter 292, Section 2, Laws 1981, Chapter 39, Section 46, Laws 1988, Chapter 12, Section 3, Laws 1999, Chapter 277, Section 7 and Laws 1981, Chapter 39, Sections 48 and 95, as amended) are repealed.

## **Chapter 7 Section 37 Laws 2021**

SECTION 37. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

# **LAWS 2021, CHAPTER 8**

**Senate Bill 52**  
**Approved March 17, 2021**

AN ACT

RELATING TO UNEMPLOYMENT COMPENSATION; PROVIDING CERTAIN  
EXTENDED UNEMPLOYMENT BENEFITS.

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

## **Chapter 8 Section 1 Laws 2021**

SECTION 1. Section 51-1-48 NMSA 1978 (being Laws 1971, Chapter 209, Section 7, as amended) is amended to read:

"51-1-48. DEFINITIONS--EXTENDED BENEFITS.--

A. As used in this section, unless the context clearly requires otherwise, "extended benefit period" means a period that:

(1) begins with the third week after a week for which there is a state "on indicator";

(2) ends with either of the following weeks, whichever occurs later:

(a) the third week after the first week for which there is a state "off indicator"; or

(b) the thirteenth consecutive week of such period; and

(3) does not begin by reason of a state "on indicator" before the fourteenth week following the end of a prior extended benefit period that was in effect with respect to this state.

B. There is a state "on indicator" for this state for a week if the rate of insured unemployment not seasonally adjusted under this section for the period consisting of that week and the immediately preceding twelve weeks:

(1) equaled or exceeded one hundred twenty percent of the average of the rates for the corresponding thirteen-week period ending in each of the preceding two calendar years; and

(2) equaled or exceeded five percent; or

(3) equaled or exceeded six percent, regardless of the rate of insured unemployment in the two previous years; provided that the operation of this paragraph shall not activate the state "on indicator" any time after four weeks prior to the last week for which one hundred percent federal sharing funding is available under Section 2005(a) of Public Law No. 111-5, without regard to the extension of federal sharing for certain claims as provided under Section 2005(c) of that law; or

(4) with respect to benefits for weeks of unemployment beginning on or after the effective date of this 2021 act:

(a) the average rate of total unemployment, seasonally adjusted, as determined by the United States secretary of labor, for the period consisting of the most recent three months for which data for all states are published before the close of such week equals or exceeds six and one-half percent; and

(b) the average rate of total unemployment in this state, seasonally adjusted, as determined by the United States secretary of labor, for the three-month period referred to in Subparagraph (a) of this paragraph, equals or exceeds one hundred ten percent of such average for either or both of the corresponding three-month periods ending in the two preceding calendar years.

C. There is a state "off indicator" for this state for a week only if, for the period consisting of that week and the immediately preceding twelve weeks, none of the options specified in Subsection B of this section result in a state "on indicator".

D. Except as provided in Subsection E of this section, the total extended benefit amount payable to an eligible individual with respect to the applicable benefit year shall be the least of the following amounts:

(1) fifty percent of the total amount of regular benefits that were payable to the individual pursuant to this section in the individual's applicable benefit year;

(2) thirteen times the individual's average weekly benefit amount that was payable to the individual pursuant to this section for a week of total unemployment in the applicable benefit year; or

(3) thirty-nine times the individual's average weekly benefit amount that was payable to the individual pursuant to this section for a week of total unemployment in the applicable benefit year, reduced by the total amount of regular benefits that were

paid, or deemed paid, to the individual pursuant to this section with respect to the benefit year; provided that the amount determined pursuant to this paragraph shall be reduced by the total amount of additional benefits paid, or deemed paid, to the individual under the provisions of this section for weeks of unemployment in the individual's benefit year that began prior to the effective date of the extended benefit period that is current in the week for which the individual first claims extended benefits; and provided further, if the benefit year of the individual ends within an extended benefit period, the remaining balance of the extended benefits that the individual would, but for this paragraph, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced, but not below zero, by the product of the number of weeks for which the individual received any amounts as readjustment allowances within that benefit year multiplied by the individual weekly benefit amount for extended benefits.

E. Effective with respect to weeks beginning in a high-unemployment period, the total extended benefit amount payable to an eligible individual with respect to the applicable benefit year shall be the least of the following amounts:

(1) eighty percent of the total amount of regular benefits that were payable to the individual pursuant to this section in the individual's applicable benefit year;

(2) twenty times the individual's average weekly benefit amount that was payable to the individual pursuant to this section for a week of total unemployment in the applicable benefit year; or

(3) forty-six times the individual's average weekly benefit amount that was payable to the individual pursuant to this section for a week of total unemployment in the applicable benefit year reduced by the total amount of regular benefits that were paid, or deemed paid, to the individual pursuant to this section with respect to the benefit year; provided that the amount determined pursuant to this paragraph shall be reduced by the total amount of additional benefits paid, or deemed paid, to the individual under the provisions of this section for weeks of unemployment in the

individual's benefit year that began prior to the effective date of the extended benefit period that is current in the week for which the individual first claims extended benefits; and provided further, if the benefit year of an individual ends within an extended benefit period, the remaining balance of the extended benefits that the individual would, but for this paragraph, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced, but not below zero, by the product of the number of weeks for which the individual received any amounts as readjustment allowances within that benefit year multiplied by the individual weekly benefit amount for extended benefits.

F. For purposes of Subsection E of this section, "high-unemployment period" means a period during which an extended benefit period would be in effect if Paragraph (4) of Subsection B of this section were applied by substituting "eight percent" for "six and one-half percent".

G. A benefit paid to an individual pursuant to this section shall be charged pursuant to Subsection A of Section 51-1-11 NMSA 1978.

H. As used in this section:

(1) "rate of insured unemployment" means the percentage derived by dividing:

(a) the average weekly number of individuals filing claims for regular benefits in this state for weeks of unemployment with respect to the most recent thirteen-consecutive-week period, as determined by the secretary on the basis of the secretary's reports to the United States secretary of labor; by

(b) the average monthly employment covered under the Unemployment Compensation Law for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period;

(2) "regular benefits" means benefits payable to an individual under the Unemployment Compensation Law or under any other state law, including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C., Chapter 85, other than extended benefits;

(3) "extended benefits" means benefits, including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C., Chapter 85, payable to an individual under the provisions of this section for weeks of unemployment in the individual's eligibility period;

(4) "eligibility period" of an individual means the period consisting of the weeks in the individual's benefit year that begin in an extended benefit period and, if the individual's benefit year ends within such extended benefit period, any weeks thereafter that begin in such period;

(5) "exhaustee" means an individual who, with respect to any week of unemployment in the individual's eligibility period:

(a) has received, prior to such week, all of the regular benefits that were available to the individual under the Unemployment Compensation Law or any other state law, including dependent's allowance and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C., Chapter 85, in the individual's current benefit year that includes such week; provided that, for the purposes of this subparagraph, an individual shall be deemed to have received all of the regular benefits that were available to the individual, although, as a result of a pending appeal with respect to wages that were not considered in the original monetary determination in the individual's benefit year, the individual may subsequently be determined to be entitled to added regular benefits; or

(b) if the individual's benefit year has expired prior to such week, has no, or insufficient, wages on the basis of which the individual could establish a new benefit year that would include such week; and



(c) has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Trade Act of 1974, the Automotive Products Trade Act of 1965 and such other federal laws as are specified in regulations issued by the United States secretary of labor; and has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada, but if the individual is seeking such benefits and the appropriate agency finally determines that the individual is not entitled to benefits under such law, the individual is considered an exhaustee; and

(6) "state law" means the unemployment insurance law of any state, approved by the United States secretary of labor under Section 3304 of the Internal Revenue Code of 1986."

## **LAWS 2021, CHAPTER 9**

**Senate Bill 122, aa**  
**Approved March 17, 2021**

AN ACT

RELATING TO PROFESSIONAL LICENSURE; AMENDING A PROVISION OF THE PHARMACY ACT TO REMOVE THE PROHIBITION AGAINST NON-PHARMACISTS' USE OF THE WORDS "APOTHECARY", "APOTHECARY SHOP" AND OTHER WORDS OF SIMILAR IMPORT AND PHARMACY-RELATED INSIGNIAS OR DEVICES ON SIGNS OR ADVERTISEMENTS.

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

### **Chapter 9 Section 1 Laws 2021**

SECTION 1. Section 61-11-21 NMSA 1978 (being Laws 1969, Chapter 29, Section 20, as amended) is amended to read:

"61-11-21. LICENSING OF PHARMACISTS AND PHARMACIES REQUIRED.--

A. Unless a person is a pharmacist or is exempted under the Pharmacy Act, no person shall sell at retail any dangerous drug, compound any prescription or acquire and possess any dangerous drug without its being prescribed.

B. No person shall conduct or operate a place used for the retail sale, compounding or dispensing of drugs or prescriptions or a place represented by a sign or by advertisement to have a business name or specialization that includes the words "pharmacist", "pharmacy", "chemist's shop", "drug store", "drugs", "druggist", "drug sundries", "prescriptions" or a combination of these that might indicate to the public that the place is a pharmacy unless the place is licensed by the board under the Pharmacy Act.

C. No person shall permit anyone in the person's employ or under the person's supervision, except a pharmacist, pharmacist intern or pharmacy technician, to compound, dispense, label or otherwise prepare prescriptions.

D. The provisions of Subsections A, B and C of this section shall not apply to a person possessing a license issued pursuant to Subsection B of Section 61-11-14 NMSA 1978 for the sale or distribution of veterinary drugs bearing the legend: "caution: federal law restricts this drug to use by or on the order of a licensed veterinarian"; provided that the possessors of such a license may only sell or distribute such drugs on the order of a licensed veterinarian and may not represent their place of business by a sign or advertisement that includes the words "pharmacist", "pharmacy", "chemist's shop", "drug store", "drugs", "druggist", "drug sundries", "prescriptions" or a combination of these that might indicate to the public that the place is a pharmacy."

## **LAWS 2021, CHAPTER 10**

**Senate Bill 35, aa**  
**Approved March 18, 2021**

AN ACT

RELATING TO EMPLOYMENT; REMOVING THE EXCEPTION TO THE MINIMUM WAGE REQUIREMENT FOR SECONDARY SCHOOL STUDENTS; AMENDING THE DEFINITION OF "EMPLOYEE" IN THE MINIMUM WAGE ACT.

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

**Chapter 10 Section 1 Laws 2021**

SECTION 1. Section 50-4-21 NMSA 1978 (being Laws 1955, Chapter 200, Section 2, as amended by Laws 2019, Chapter 114, Section 1 and by Laws 2019, Chapter 242, Section 2) is amended to read:

"50-4-21. DEFINITIONS.--As used in the Minimum Wage Act:

- A. "employ" includes suffer or permit to work;
- B. "employer" includes any individual, partnership, association, corporation, business trust, legal representative or organized group of persons employing one or more employees at any one time, acting directly or indirectly in the interest of an employer in relation to an employee, but shall not include the United States, the state or any political subdivision of the state; provided, however, that for the purposes of Subsection A of Section 50-4-22 NMSA 1978, "employer" includes the state or any political subdivision of the state; and
- C. "employee" includes an individual employed by an employer, but shall not include:
  - (1) an individual employed in a bona fide executive, administrative or professional capacity and forepersons, superintendents and supervisors;

(2) an individual employed by the United States, the state or any political subdivision of the state; provided, however, that for the purposes of Subsection A of Section 50-4-22 NMSA 1978, "employee" includes an individual employed by the state or any political subdivision of the state;

(3) an individual engaged in the activities of an educational, charitable, religious or nonprofit organization where the employer-employee relationship does not, in fact, exist or where the services rendered to such organizations are on a voluntary basis. The employer-employee relationship shall not be deemed to exist with respect to an individual being served for purposes of rehabilitation by a charitable or nonprofit organization, notwithstanding the payment to the individual of a stipend based upon the value of the work performed by the individual;

(4) salespersons or employees compensated upon piecework, flat rate schedules or commission basis;

(5) registered apprentices and learners otherwise provided by law;

(6) G.I. bill trainees while under training;

(7) seasonal employees of an employer obtaining and holding a valid certificate issued annually by the director of the labor relations division of the workforce solutions department. The certificate shall state the job designations and total number of employees to be exempted. In approving or disapproving an application for a certificate of exemption, the director shall consider the following:

(a) whether such employment shall be at an educational, charitable or religious youth camp or retreat;

(b) that such employment will be of a temporary nature;

(c) that the individual will be furnished room and board in connection with such employment, or if the camp or retreat is a day camp or retreat, the individual will be furnished board in connection with such employment;

(d) the purposes for which the camp or retreat is operated;

(e) the job classifications for the positions to be exempted; and

(f) any other factors that the director deems necessary to consider;

(8) any employee employed in agriculture:

(a) if the employee is employed by an employer who did not, during any calendar quarter during the preceding calendar year, use more than five hundred person-days of agricultural labor;

(b) if the employee is the parent, spouse, child or other member of the employer's immediate family; for the purpose of this subsection, the employer shall include the principal stockholder of a family corporation;

(c) if the employee: 1) is employed as a hand-harvest laborer and is paid on a piece-rate basis in an operation that has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment; 2) commutes daily from the employee's permanent residence to the farm on which the employee is so employed; and 3) has been employed in agriculture less than thirteen weeks during the preceding calendar year;

(d) if the employee, other than an employee described in Subparagraph (c) of this paragraph: 1) is sixteen years of age or under and is employed as a hand-harvest laborer, is paid on a piece-rate basis in an operation that has been, and is generally recognized as having been, paid on a piece-rate basis in the region of employment; 2) is employed on the same farm as the employee's parent or person

standing in the place of the parent; and 3) is paid at the same piece-rate as employees over age sixteen are paid on the same farm; or

(e) if the employee is principally engaged in the range production of livestock or in milk production;

(9) an employee engaged in the handling, drying, packing, packaging, processing, freezing or canning of any agricultural or horticultural commodity in its unmanufactured state; or

(10) employees of charitable, religious or nonprofit organizations who reside on the premises of group homes operated by such charitable, religious or nonprofit organizations for persons who have a mental, emotional or developmental disability."

## **Chapter 10 Section 2 Laws 2021**

SECTION 2. Section 50-4-22 NMSA 1978 (being Laws 1955, Chapter 200, Section 3, as amended) is amended to read:

"50-4-22. MINIMUM WAGES.--

A. Except as provided in Subsection C of this section, an employer shall pay to an employee a minimum wage rate of:

(1) prior to January 1, 2020, at least seven dollars fifty cents (\$7.50) an hour;

(2) beginning January 1, 2020 and prior to January 1, 2021, at least nine dollars (\$9.00) an hour;

(3) beginning January 1, 2021 and prior to January 1, 2022, at least ten dollars fifty cents (\$10.50) an hour;

(4) beginning January 1, 2022 and prior to January 1, 2023, at least eleven dollars fifty cents (\$11.50) an hour; and

(5) on and after January 1, 2023, at least twelve dollars (\$12.00) an hour.

B. An employer furnishing food, utilities, supplies or housing to an employee who is engaged in agriculture may deduct the reasonable value of such furnished items from any wages due to the employee.

C. An employee who customarily and regularly receives more than thirty dollars (\$30.00) a month in tips shall be paid a minimum hourly wage as follows:

(1) prior to January 1, 2020, at least two dollars thirteen cents (\$2.13) an hour;

(2) beginning January 1, 2020 and prior to January 1, 2021, at least two dollars thirty-five cents (\$2.35) an hour;

(3) beginning January 1, 2021 and prior to January 1, 2022, at least two dollars fifty-five cents (\$2.55) an hour;

(4) beginning January 1, 2022 and prior to January 1, 2023, at least two dollars eighty cents (\$2.80) an hour;

(5) on and after January 1, 2023, at least three dollars (\$3.00) an hour; and

(6) the employer may consider tips as part of wages, but the tips combined with the employer's cash wage shall not equal less than the minimum wage

rate as provided in Subsection A of this section. All tips received by such employees shall be retained by the employee, except that nothing in this section shall prohibit the pooling of tips among wait staff.

D. An employee shall not be required to work more than forty hours in any week of seven days, unless the employee is paid one and one-half times the employee's regular hourly rate of pay for all hours worked in excess of forty hours. For an employee who is paid a fixed salary for fluctuating hours and who is employed by an employer a majority of whose business in New Mexico consists of providing investigative services to the federal government, the hourly rate may be calculated in accordance with the provisions of the federal Fair Labor Standards Act of 1938 and the regulations pursuant to that act; provided that in no case shall the hourly rate be less than the federal minimum wage."

## **LAWS 2021, CHAPTER 11**

**House Bill 22, aa**  
**Approved March 18, 2021**

AN ACT

RELATING TO EDUCATION; EXPANDING WHO QUALIFIES FOR SCHOLARSHIPS UNDER THE GROW YOUR OWN TEACHERS ACT; PROVIDING PROFESSIONAL LEAVE TO PUBLIC SCHOOL EMPLOYEES WHO ARE RECIPIENTS OF SCHOLARSHIPS UNDER THE GROW YOUR OWN TEACHERS ACT.

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

### **Chapter 11 Section 1 Laws 2021**

SECTION 1. Section 21-21P-2 NMSA 1978 (being Laws 2019, Chapter 230, Section 2) is amended to read:



"21-21P-2. DEFINITIONS.--As used in the Grow Your Own Teachers Act:

- A. "department" means the higher education department;
- B. "public school" includes constitutional special schools and state institutions and state agencies that educate children;
- C. "school employee" means a resident of New Mexico who is authorized to work in the United States and who has been employed by a public school in a position that works directly with students for at least two years and is in good standing with the school district and who is enrolled in or accepted by an undergraduate teacher preparation program at a regionally accredited public post-secondary educational institution in New Mexico; and
- D. "teacher preparation program" means a program that has been formally approved as meeting the requirements of the public education department and that leads to level one teacher licensure, including a program in a two-year post-secondary educational institution that meets the requirements for a teacher education transfer module established pursuant to Subsection C of Section 21-1B-4 NMSA 1978."

## **Chapter 11 Section 2 Laws 2021**

SECTION 2. Section 21-21P-3 NMSA 1978 (being Laws 2019, Chapter 230, Section 3) is amended to read:

"21-21P-3. FUND CREATED--METHOD OF PAYMENT.--The "grow your own teachers fund" is created in the state treasury. The fund consists of money appropriated for scholarships pursuant to the Grow Your Own Teachers Act, earnings from investment of the fund, gifts, grants and donations to the fund. Money in the fund shall not revert at the end of a fiscal year. Money in the fund is subject to appropriation by the legislature to implement the provisions of the Grow Your Own Teachers Act. The fund shall be administered by the department. All payments of money for loans shall be

made on warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of higher education or the secretary's designated representative."

### **Chapter 11 Section 3 Laws 2021**

SECTION 3. Section 21-21P-4 NMSA 1978 (being Laws 2019, Chapter 230, Section 4) is amended to read:

"21-21P-4. SCHOOL EMPLOYEES--TEACHER PREPARATION--  
PROFESSIONAL LEAVE.--

A. A school employee who wants to become a teacher may petition the public school in which the school employee is employed to grant professional leave for college classes, examinations and practice teaching, as needed. The public school shall grant professional leave if the school employee is a recipient of a scholarship pursuant to the Grow Your Own Teachers Act and the professional leave minimizes disruption to the school day. The public school may require school employees to make up hours in exchange for hours missed during the school day.

B. If a school employee who is accepted into or enrolled in a teacher preparation program offered by a regionally accredited public post-secondary educational institution in New Mexico does not live within a reasonable distance of the public post-secondary educational institution's campus, the public school shall allow the school employee to use the distance education resources of the school district to take classes."

### **Chapter 11 Section 4 Laws 2021**

SECTION 4. Section 21-21P-5 NMSA 1978 (being Laws 2019, Chapter 230, Section 5) is amended to read:

"21-21P-5. CONDITIONS FOR ELIGIBILITY.--A scholarship may be awarded to a school employee who:

A. has not earned appropriate educational credentials to be licensed as a teacher by the public education department;

B. has demonstrated financial need consistent with the criteria promulgated by the department; and

C. has complied with other rules promulgated by the department to carry out the provisions of the Grow Your Own Teachers Act."

## **Chapter 11 Section 5 Laws 2021**

SECTION 5. Section 21-21P-6 NMSA 1978 (being Laws 2019, Chapter 230, Section 6) is amended to read:

"21-21P-6. SCHOLARSHIP AUTHORIZED--ADMINISTRATION--PREFERENCE IN SCHOLARSHIP AWARDS.--

A. The department shall administer the Grow Your Own Teachers Act and shall promulgate rules to carry out the provisions of that act. The department shall consult the public education department any time the department promulgates rules relating to the Grow Your Own Teachers Act.

B. Scholarships shall be awarded to qualified school employees. Qualifications shall be determined by rule of the department.

C. The department shall allocate money to public post-secondary educational institutions based on a student need formula calculated according to income reported on the free application for federal student aid and on the number of students enrolled in

each public education department-approved teacher preparation program at a New Mexico public post-secondary educational institution.

D. Public post-secondary educational institutions shall make awards to qualifying eligible students based on financial need in an amount not to exceed six thousand dollars (\$6,000) per year for not more than five years as determined by rule of the department.

E. Money for the scholarship shall be placed in an account at the public post-secondary educational institution in the name of the school employee, and the money may be drawn upon to pay educational expenses charged by the institution, including tuition, fees, books and course supplies."

## **Chapter 11 Section 6 Laws 2021**

SECTION 6. Section 21-21P-7 NMSA 1978 (being Laws 2019, Chapter 230, Section 7) is amended to read:

"21-21P-7. DURATION OF SCHOLARSHIP.--Each scholarship is for a period of one semester. A scholarship may be renewed, as long as the school employee continues to meet the conditions of eligibility, until the school employee graduates from a public post-secondary educational institution."

## **Chapter 11 Section 7 Laws 2021**

SECTION 7. Section 21-21P-8 NMSA 1978 (being Laws 2019, Chapter 230, Section 8) is amended to read:

"21-21P-8. TERMINATION OF SCHOLARSHIP.--A scholarship is terminated upon occurrence of one or more of the following:

- A. the school employee withdraws from the public post-secondary educational institution or from the teacher preparation program, or the school employee fails to remain at least a half-time student;
- B. the school employee fails to achieve satisfactory academic progress; or
- C. the school employee is in substantial noncompliance with the Grow Your Own Teachers Act or the rules promulgated pursuant to that act."

## **Chapter 11 Section 8 Laws 2021**

SECTION 8. Section 22-10A-17.1 NMSA 1978 (being Laws 2004, Chapter 30, Section 1) is amended to read:

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

A. All persons who perform services as educational assistants in public schools or in those special state-supported schools within state agencies shall hold valid, educational assistant licensure issued by the department. Educational assistants shall be assigned, and serve as assistants, to school staff licensed by the department. While there may be brief periods when educational assistants are alone with and in control of a classroom of students, their primary use shall be to work alongside or under the direct supervision of licensed staff.

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

C. A licensed educational assistant who is a resident of New Mexico, who is authorized to work in the United States, who has been employed by a public school in a position that works directly with students for at least two years and is in good standing with the school district and who is enrolled in or accepted by an undergraduate teacher preparation program at a regionally accredited public post-secondary educational institution in New Mexico shall be granted professional leave by that public school to attend a teacher preparation program in New Mexico; provided that the public school may require that the professional leave minimizes disruption to the school day and may require an educational assistant to make up hours in exchange for hours missed from the school day.

D. The minimum annual salary for licensed educational assistants shall be twelve thousand dollars (\$12,000) effective in the 2004-2005 school year.

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

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

G. As used in this section, "teacher preparation program" means a program that has been formally approved as meeting the requirements of the department and that leads to level one teacher licensure, including a program in a two-year post-secondary educational institution that meets the requirements for a teacher education transfer module established pursuant to Subsection C of Section 21-1B-4 NMSA 1978."

## **Chapter 11 Section 9 Laws 2021**

SECTION 9. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

# LAWS 2021, CHAPTER 12

House Bill 52, aa  
Approved March 18, 2021

AN ACT

RELATING TO PUBLIC EDUCATION; CREATING THE BILINGUAL MULTICULTURAL EDUCATION ADVISORY COUNCIL; PROVIDING DUTIES; DEFINING "BILINGUAL LEARNER" IN THE BILINGUAL MULTICULTURAL EDUCATION ACT.

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

## Chapter 12 Section 1 Laws 2021

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

"BILINGUAL MULTICULTURAL EDUCATION ADVISORY COUNCIL--  
CREATED--MEMBERSHIP--DUTIES.--

A. The "bilingual multicultural education advisory council" is created and shall advise the secretary and department staff on the effective implementation of the Bilingual Multicultural Education Act and the support of all bilingual multicultural education students, including bilingual learners and English language learners, to have equitable access to instruction and learning as required by state and federal education and civil rights laws. The secretary and department staff shall provide biannual reports to the council regarding progress on yearly advisements.

B. The bilingual multicultural education advisory council consists of fifteen members who have technical knowledge of and expertise in bilingual multicultural education and teaching English to English language learners as follows:

(1) five members appointed or designated by the Indian nations, tribes and pueblos to include one member each from the Navajo Nation, the Mescalero Apache Tribe, the Jicarilla Apache Nation, the southern pueblos and the northern pueblos;

(2) eight members who represent pre-kindergarten through twelfth grade teachers, principals, superintendents, other education administrators and higher education faculty who are from different geographical areas of the state and at least one of whom has a special education background; and

(3) two parents whose students are enrolled in bilingual multicultural education programs.

C. The department shall appoint the council members noted in Paragraphs (2) and (3) of Subsection B of this section from a list generated and approved by both the department and the existing ad hoc bilingual multicultural education advisory council co-chairs that is representative of various stakeholder groups.

D. The bilingual multicultural education advisory council shall elect two members to serve as co-chairs of the council. The co-chairs shall assist with the selection of new members for the council.

E. New members of the council shall begin to serve their appointments on July 1, 2021 for a term of three years. Members who are currently serving their appointments prior to the effective date of this 2021 act shall continue to serve through the remainder of their appointed term. All council members may serve two consecutive terms, and co-chairs may serve one additional year to assist with transition.

F. The council shall:

(1) study issues of bilingual multicultural education for all students, including the needs of bilingual learners and English language learners; and



(2) provide advice to the department in the areas of curriculum, instruction, assessment, teacher preparation, teacher evaluation, professional development, licensure and student and family services to:

(a) strengthen the quality and effectiveness of bilingual multicultural education programs;

(b) promote rigorous culturally and linguistically responsive instruction in bilingual multicultural education programs;

(c) support effective classroom teaching for participating bilingual multicultural education program students, including bilingual learners and English language learners who may or may not be part of standalone federal language acquisition programs;

(d) recruit, develop and train effective bilingual multicultural education teachers and teachers of bilingual learners and English language learners;

(e) identify professional development best suited and appropriate for the languages being taught to support teachers, educational assistants and other licensed employees to work effectively with bilingual multicultural education program students, including bilingual learners and English language learners;

(f) promote professional development opportunities to build the capacity of public education administrators to effectively lead bilingual multicultural education programs and become knowledgeable regarding second language acquisition research, theory and pedagogy, including culturally and linguistically responsive teaching practices, biliteracy and assessments in English and the home or heritage language;

(g) develop solutions for streamlining and strengthening program management, implementation and monitoring of bilingual multicultural education programs at the state, district and school site levels;

(h) develop family and community partnerships representative of the languages and cultures of all students in the bilingual multicultural education program, to assist and advise in the development, implementation and evaluation of the program; and

(i) support bilingual learners and English language learners to achieve programmatic goals, including academic achievement in two languages and bilingual biliteracy growth as demonstrated and measured by language and literacy assessments in English and the home or heritage language, and with regard to tribal languages, language-appropriate programmatic goals with progress determined in accordance with tribal priorities and sovereignty.

G. Members of the council may receive per diem and mileage as provided for nonsalaried public officers in the Per Diem and Mileage Act."

## **Chapter 12 Section 2 Laws 2021**

SECTION 2. Section 22-23-2 NMSA 1978 (being Laws 1973, Chapter 285, Section 2, as amended) is amended to read:

"22-23-2. DEFINITIONS.--As used in the Bilingual Multicultural Education Act:

A. "bilingual learner" means a student whose bilingualism is emerging through the development of English and a language other than English;

B. "bilingual multicultural education program" means a program using two languages, including English and the home or heritage language, as a medium of instruction in the teaching and learning process;

C. "culturally and linguistically different" means students who are of a different cultural background than mainstream United States culture and whose home or

heritage language, inherited from the student's family, tribe or country of origin, is a language other than English;

D. "district" means a public school or any combination of public schools in a district;

E. "English language learner" means a student whose first or heritage language is not English and who is unable to read, write, speak or understand English at a level comparable to grade level English proficient peers and native English speakers;

F. "heritage language" means a language other than English that is inherited from a family, tribe, community or country of origin;

G. "home language" means a language other than English that is the primary or heritage language spoken at home or in the community; and

H. "standardized curriculum" means a district curriculum that is aligned with the state academic content standards, benchmarks and performance standards."

## **LAWS 2021, CHAPTER 13**

**House Bill 57, aa**  
**Approved March 18, 2021**

AN ACT

RELATING TO PRESCRIBED BURNING; ENACTING THE PRESCRIBED BURNING ACT; ALLOWING PRIVATE LANDOWNERS TO CONDUCT PRESCRIBED BURNS; PROVIDING FOR PRESCRIBED BURN PERMITS; LIMITING CIVIL LIABILITY; INSTITUTING A PRESCRIBED BURN MANAGER CERTIFICATION PROGRAM; PROVIDING FOR PRESCRIBED BURN TRAINING; PROVIDING FOR THE

ESTABLISHMENT AND DISTRIBUTION OF FEES; EXPANDING USES OF THE FOREST LAND PROTECTION REVOLVING FUND.

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

**Chapter 13 Section 1 Laws 2021**

SECTION 1. SHORT TITLE.--Sections 1 through 8 of this act may be cited as the "Prescribed Burning Act".

**Chapter 13 Section 2 Laws 2021**

SECTION 2. DEFINITIONS.--As used in the Prescribed Burning Act:

- A. "certified prescribed burn manager" means a person certified pursuant to the prescribed burn manager certification program;
- B. "department" means the energy, minerals and natural resources department;
- C. "division" means the forestry division of the department;
- D. "extension service" means the New Mexico state university cooperative extension service;
- E. "pile burning" means the burning of vegetation, usually sticks, limbs or boles of trees and brush, resulting from land management activities, that have been stacked in piles, but does not mean the burning of a single or few small piles of yard waste or pruning debris on an individual's property; and
- F. "prescribed burn" means the controlled application of fire to existing vegetative fuels through pile burning or the burning of vegetation over predefined areas

under appropriate weather and environmental conditions for purposes of community protection, watershed resilience, silviculture, wildland fire hazard reduction, fuels reduction, rangeland improvement, wildlife management, habitat improvement, invasive species management and ecological maintenance or restoration, but does not include agricultural burning to clear fields of stubble or slash or to manage invasive species impacting crop production, as part of orchard management or to clear irrigation ditches of vegetation and debris in order to improve or restore efficient water flow and delivery.

## **Chapter 13 Section 3 Laws 2021**

### **SECTION 3. PRESCRIBED BURN USE.--**

A. Prescribed burning is considered in the public interest and not a public or private nuisance.

B. A private landowner or a private landowner's agent, contractor or legally authorized designee shall have a right to conduct a prescribed burn on the landowner's property, except when the state forester or a county or municipality issues restrictions prohibiting a prescribed burn because of drought conditions; provided that the prescribed burn is conducted with appropriate precautionary measures, including: the use of sufficient personnel and equipment; the prior notification of local fire officials; burn and contingency planning; and the use of appropriate prescribed burn techniques that cause the fire to be confined to a predetermined area.

## **Chapter 13 Section 4 Laws 2021**

### **SECTION 4. CIVIL LIABILITY.--**

A. A private landowner or a private landowner's agent, contractor or legally authorized designee who is a certified prescribed burn manager and who conducts a prescribed burn is liable for any damages to property or for personal injury caused by

the prescribed burn, including the reignition of a previously contained prescribed burn, if that person was negligent in starting, controlling or extinguishing the prescribed burn.

B. A private landowner or a private landowner's agent, contractor or legally authorized designee who is not a certified prescribed burn manager and who conducts a prescribed burn is liable for double damages to property or for personal injury caused by the prescribed burn, including the reignition of a previously contained prescribed burn, if that private landowner or that private landowner's agent, contractor or legally authorized designee was negligent in starting, controlling or extinguishing the prescribed burn.

## **Chapter 13 Section 5 Laws 2021**

SECTION 5. MODEL PRESCRIBED BURN PERMITS.--The department shall promulgate rules establishing a model prescribed burn permit for use by counties or municipalities. The rules shall provide for required terms and conditions of a prescribed burn permit, including:

- A. common terminology and definitions;
- B. standards for data collection regarding the ownership of land, fuels used, size of the prescribed burn, location of the prescribed burn and entity conducting the prescribed burn;
- C. the types of prescribed burning authorized by the permit;
- D. procedures to coordinate with the requirements of the department of environment's smoke management program;
- E. requirements for the distance of the prescribed burn from structures, buildings and fences;

F. the number of acres and estimated number of burn piles authorized under the permit;

G. requirements for notification of the public and of appropriate personnel, such as fire dispatch personnel, fire department personnel and county or municipal fire marshals, prior to and upon ignition and termination of the prescribed burn;

H. procedures to permit prescribed burns that cross jurisdictions; and

I. procedures to aggregate permit data and report annually on the effectiveness of the model prescribed burn permit.

## **Chapter 13 Section 6 Laws 2021**

SECTION 6. CRITERIA FOR COUNTIES OR MUNICIPALITIES ISSUING PRESCRIBED BURN PERMITS.--A county or municipality may adopt an ordinance to require a private landowner to obtain a permit to conduct a prescribed burn. A county or municipality that requires landowners to obtain a permit to conduct a prescribed burn shall use the model prescribed burn permit adopted by the department.

## **Chapter 13 Section 7 Laws 2021**

### SECTION 7. PRESCRIBED BURN MANAGER CERTIFICATION.--

A. The division shall create a prescribed burn manager certification program accessible to private landowners and private landowners' agents, contractors or legally authorized designees who conduct prescribed burns. The certification program shall include training, which shall be provided by the extension service, on all relevant aspects of prescribed burn, including legal requirements, safety, weather, fire behavior, smoke management, prescribed burn techniques, public relations, planning and contingencies.

B. The department shall adopt rules to create the prescribed burn manager certification program, including the training and certification of certified prescribed burn managers; training components and engagement of subject matter experts; application processes; qualification for and terms and durations of certification; types of certification, if applicable; oversight of the program; grounds and processes for renewal, suspension and revocation of certifications; and application, certification and renewal fees.

C. The department, by rule, may establish a fee at an amount not to exceed the amount required to recover costs that the division incurs in providing certification and processing applications for persons seeking certification as certified prescribed burn managers pursuant to this section. All proceeds from that fee shall be deposited in the forest land protection revolving fund.

D. Nothing in this section may be construed as creating a mandatory prescribed burn manager certification requirement to conduct prescribed burning.

## **Chapter 13 Section 8 Laws 2021**

SECTION 8. PRESCRIBED BURN TRAINING.--The extension service shall provide the training required for prescribed burn manager certification as specified in rules adopted by the department. The extension service may collect fees for providing the training. The fees shall not exceed the amount required to recover costs that the extension service incurs in providing the training.

## **Chapter 13 Section 9 Laws 2021**

SECTION 9. Section 30-32-4 NMSA 1978 (being Laws 1882, Chapter 61, Section 7, as amended) is amended to read:

"30-32-4. DAMAGES TO PERSON INJURED.--If a person sets on fire any woods, marshes or prairies, whether the person's own or not, so as thereby to occasion



damage to another person or that person's property, the person shall make satisfaction in double damages to the party injured to be recovered by civil action, unless the person is conducting a prescribed burn pursuant to the Prescribed Burning Act."

## **Chapter 13 Section 10 Laws 2021**

SECTION 10. Section 68-2-28 NMSA 1978 (being Laws 1987, Chapter 143, Section 6, as amended) is amended to read:

"68-2-28. FOREST LAND PROTECTION REVOLVING FUND CREATED.--

A. There is created in the state treasury a revolving fund to be known as the "forest land protection revolving fund". The forest land protection revolving fund shall consist of all receipts as provided by Section 68-2-26 NMSA 1978, fees collected pursuant to the Prescribed Burning Act, appropriations, gifts, grants, donations and revenue received by the forestry division of the energy, minerals and natural resources department from the federal government or other state agencies and other sources for conducting forest and watershed management projects. Subject to legislative appropriation, expenditures may be made from the forest land protection revolving fund upon vouchers signed by the state forester and warrants issued by the secretary of finance and administration:

(1) for the administration and enforcement of the Forest Conservation Act;

(2) to administer forest and watershed management projects, including acquisition of tools and equipment and expenses incurred by the forestry division in planning and supervising forest and watershed management projects;

(3) to fund approved projects pursuant to the Forest and Watershed Restoration Act; and

(4) to administer the Prescribed Burning Act.

B. Money in the forest land protection revolving fund shall not revert to the general fund."

## **LAWS 2021, CHAPTER 14**

**House Bill 157**  
**Approved March 18, 2021**

AN ACT

RELATING TO MINING; CREATING THE MINING ACT FORFEITURE FUND; MAKING AN APPROPRIATION.

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

### **Chapter 14 Section 1 Laws 2021**

SECTION 1. Section 69-36-19 NMSA 1978 (being Laws 1993, Chapter 315, Section 19) is amended to read:

"69-36-19. FUNDS CREATED.--

A. There is created within the state treasury the "mining act fund". All money received by the state from permit applicants, permit holders, the federal government, other state agencies or legislative appropriations shall be delivered to the state treasurer and deposited in the fund. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of energy, minerals and natural resources. Money in the fund is appropriated to the energy, minerals and natural resources department to carry out the purposes of the New Mexico Mining Act. Any unexpended or unencumbered balance

remaining in the mining act fund at the end of a fiscal year shall not revert to the general fund but shall remain and accrue to the benefit of the mining act fund.

B. There is created within the state treasury the "inactive or abandoned non-coal mine reclamation fund". All money received from administrative or court-imposed penalties shall be delivered to the state treasurer and deposited in the fund. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of energy, minerals and natural resources. Money in the fund is appropriated to the energy, minerals and natural resources department to conduct reclamation activities on abandoned or inactive non-coal mining areas. Any unexpended or unencumbered balance remaining in the inactive or abandoned non-coal mine reclamation fund at the end of a fiscal year shall not revert to the general fund but shall remain and accrue to the benefit of the inactive or abandoned non-coal mine reclamation fund.

C. There is created within the state treasury a nonreverting fund to be known as the "mining act forfeiture fund". All money received by the division from forfeitures of financial assurance as required by rules adopted pursuant to the New Mexico Mining Act shall be paid to the state treasurer for credit to the mining act forfeiture fund for the sole benefit of the specific reclamation project or closeout plan, or portion thereof, to which the forfeited financial assurance applies. Upon the forfeiture of some or all of the financial assurance attributable to a specific reclamation project or closeout plan, the director shall determine whether such reclamation project or closeout plan will exceed a duration of five years from the date of the forfeiture. Each amount credited to the mining act forfeiture fund for a reclamation project or closeout plan that exceeds five years pursuant to the director's determination shall be held in a separate account of the mining act forfeiture fund for the sole benefit of that reclamation project or closeout plan and may be invested by the state investment council with the advice of an independent investment advisor hired by the energy, minerals and natural resources department. Income from the mining act forfeiture fund shall be credited to the fund; provided that the income attributable to each source of forfeited financial assurance may be used only for the benefit of the specific reclamation project or closure plan, or portions thereof, to which the forfeited financial assurance applies. Disbursements from the mining act

forfeiture fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of energy, minerals and natural resources. Money in the mining act forfeiture fund is appropriated to the energy, minerals and natural resources department to complete, as provided by rules adopted pursuant to the New Mexico Mining Act, the approved reclamation projects or closeout plans, or portions thereof, on a permit area, affected area or increment to which the forfeited financial assurance applies and for which the reclamation project or closeout plan is necessary to mitigate an endangerment of life and property or constitutes a hazard to the public health and safety. Any funds remaining after a reclamation project or closeout plan is completed shall be returned to the appropriate person as provided by the rules adopted pursuant to the New Mexico Mining Act. Nothing in this subsection shall require the forfeiture and transfer of funds held in a trust established for the benefit of the state of New Mexico and approved by the director in accordance with rules adopted pursuant to the New Mexico Mining Act."

## **Chapter 14 Section 2 Laws 2021**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

## **LAWS 2021, CHAPTER 15**

**House Bill 183**  
**Approved March 30, 2021**

AN ACT

RELATING TO CHILDREN; ELIMINATING CERTAIN FINES AND FEES RELATING TO CRIMES COMMITTED BY JUVENILES.

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

## Chapter 15 Section 1 Laws 2021

SECTION 1. Section 30-31-23 NMSA 1978 (being Laws 1972, Chapter 84, Section 23, as amended) is amended to read:

"30-31-23. CONTROLLED SUBSTANCES--POSSESSION PROHIBITED.--

A. It is unlawful for a person intentionally to possess a controlled substance unless the substance was obtained pursuant to a valid prescription or order of a practitioner while acting in the course of professional practice or except as otherwise authorized by the Controlled Substances Act. It is unlawful for a person intentionally to possess a controlled substance analog.

B. A person who violates this section with respect to:

(1) up to one-half ounce of marijuana shall be issued a penalty assessment, pursuant to Section 31-19A-1 NMSA 1978 and is subject to a fine of fifty dollars (\$50.00);

(2) more than one-half ounce but up to and including one ounce of marijuana is, for the first offense, guilty of a petty misdemeanor and shall be punished by a fine of not less than fifty dollars (\$50.00) or more than one hundred dollars (\$100) and by imprisonment for not more than fifteen days, and, for a second or subsequent offense, is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000) or by imprisonment for a definite term of less than one year, or both;

(3) more than one ounce but less than eight ounces of marijuana is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000) or by imprisonment for a definite term of less than one year, or both; or

(4) eight ounces or more of marijuana is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

C. A person who violates this section with respect to:

(1) one ounce or less of synthetic cannabinoids is, for the first offense, guilty of a petty misdemeanor and shall be punished by a fine of not less than fifty dollars (\$50.00) or more than one hundred dollars (\$100) and by imprisonment for not more than fifteen days, and, for the second and subsequent offenses, is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000) or by imprisonment for a definite term less than one year, or both;

(2) more than one ounce and less than eight ounces of synthetic cannabinoids is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000) or by imprisonment for a definite term less than one year, or both; or

(3) eight ounces or more of synthetic cannabinoids is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

D. A minor who violates this section with respect to the substances listed in this subsection is guilty of a petty misdemeanor and, notwithstanding the provisions of Sections 32A-1-5 and 32A-2-19 NMSA 1978, shall be required to perform no more than forty-eight hours of community service. For the third or subsequent violation by a minor of this section with respect to those substances, the provisions of Section 32A-2-19 NMSA 1978 shall govern punishment of the minor. As used in this subsection, "minor" means a person who is less than eighteen years of age. The provisions of this subsection apply to the following substances:

(1) synthetic cannabinoids;

(2) any of the substances listed in Paragraphs (20) through (25) of Subsection C of Section 30-31-6 NMSA 1978; or

(3) a substance added to Schedule I by a rule of the board adopted on or after March 31, 2011 if the board determines that the pharmacological effect of the substance, the risk to the public health by abuse of the substance and the potential of the substance to produce psychic or physiological dependence liability is similar to the substances described in Paragraph (1) or (2) of this subsection.

E. Except as provided in Subsections B, C and G of this section, and for those substances listed in Subsection F of this section, a person who violates this section with respect to any amount of any controlled substance enumerated in Schedule I, II, III or IV or a controlled substance analog of a substance enumerated in Schedule I, II, III or IV is guilty of a misdemeanor and shall be punished by a fine of not less than five hundred dollars (\$500) or more than one thousand dollars (\$1,000) or by imprisonment for a definite term less than one year, or both.

F. A person who violates this section with respect to phencyclidine as enumerated in Schedule III or a controlled substance analog of phencyclidine; methamphetamine, its salts, isomers or salts of isomers as enumerated in Schedule II or a controlled substance analog of methamphetamine, its salts, isomers or salts of isomers; flunitrazepam, its salts, isomers or salts of isomers as enumerated in Schedule I or a controlled substance analog of flunitrazepam, including naturally occurring metabolites, its salts, isomers or salts of isomers; gamma hydroxybutyric acid and any chemical compound that is metabolically converted to gamma hydroxybutyric acid, its salts, isomers or salts of isomers as enumerated in Schedule I or a controlled substance analog of gamma hydroxybutyric acid, its salts, isomers or salts of isomers; gamma butyrolactone and any chemical compound that is metabolically converted to gamma hydroxybutyric acid, its salts, isomers or salts of isomers as enumerated in Schedule I or a controlled substance analog of gamma butyrolactone, its salts, isomers or salts of isomers; 1-4 butane diol and any chemical compound that is metabolically converted to gamma hydroxybutyric acid, its salts, isomers or salts of isomers as enumerated in Schedule I or a controlled substance analog of 1-4 butane diol, its salts, isomers or salts

of isomers; or a narcotic drug enumerated in Schedule I or II or a controlled substance analog of a narcotic drug enumerated in Schedule I or II is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

G. Except for a minor as defined in Subsection D of this section, a person who violates Subsection A of this section while within a posted drug-free school zone, excluding private property residentially zoned or used primarily as a residence and excluding a person in or on a motor vehicle in transit through the posted drug-free school zone, with respect to:

(1) one ounce or less of marijuana or synthetic cannabinoids is, for the first offense, guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000) or by imprisonment for a definite term less than one year, or both, and for the second or subsequent offense, is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;

(2) more than one ounce and less than eight ounces of marijuana or synthetic cannabinoids is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;

(3) eight ounces or more of marijuana or synthetic cannabinoids is guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;

(4) any amount of any other controlled substance enumerated in Schedule I, II, III or IV or a controlled substance analog of a substance enumerated in Schedule I, II, III or IV, except phencyclidine as enumerated in Schedule III, a narcotic drug enumerated in Schedule I or II or a controlled substance analog of a narcotic drug enumerated in Schedule I or II, is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and



(5) phencyclidine as enumerated in Schedule III, a narcotic drug enumerated in Schedule I or II, a controlled substance analog of phencyclidine or a controlled substance analog of a narcotic drug enumerated in Schedule I or II is guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978."

## **Chapter 15 Section 2 Laws 2021**

SECTION 2. Section 31-15-12 NMSA 1978 (being Laws 1973, Chapter 156, Section 12, as amended) is amended to read:

"31-15-12. EXPLANATION OF RIGHTS--WAIVER OF COUNSEL--  
APPLICATION FEE--INDIGENCY DETERMINATION.--

A. If any person charged with any crime or a delinquent act that carries a possible sentence of imprisonment appears in any court without counsel, the judge shall inform the person of the person's right:

(1) to confer with the district public defender; and

(2) if the person is financially unable to obtain counsel, to be represented by the district public defender at all stages of the proceedings against the person.

B. Following notification of any person under Subsection A of this section, the judge shall notify the district public defender and continue the proceedings until the person has applied with the district public defender.

C. A person shall pay a nonrefundable application fee of ten dollars (\$10.00) at the time the person applies with the public defender for representation. The fee shall be deposited in the public defender automation fund. The public defender shall determine if the person is indigent and unable to pay the fee, subject to review by the

court. When the person remains in custody and is unable to pay the fee, the court may waive payment of the fee. A child subject to the provisions of the Delinquency Act shall not be required to pay the application fee.

D. Peace officers shall notify the district public defender of any person not represented by counsel who is being forcibly detained and who is charged with, or under suspicion of, the commission of any crime that carries a possible sentence of imprisonment, unless the person has previously appeared in court upon that charge.

E. Any person entitled to representation by the district public defender may intelligently waive the right to representation. The waiver may be for all or any part of the proceedings. The waiver shall be in writing and countersigned by a district public defender."

## **Chapter 15 Section 3 Laws 2021**

SECTION 3. Section 32A-1-19 NMSA 1978 (being Laws 1993, Chapter 77, Section 28, as amended) is amended to read:

"32A-1-19. COURT COSTS AND EXPENSES.--

A. The following expenses shall be a charge upon the funds of the court upon their certification by the court:

(1) reasonable compensation for services and related expenses for counsel appointed by the court;

(2) reasonable compensation for services and related expenses of a guardian ad litem or a child's attorney appointed by the court; and

(3) the expenses of service of summonses, notices, subpoenas, traveling expenses of witnesses and other like expenses incurred in any proceeding under the Children's Code.

B. A child, the family of a child or a person legally obligated to care for and support a child who is subject to the provisions of the Delinquency Act shall not be required to pay any court costs, expenses pursuant to Subsection A of this section, fees or fines.

C. Whenever legal custody of an adjudicated child is vested in someone other than the child's parents, including an agency, institution or department of this state, if the court, after notice to the parents or other persons legally obligated to support the child and after a hearing, finds that the parents or other legally obligated persons are financially able to pay all or part of the costs and expenses of the support and treatment, the court may order the parents or other legally obligated persons to pay to the custodian in the manner the court directs a reasonable sum that will cover all or part of the expenses of the support and treatment of the child subsequent to the entry of the custody order. The court may use the child support guidelines set forth in Section 40-4-11.1 NMSA 1978 to calculate a reasonable payment. If the parents or other legally obligated persons willfully fail or refuse to pay the sum ordered, the court may proceed with contempt charges and the order for payment may be filed and if filed shall have the effect of a civil judgment."

## **Chapter 15 Section 4 Laws 2021**

SECTION 4. Section 32A-2-19 NMSA 1978 (being Laws 1993, Chapter 77, Section 48, as amended) is amended to read:

"32A-2-19. DISPOSITION OF AN ADJUDICATED DELINQUENT OFFENDER.--

A. At the conclusion of the dispositional hearing, the court may make and include in the dispositional judgment its findings on the following:

(1) the interaction and interrelationship of the child with the child's parents and siblings and any other person who may significantly affect the child's best interests;

- (2) the child's adjustment to the child's home, school and community;
- (3) the mental and physical health of all individuals involved, including consideration of such factors as the child's brain development, maturity, trauma history and disability;
- (4) the wishes of the child as to the child's custodian;
- (5) the wishes of the child's parents as to the child's custody;
- (6) whether there exists a relative of the child or other individual who, after study by the department, is found to be qualified to receive and care for the child;
- (7) the availability of services recommended in the predisposition report; and
- (8) the ability of the parents to care for the child in the home.

B. If a child is found to be delinquent, the court may enter its judgment making any of the following dispositions for the supervision, care and rehabilitation of the child:

(1) transfer legal custody to the department, an agency responsible for the care and rehabilitation of delinquent children, which shall receive the child at a facility designated by the secretary of the department as a juvenile reception facility. The department shall thereafter determine the appropriate placement, supervision and rehabilitation program for the child. The judge may include recommendations for placement of the child. Commitments are subject to limitations and modifications set forth in Section 32A-2-23 NMSA 1978. The types of commitments include:

(a) a short-term commitment of one year in a facility for the care and rehabilitation of adjudicated delinquent children. No more than nine months shall be served at the facility and no less than ninety days shall be served on supervised

release, unless: 1) a petition to extend the commitment has been filed prior to the commencement of supervised release; 2) the commitment has been extended pursuant to Section 32A-2-23 NMSA 1978; or 3) supervised release is revoked pursuant to Section 32A-2-25 NMSA 1978;

(b) a long-term commitment for no more than two years in a facility for the care and rehabilitation of adjudicated delinquent children. No more than twenty-one months shall be served at the facility and no less than ninety days shall be served on supervised release, unless: 1) supervised release is revoked pursuant to Section 32A-2-25 NMSA 1978; or 2) the commitment is extended pursuant to Section 32A-2-23 NMSA 1978;

(c) if the child is a delinquent offender who committed one of the criminal offenses set forth in Subsection J of Section 32A-2-3 NMSA 1978, a commitment to age twenty-one, unless sooner discharged; or

(d) if the child is a youthful offender, a commitment to age twenty-one, unless sooner discharged;

(2) place the child on probation under those conditions and limitations as the court may prescribe;

(3) place the child in a local detention facility that has been certified in accordance with the provisions of Section 32A-2-4 NMSA 1978 for a period not to exceed fifteen days within a three hundred sixty-five day time period; or if a child is found to be delinquent solely on the basis of Paragraph (3) of Subsection A of Section 32A-2-3 NMSA 1978, the court shall only enter a judgment placing the child on probation or ordering restitution or both; or

(4) if a child is found to be delinquent solely on the basis of Paragraph (2), (3) or (4) of Subsection A of Section 32A-2-3 NMSA 1978, the court may make any disposition provided by this section and may enter its judgment placing the child on probation and, as a condition of probation, transfer custody of the child to the

department for a period not to exceed six months without further order of the court; provided that this transfer shall not be made unless the court first determines that the department is able to provide or contract for adequate and appropriate treatment for the child and that the treatment is likely to be beneficial.

C. When the child is an Indian child, the Indian child's cultural needs shall be considered in the dispositional judgment and reasonable access to cultural practices and traditional treatment shall be provided.

D. A child found to be delinquent shall not be committed or transferred to a penal institution or other facility used for the execution of sentences of persons convicted of crimes.

E. Whenever the court vests legal custody in an agency, institution or department, it shall transmit with the dispositional judgment copies of the clinical reports, predisposition study and report and other information it has pertinent to the care and treatment of the child.

F. Prior to any child being placed in the custody of the department, the department shall be provided with reasonable oral or written notification and an opportunity to be heard.

G. In addition to any other disposition pursuant to Subsection B of this section, the court may make an abuse or neglect report for investigation and proceedings as provided for in the Abuse and Neglect Act. The report may be made to a local law enforcement agency, the department or a tribal law enforcement or social service agency for an Indian child residing in Indian country.

H. In addition to any other disposition pursuant to this section or any other penalty provided by law, if a child who is fifteen years of age or older is adjudicated delinquent on the basis of Paragraph (2), (3) or (4) of Subsection A of Section 32A-2-3 NMSA 1978, the child's driving privileges may be denied or the child's driver's license may be revoked for a period of ninety days. For a second or a subsequent adjudication,

the child's driving privileges may be denied or the child's driver's license revoked for a period of one year. Within twenty-four hours of the dispositional judgment, the court may send to the motor vehicle division of the taxation and revenue department the order adjudicating delinquency. Upon receipt of an order from the court adjudicating delinquency, the director of the motor vehicle division of the taxation and revenue department may revoke or deny the delinquent's driver's license or driving privileges. Nothing in this section may prohibit the delinquent from applying for a limited driving privilege pursuant to Section 66-5-35 NMSA 1978 or an ignition interlock license pursuant to the Ignition Interlock Licensing Act, and nothing in this section precludes the delinquent's participation in an appropriate educational, counseling or rehabilitation program.

I. In addition to any other disposition pursuant to this section or any other penalty provided by law, when a child is adjudicated delinquent on the basis of Paragraph (6) of Subsection A of Section 32A-2-3 NMSA 1978, the child shall perform the mandatory community service set forth in Section 30-15-1.1 NMSA 1978. When a child fails to completely perform the mandatory community service, the name and address of the child's parent or legal guardian shall be published in a newspaper of general circulation, accompanied by a notice that the parent or legal guardian is the parent or legal guardian of a child adjudicated delinquent for committing graffiti."

## **LAWS 2021, CHAPTER 16**

**House Bill 75, aa, w/cc**  
**Approved April 1, 2021**

AN ACT

RELATING TO MEDICAL MALPRACTICE; CLARIFYING AND MODERNIZING THE MEDICAL MALPRACTICE ACT; RAISING PERSONAL LIABILITY AND RECOVERY CAPS; LIMITING PARTICIPATION BY HOSPITALS AND OUTPATIENT HEALTH CARE FACILITIES; REQUIRING A THIRD-PARTY ADMINISTRATOR FOR THE

PATIENT'S COMPENSATION FUND; REQUIRING ANNUAL FUND AUDITS; CREATING AN ADVISORY BOARD; REQUIRING ANNUAL ACTUARIAL STUDIES; REQUIRING SURCHARGES SUFFICIENT TO BRING THE FUND TO SOLVENCY BY DECEMBER 31, 2026; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

## **Chapter 16 Section 1 Laws 2021**

SECTION 1. Section 41-5-3 NMSA 1978 (being Laws 1976, Chapter 2, Section 3, as amended) is amended to read:

"41-5-3. DEFINITIONS.--As used in the Medical Malpractice Act:

- A. "advisory board" means the patient's compensation fund advisory board;
- B. "fund" means the patient's compensation fund;
- C. "health care provider" means a person, corporation, organization, facility or institution licensed or certified by this state to provide health care or professional services as a doctor of medicine, hospital, outpatient health care facility, doctor of osteopathy, chiropractor, podiatrist, nurse anesthetist, physician's assistant, certified nurse practitioner, clinical nurse specialist or certified nurse-midwife or a business entity that is organized, incorporated or formed pursuant to the laws of New Mexico that provides health care services primarily through natural persons identified in this subsection;
- D. "hospital" means a facility licensed as a hospital in this state that offers in-patient services, nursing or overnight care on a twenty-four-hour basis for diagnosing, treating and providing medical, psychological or surgical care for three or more separate persons who have a physical or mental illness, disease, injury or a rehabilitative



condition or are pregnant and may offer emergency services. "Hospital" includes a hospital's parent corporation, subsidiary corporations or affiliates if incorporated or registered in New Mexico; employees and locum tenens providing services at the hospital; and agency nurses providing services at the hospital;

E. "independent provider" means a doctor of medicine, doctor of osteopathy, chiropractor, podiatrist, nurse anesthetist, physician's assistant, certified nurse practitioner, clinical nurse specialist or certified nurse-midwife who is not an employee or not an agent of a hospital or outpatient health care facility. "Independent provider" includes a business entity that is not a hospital or outpatient health care facility that employs or consists of members who are licensed or certified as doctors of medicine, doctors of osteopathy, chiropractors, podiatrists, nurse anesthetists, physician's assistants, certified nurse practitioners, clinical nurse specialists or certified nurse-midwives and the business entity's employees;

F. "insurer" means an insurance company engaged in writing health care provider malpractice liability insurance in this state;

G. "malpractice claim" includes any cause of action arising in this state against a health care provider for medical treatment, lack of medical treatment or other claimed departure from accepted standards of health care that proximately results in injury to the patient, whether the patient's claim or cause of action sounds in tort or contract, and includes but is not limited to actions based on battery or wrongful death; "malpractice claim" does not include a cause of action arising out of the driving, flying or nonmedical acts involved in the operation, use or maintenance of a vehicular or aircraft ambulance;

H. "medical care and related benefits" means all reasonable medical, surgical, physical rehabilitation and custodial services and includes drugs, prosthetic devices and other similar materials reasonably necessary in the provision of such services;

I. "occurrence" means all injuries to a patient caused by health care providers' successive acts or omissions that combined concurrently to create a malpractice claim;

J. "outpatient health care facility" means an entity that is licensed pursuant to the Public Health Act as an outpatient facility, including ambulatory surgical centers, free-standing emergency rooms, urgent care clinics, acute care centers and intermediate care facilities and includes a facility's employees, locum tenens providers and agency nurses providing services at the facility. "Outpatient health care facility" does not include independent providers;

K. "patient" means a natural person who received or should have received health care from a health care provider under a contract, express or implied; and

L. "superintendent" means the superintendent of insurance."

## **Chapter 16 Section 2 Laws 2021**

SECTION 2. Section 41-5-5 NMSA 1978 (being Laws 1992, Chapter 33, Section 2) is amended to read:

"41-5-5. QUALIFICATIONS.--

A. To be qualified under the provisions of the Medical Malpractice Act, a health care provider shall:

(1) establish its financial responsibility by filing proof with the superintendent that the health care provider is insured by a policy of malpractice liability insurance issued by an authorized insurer in the amount of at least two hundred fifty thousand dollars (\$250,000) per occurrence or by having continuously on deposit the sum of seven hundred fifty thousand dollars (\$750,000) in cash with the superintendent or such other like deposit as the superintendent may allow by rule; provided that

hospitals and outpatient health care facilities that establish financial responsibility through a policy of malpractice liability insurance may use any form of malpractice insurance; and provided further that for independent providers, in the absence of an additional deposit or policy as required by this subsection, the deposit or policy shall provide coverage for not more than three separate occurrences; and

(2) pay the surcharge assessed on health care providers by the superintendent pursuant to Section 41-5-25 NMSA 1978.

B. For hospitals or outpatient health care facilities electing to be covered under the Medical Malpractice Act, the superintendent shall determine, based on a risk assessment of each hospital or outpatient health care facility, each hospital's or outpatient health care facility's base coverage or deposit and additional charges for the fund. The superintendent shall arrange for an actuarial study before determining base coverage or deposit and surcharges.

C. A health care provider not qualifying under this section shall not have the benefit of any of the provisions of the Medical Malpractice Act in the event of a malpractice claim against it; provided that beginning July 1, 2021, hospitals and outpatient health care facilities shall not participate in the medical review process, and beginning January 1, 2027, hospitals and outpatient health care facilities shall have the benefits of the other provisions of the Medical Malpractice Act except participation in the fund."

## **Chapter 16 Section 3 Laws 2021**

SECTION 3. Section 41-5-6 NMSA 1978 (being Laws 1992, Chapter 33, Section 4) is amended to read:

"41-5-6. LIMITATION OF RECOVERY.--

A. Except for punitive damages and past and future medical care and related benefits, the aggregate dollar amount recoverable by all persons for or arising from any injury or death to a patient as a result of malpractice shall not exceed six hundred thousand dollars (\$600,000) per occurrence for malpractice claims brought against health care providers if the injury or death occurred prior to January 1, 2022. In jury cases, the jury shall not be given any instructions dealing with this limitation.

B. Except for punitive damages and past and future medical care and related benefits, the aggregate dollar amount recoverable by all persons for or arising from any injury or death to a patient as a result of malpractice shall not exceed seven hundred fifty thousand dollars (\$750,000) per occurrence for malpractice claims against independent providers. The aggregate dollar amount includes payment to any person for any number of loss of consortium claims or other claims per occurrence that arise solely because of the injuries or death of the patient. In jury cases, the jury shall not be given any instructions dealing with this limitation. Beginning January 1, 2023, the per occurrence limit on recovery shall be adjusted annually by the consumer price index for all urban consumers.

C. Except for punitive damages and past and future medical care and related benefits, the aggregate dollar amount recoverable by all persons for or arising from an injury or death to a patient as a result of malpractice shall not exceed four million dollars (\$4,000,000) per occurrence for claims brought against a hospital or outpatient health care facility if the injury or death occurred in calendar year 2022. The aggregate dollar amount includes payment to any person for any number of loss of consortium claims or other claims per occurrence that arise solely because of the injuries or death of the patient. In jury cases, the jury shall not be given any instructions dealing with this limitation.

D. Except for punitive damages and past and future medical care and related benefits, the aggregate dollar amount recoverable by all persons for or arising from an injury or death to a patient as a result of malpractice shall not exceed four million five hundred thousand dollars (\$4,500,000) per occurrence for claims brought against a hospital or outpatient health care facility if the injury or death occurred in calendar year

2023. The aggregate dollar amount includes payment to any person for any number of loss of consortium claims or other claims per occurrence that arise solely because of the injuries or death of the patient. In jury cases, the jury shall not be given any instructions dealing with this limitation.

E. Except for punitive damages and past and future medical care and related benefits, the aggregate dollar amount recoverable by all persons for or arising from an injury or death to a patient as a result of malpractice shall not exceed five million dollars (\$5,000,000) per occurrence for claims brought against a hospital or outpatient health care facility if the injury or death occurred in calendar year 2024. The aggregate dollar amount includes payment to any person for any number of loss of consortium claims or other claims per occurrence that arise solely because of the injuries or death of the patient. In jury cases, the jury shall not be given any instructions dealing with this limitation.

F. Except for punitive damages and past and future medical care and related benefits, the aggregate dollar amount recoverable by all persons for or arising from an injury or death to a patient as a result of malpractice shall not exceed five million five hundred thousand dollars (\$5,500,000) per occurrence for claims brought against a hospital or outpatient health care facility if the injury or death occurred in calendar year 2025. The aggregate dollar amount includes payment to any person for any number of loss of consortium claims or other claims per occurrence that arise solely because of the injuries or death of the patient. In jury cases, the jury shall not be given any instructions dealing with this limitation.

G. Except for punitive damages and past and future medical care and related benefits, the aggregate dollar amount recoverable by all persons for or arising from an injury or death to a patient as a result of malpractice shall not exceed six million dollars (\$6,000,000) per occurrence for claims brought against a hospital or outpatient health care facility if the injury or death occurred in 2026; provided that beginning January 1, 2027, the per occurrence limit shall be adjusted annually by the consumer price index for all urban consumers. The aggregate dollar amount includes payment to any person for any number of loss of consortium claims or other claims per occurrence that arise

solely because of the injuries or death of the patient. In jury cases, the jury shall not be given any instructions dealing with this limitation.

H. The value of accrued medical care and related benefits shall not be subject to any limitation.

I. A health care provider's personal liability is limited to two hundred fifty thousand dollars (\$250,000) for monetary damages and medical care and related benefits as provided in Section 41-5-7 NMSA 1978. Any amount due from a judgment or settlement in excess of two hundred fifty thousand dollars (\$250,000) shall be paid from the fund except as provided in Subsection K of this section.

J. The term "occurrence" shall not be construed in such a way as to limit recovery to only one maximum statutory payment if separate acts or omissions cause additional or enhanced injury or harm as a result of the separate acts or omissions. A patient who suffers two or more distinct injuries as a result of two or more different acts or omissions that occur at different times by one or more health care providers is entitled to up to the maximum statutory recovery for each injury.

K. Until January 1, 2027, amounts due from a judgment or settlement against a hospital or outpatient health care facility in excess of seven hundred fifty thousand dollars (\$750,000), excluding past and future medical expenses, shall be paid by the hospital or outpatient health care facility and not by the fund. Beginning January 1, 2027, amounts due from a judgment or settlement against a hospital or outpatient health care facility shall not be paid from the fund."

## **Chapter 16 Section 4 Laws 2021**

SECTION 4. Section 41-5-7 NMSA 1978 (being Laws 1992, Chapter 33, Section 5, as amended by Laws 1992, Chapter 33, Section 6) is amended to read:

"41-5-7. MEDICAL EXPENSES AND PUNITIVE DAMAGES.--

A. Awards of past and future medical care and related benefits shall not be subject to the limitations of recovery imposed in Section 41-5-6 NMSA 1978.

B. The health care provider shall be liable for all medical care and related benefit payments until the total payments made by or on behalf of it for monetary damages and medical care and related benefits combined equals the health care provider's personal liability limit as provided in Subsection I of Section 41-5-6 NMSA 1978, after which the payments shall be made by the fund.

C. Beginning January 1, 2027, any amounts due from a judgment or settlement against a hospital or outpatient health care facility shall not be paid from the fund if the injury or death occurred after December 31, 2026.

D. This section shall not be construed to prevent a patient and a health care provider from entering into a settlement agreement whereby medical care and related benefits shall be provided for a limited period of time only or to a limited degree.

E. A judgment of punitive damages against a health care provider shall be the personal liability of the health care provider. Punitive damages shall not be paid from the fund or from the proceeds of the health care provider's insurance contract unless the contract expressly provides coverage. Nothing in Section 41-5-6 NMSA 1978 precludes the award of punitive damages to a patient. Nothing in this subsection authorizes the imposition of liability for punitive damages where that imposition would not be otherwise authorized by law."

## **Chapter 16 Section 5 Laws 2021**

SECTION 5. Section 41-5-9 NMSA 1978 (being Laws 1976, Chapter 2, Section 9) is amended to read:

"41-5-9. DISTRICT COURT--CONTINUING JURISDICTION.--The district court from which final judgment issued shall have continuing jurisdiction in cases where future

medical care and related benefits were awarded pursuant to Section 41-5-7 NMSA 1978 for malpractice claims arising from occurrences prior to July 1, 2021."

## **Chapter 16 Section 6 Laws 2021**

SECTION 6. Section 41-5-13 NMSA 1978 (being Laws 1976, Chapter 2, Section 13) is amended to read:

"41-5-13. LIMITATIONS.--No claim for malpractice may be brought against a health care provider unless filed within three years after the date that the act of malpractice occurred, except that the times limited for the bringing of actions by minors and incapacitated persons shall be extended so that they shall have one year from and after the age of majority or termination of incapacity within which to commence the actions."

## **Chapter 16 Section 7 Laws 2021**

SECTION 7. Section 41-5-14 NMSA 1978 (being Laws 1976, Chapter 2, Section 14) is amended to read:

"41-5-14. MEDICAL REVIEW COMMISSION--INDEPENDENT PROVIDERS.--

A. The "New Mexico medical review commission" is created. The function of the New Mexico medical review commission is to provide panels to review all malpractice claims against independent providers who are natural persons covered by the Medical Malpractice Act.

B. Those eligible to sit on a panel shall consist of health care providers licensed pursuant to New Mexico law and residing in New Mexico and members of the state bar.



C. The only cases that a panel will consider are cases involving an alleged act of malpractice occurring in New Mexico by an independent provider qualified under the Medical Malpractice Act. Beginning July 1, 2021, cases involving an alleged act of malpractice by a hospital or outpatient health care facility shall not be considered and such claims shall not be filed with the New Mexico medical review commission.

D. An attorney shall submit a case for the consideration of a panel, prior to filing a complaint in any district court or other court sitting in New Mexico, by addressing an application, in writing, signed by the patient or the patient's attorney, to the director of the New Mexico medical review commission.

E. The director of the New Mexico medical review commission shall be an attorney appointed by and serving at the pleasure of the chief justice of the New Mexico supreme court.

F. The chief justice shall set the director's salary and report the salary to the superintendent in the superintendent's capacity as custodian of the fund."

## **Chapter 16 Section 8 Laws 2021**

SECTION 8. Section 41-5-15 NMSA 1978 (being Laws 1976, Chapter 2, Section 15) is amended to read:

"41-5-15. COMMISSION DECISION REQUIRED--APPLICATION.--

A. No malpractice action may be filed in any court against a qualifying independent provider or the independent provider's employer, master or principal based on a theory of respondeat superior or any other derivative theory of recovery before application is made to the New Mexico medical review commission and its decision is rendered; provided, however, that an independent provider and the patient may stipulate to forego the panel process.

- B. This application shall contain the following:
- (1) the name of the health care provider against which the claims are asserted;
  - (2) a short and plain statement of the grounds as to why the New Mexico medical review commission has jurisdiction over the claims being asserted;
  - (3) the specific date or date range when the malpractice allegedly occurred;
  - (4) so far as known, a brief statement of the facts supporting the patient's malpractice claim; and
  - (5) a statement authorizing the panel to obtain access to all medical and hospital records and information pertaining to the matter giving rise to the application and, for the purposes of its consideration of the matter only, waiving any claim of privilege as to the contents of those records. Nothing in that statement shall in any way be construed as waiving that privilege for any other purpose or in any other context, in or out of court."

## **Chapter 16 Section 9 Laws 2021**

SECTION 9. Section 41-5-16 NMSA 1978 (being Laws 1976, Chapter 2, Section 16) is amended to read:

"41-5-16. APPLICATION PROCEDURE.--

A. Upon receipt of an application for review, the New Mexico medical review commission's director or the director's designee shall cause to be served a true copy of the application on the independent providers against which claims are asserted. Service shall be effected pursuant to New Mexico law. If the independent provider involved

chooses to retain legal counsel, the independent provider's attorney shall informally enter an appearance with the director.

B. The independent provider shall answer the application for review and in addition shall submit a statement authorizing the panel to obtain access to all medical and hospital records and information pertaining to the matter giving rise to the application and, for the purposes of its consideration of the matter only, waiving any claim of privilege as to the contents of those records. Nothing in that statement shall in any way be construed as waiving that privilege for any other purpose or in any other context, in or out of court.

C. In instances where applications are received employing the theory of respondeat superior or some other derivative theory of recovery, the director shall forward such applications to the state professional societies, associations or licensing boards of both the individual independent provider whose alleged malpractice caused the application to be filed and the independent provider named a respondent as employer, master or principal."

## **Chapter 16 Section 10 Laws 2021**

SECTION 10. Section 41-5-17 NMSA 1978 (being Laws 1976, Chapter 2, Section 17) is amended to read:

"41-5-17. PANEL SELECTION.--

A. Applications for review shall be promptly transmitted by the director of the New Mexico medical review commission to the directors of the independent provider's state professional society or association and the state bar association, who shall each select three panelists within thirty days from the date of transmittal of the application.

B. If no state professional society or association exists or if the independent provider does not belong to a society or association, the director shall transmit the

application to the independent provider's state licensing board, which shall in turn select three persons from the independent provider's profession and, where applicable, two persons specializing in the same field or discipline as the independent provider.

C. In cases where there are multiple defendants, a single combined panel shall review the claims against all party defendants. At the discretion of the panel chair, a hearing involving multiple defendants may include fewer than three panelists from the independent provider's profession and fewer than three lawyer panel members per defendant.

D. Except for cases involving multiple defendants, three panel members from the independent provider's profession and three panel members from the state bar association shall sit in review in each case.

E. The director of the medical review commission or the director's delegate, who shall be an attorney, shall sit on each panel and serve as chair.

F. A member shall disqualify the member's self from consideration of a case in which, by virtue of circumstances, the member feels the member's presence on the panel would be inappropriate, considering the purpose of the panel. The director may excuse a proposed panelist from serving.

G. Whenever a party makes and files an affidavit that a panel member selected pursuant to this section cannot, according to the belief of the party making the affidavit, sit in review of the application with impartiality, that panel member shall proceed no further. Another panel member shall be selected by the independent provider's professional association, state licensing board or the state bar association, as the case may be. A party may not disqualify more than three proposed panel members in this manner in any single malpractice claim."

## **Chapter 16 Section 11 Laws 2021**

SECTION 11. Section 41-5-18 NMSA 1978 (being Laws 1976, Chapter 2, Section 18) is amended to read:

"41-5-18. TIME AND PLACE OF HEARING.--A date, time and place for hearing shall be fixed by the director of the New Mexico medical review commission and prompt notice of the hearing shall be given to the parties involved, their attorneys and the members of the panel. In no instance shall the date set be more than sixty days after the transmittal by the director of the application for review, unless good cause exists for extending the period. Hearings may be held anywhere in the state, and the director shall give due regard to the convenience of the parties in determining the place of hearing. Upon the request of one party, within ten days of the answer filed by the respondent, the hearing shall be conducted via video conference, including attorneys, witnesses and panel members appearing remotely."

## **Chapter 16 Section 12 Laws 2021**

SECTION 12. Section 41-5-19 NMSA 1978 (being Laws 1976, Chapter 2, Section 19) is amended to read:

"41-5-19. HEARING PROCEDURES.--

A. At the time set for hearing, the attorney submitting the case for review shall be present and shall make a brief introduction of the case, including a resume of the facts constituting alleged professional malpractice. The independent provider against whom the claim is brought and the independent provider's attorney may be present and may make an introductory statement of the independent provider's case.

B. Both parties may call witnesses to testify before the panel, which witnesses shall be sworn. Medical texts, journals, studies and other documentary evidence relied upon by either party may be offered and admitted if relevant. Written

statements of fact of treating independent providers may be reviewed. The monetary damages in any case shall not be a subject of inquiry or discussion.

C. The hearing shall be informal, and no official transcript shall be made. Nothing contained in this subsection shall preclude the recording or transcribing of the testimony by the parties at their own expense.

D. At the conclusion of the hearing, the panel shall deliberate and reach a decision."

## **Chapter 16 Section 13 Laws 2021**

SECTION 13. Section 41-5-25 NMSA 1978 (being Laws 1992, Chapter 33, Section 9, as amended) is amended to read:

"41-5-25. PATIENT'S COMPENSATION FUND--THIRD-PARTY ADMINISTRATOR--ACTUARIAL STUDIES--SURCHARGES--CLAIMS--PRORATION--PROOFS OF AUTHENTICITY.--

A. The "patient's compensation fund" is created as a nonreverting fund in the state treasury. The fund consists of money from surcharges, income from investment of the fund and any other money deposited to the credit of the fund. The fund shall be held in trust, deposited in a segregated account in the state treasury and invested by the state investment office and shall not become a part of or revert to the general fund or any other fund of the state. Money from the fund shall be expended only for the purposes of and to the extent provided in the Medical Malpractice Act. All approved expenses of collecting, protecting and administering the fund, including purchasing insurance for the fund, shall be paid from the fund.

B. The superintendent shall contract for the administration and operation of the fund with a qualified, licensed third-party administrator, selected in consultation with

the advisory board, no later than January 1, 2022. The third-party administrator shall provide an annual audit of the fund to the superintendent.

C. The superintendent, as custodian of the fund, and the third-party administrator shall be notified by the health care provider or the health care provider's insurer within thirty days of service on the health care provider of a complaint asserting a malpractice claim brought in a court in this state against the health care provider.

D. The superintendent shall levy an annual surcharge on all New Mexico health care providers qualifying under Section 41-5-5 NMSA 1978. The surcharge shall be determined by the superintendent with the advice of the advisory board and based on the annual independent actuarial study of the fund. The surcharges for health care providers, including hospitals and outpatient health care facilities whose qualifications for the fund end on January 1, 2027, shall be based on sound actuarial principles, using data obtained from New Mexico claims and loss experience. A hospital or outpatient health care facility seeking participation in the fund during the remaining qualifying years shall provide, at a minimum, the hospital's or outpatient health care facility's direct and indirect cost information as reported to the federal centers for medicare and medicaid services for all self-insured malpractice claims, including claims and paid loss detail, and the claims and paid loss detail from any professional liability insurance carriers for each hospital or outpatient health care facility and each employed health care provider for the past eight years to the third-party actuary. The same information shall be available to the advisory board for review, including financial information and data, and excluding individually identifying case information, which information shall not be subject to the Inspection of Public Records Act. The superintendent, the third-party actuary or the advisory board shall not use or disclose the information for any purpose other than to fulfill the duties pursuant to this subsection.

E. The surcharge shall be collected on the same basis as premiums by each insurer from the health care provider. The surcharge shall be due and payable within thirty days after the premiums for malpractice liability insurance have been received by the insurer from the health care provider in New Mexico. If the surcharge is collected but

not paid timely, the superintendent may suspend the certificate of authority of the insurer until the annual premium surcharge is paid.

F. Surcharges shall be set by October 31 of each year for the next calendar year. Beginning in 2021, the surcharges shall be set with the intention of bringing the fund to solvency with no projected deficit by December 31, 2026. All qualified and participating hospitals and outpatient health care facilities shall cure any fund deficit attributable to hospitals and outpatient health care facilities by December 31, 2026.

G. If the fund would be exhausted by payment of all claims allowed during a particular calendar year, then the amounts paid to each patient and other parties obtaining judgments shall be prorated, with each such party receiving an amount equal to the percentage the party's own payment schedule bears to the total of payment schedules outstanding and payable by the fund. Any amounts due and unpaid as a result of such proration shall be paid in the following calendar years.

H. Upon receipt of one of the proofs of authenticity listed in this subsection, reflecting a judgment for damages rendered pursuant to the Medical Malpractice Act, the superintendent shall issue or have issued warrants in accordance with the payment schedule constructed by the court and made a part of its final judgment. The only claim against the fund shall be a voucher or other appropriate request by the superintendent after the superintendent receives:

(1) until January 1, 2022, a certified copy of a final judgment in excess of two hundred thousand dollars (\$200,000) against a health care provider;

(2) until January 1, 2022, a certified copy of a court-approved settlement or certification of settlement made prior to initiating suit, signed by both parties, in excess of two hundred thousand dollars (\$200,000) against a health care provider; or

(3) until January 1, 2022, a certified copy of a final judgment less than two hundred thousand dollars (\$200,000) and an affidavit of a health care provider or its



insurer attesting that payments made pursuant to Subsection B of Section 41-5-7 NMSA 1978, combined with the monetary recovery, exceed two hundred thousand dollars (\$200,000).

I. On or after January 1, 2022, the amounts specified in Paragraphs (1) through (3) of Subsection H of this section shall be two hundred fifty thousand dollars (\$250,000)."

## **Chapter 16 Section 14 Laws 2021**

SECTION 14. A new section of the Medical Malpractice Act, Section 41-5-25.1 NMSA 1978, is enacted to read:

"41-5-25.1. PATIENT'S COMPENSATION FUND ADVISORY BOARD--  
CREATED--MEMBERSHIP--POWERS AND DUTIES.--

A. The "patient's compensation fund advisory board" is created to advise the superintendent and the third-party administrator. The office of superintendent of insurance shall provide staff services to the advisory board. The advisory board shall be established by July 2, 2021.

B. The nine-member advisory board shall consist of:

- (1) two representatives from the New Mexico trial lawyers association;
- (2) two representatives of a statewide association representing hospitals;
- (3) two representatives of a statewide association representing physicians;
- (4) two patient or patient advocate representatives; and

(5) one representative of a statewide association representing certified nurse practitioners.

C. Members of the advisory board shall be chosen annually by their organizations, as applicable, and the patient or patient advocate representatives shall be chosen by the chief justice of the supreme court from nominations made by the New Mexico trial lawyers association. Members of the advisory board are entitled to receive per diem and mileage pursuant to the Per Diem and Mileage Act, but shall receive no other compensation, perquisite or allowance.

D. The advisory board shall elect a chair and a vice chair. A majority of the members constitutes a quorum for the transaction of business. All decisions of the advisory board shall be by majority vote of the members present.

E. The advisory board shall convene at least twice a year or at the request of the superintendent to:

(1) review the process and data for the setting of the surcharges for all qualified health care providers pursuant to the Medical Malpractice Act;

(2) advise the superintendent concerning surcharge data accumulation and results;

(3) advise the superintendent on the surcharges to be set by the superintendent; and

(4) prepare an annual report to the legislature on the operations and financial condition of the fund no later than the first day of each year's legislative session."

## **Chapter 16 Section 15 Laws 2021**

SECTION 15. Section 41-5-28 NMSA 1978 (being Laws 1976, Chapter 2, Section 29, as amended) is amended to read:

"41-5-28. PAYMENT OF MEDICAL REVIEW COMMISSION EXPENSES.-- Unless otherwise provided by law, expenses incurred in carrying out the powers, duties and functions of the New Mexico medical review commission, including the salary of the director of the commission, shall be paid by the fund. The superintendent, in the superintendent's capacity as custodian of the fund, shall disburse fund money to the director upon receipt of vouchers itemizing expenses incurred by the commission. The director shall supply the chief justice of the New Mexico supreme court with duplicates of all vouchers submitted to the superintendent. Expenses of the commission paid by the fund shall not exceed five hundred thousand dollars (\$500,000) in any single calendar year; provided, however, that expenses incurred in defending the commission shall not be subject to that maximum amount."

## **Chapter 16 Section 16 Laws 2021**

SECTION 16. Section 41-5-29 NMSA 1978 (being Laws 1992, Chapter 33, Section 10) is amended to read:

"41-5-29. FUND REPORTS.--On January 31 of each year, the superintendent shall, upon request, provide a written report to all interested persons of the following information:

- A. the beginning and ending calendar year balances in the fund;
- B. an itemized accounting of the total amount of contributions to the fund;
- C. all information regarding closed claims files, including an itemized accounting of all payments paid out; and

D. any other information regarding the fund that the superintendent or the legislature considers to be important."

## **Chapter 16 Section 17 Laws 2021**

SECTION 17. REPEAL.--Sections 41-5-2 and 41-5-10 NMSA 1978 (being Laws 1976, Chapter 2, Sections 2 and 10) are repealed.

## **Chapter 16 Section 18 Laws 2021**

SECTION 18. EFFECTIVE DATES.--

A. The effective date of the provisions of Sections 7, 13 and 14 of this act is July 1, 2021.

B. The effective date of the provisions of Sections 1 through 6, 8 through 12 and 15 through 17 of this act is January 1, 2022.

# **LAWS 2021, CHAPTER 17**

**Senate Bill 286, aa, w/ec**  
**Approved April 1, 2021**

AN ACT

RELATING TO CONGRESSIONAL VACANCY ELECTIONS; PROVIDING TEMPORARY EMERGENCY PROCEDURES FOR THE CONDUCT OF CONGRESSIONAL SPECIAL ELECTIONS HELD DURING THE CORONAVIRUS DISEASE 2019 PANDEMIC IN 2021; PROVIDING A DELAYED REPEAL; DECLARING AN EMERGENCY.

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

## Chapter 17 Section 1 Laws 2021

SECTION 1. A temporary provision of the Election Code is enacted to read:

"TEMPORARY PROVISION--CONDUCT OF ELECTION--2021 SPECIAL CONGRESSIONAL ELECTION--SPECIAL PROVISIONS AND CONTINGENCIES.--

A. This section regulates the conduct of any election held in 2021 to fill a vacancy in the office of United States representative. To the greatest extent possible, the provisions of this section are to be read as supplemental to and in harmony with the provisions of the Election Code; provided, however, that if a direct conflict exists with other provisions in the Election Code, the provisions of this section shall apply.

B. Each election day polling location located in the district established in the 2019 polling place resolution for each county or a location in the district established by any subsequent amendment to such a resolution shall operate as a voter convenience center.

C. A polling place located on Indian nation, tribal or pueblo land shall not be closed or consolidated with other polling locations, nor shall the days and times of voting be modified, without the written agreement of the Indian nation, tribe or pueblo where the polling location is located. If, as a result of public health concerns, voters registered within the Indian nation, tribe or pueblo are unable to leave the Indian nation, tribe or pueblo during the time when voting occurs for the election, regardless of whether voters residing outside the boundaries of the Indian nation, tribe or pueblo are able to access such polling locations, there shall be at least one polling location within the boundaries of the Indian nation, tribe or pueblo.

D. On behalf of each county clerk, the secretary of state shall automatically deliver to each mailable voter in the district a notice informing the voter of the date of the election, an internet web address where a voter may request a mailed ballot, a telephone number where a voter may call to request a paper mailed ballot application

and a list of the days and times and addresses where voters may vote in person. The notice shall be mailed beginning on the fiftieth day before the election. As used in this subsection, a "mailable voter" is a voter in the district other than a voter:

(1) to whom a notice was sent pursuant to Subsection C of Section 1-4-28 NMSA 1978 in 2018 or 2020, and subsequent to the sending of the most recent notice:

(a) did not return the prepaid and pre-addressed return card provided pursuant to that section;

(b) has not filed a new or amended certificate of registration with a new address at which election-related mail is to be sent; and

(c) has not since voted;

(2) who registered to vote on or before December 31, 2016, has not submitted a new certificate of registration at any time since January 1, 2017 and has not voted in any election since January 1, 2017; or

(3) whose ballot is delivered pursuant to the provisions of the Uniform Military and Overseas Voters Act or the Intimate Partner Violence Survivor Suffrage Act.

E. Each mailed ballot sent to a voter in the election shall contain the following notice: "This ballot may be returned to the office of the county clerk or any open polling location in the county where you are registered to vote at any time up to and including the day of the election. If this ballot is returned by mail, to ensure timely postal delivery to the county clerk, the ballot should be mailed no later than \_\_\_\_\_. ". The date used in the notice shall be seven days prior to the election.

F. An application for a mailed ballot from a voter who is not a federal qualified elector is timely if received by the county clerk no later than fourteen days prior to the election. An application for a mailed ballot from a voter who is not a federal

qualified elector that is received by the county clerk after the fourteenth day prior to the election shall be rejected, and if the application was received by the county clerk by the fourth day prior to the election, the county clerk shall within twenty-four hours of receipt of the application send a rejection notice to the voter that shall include a list of the early and election day polling locations in the county. The county clerk shall only accept applications for a mailed ballot submitted through the official web portal operated by the secretary of state or submitted on the official paper form sent to a voter by the county clerk, and shall process only the first request submitted by the voter. A request for a replacement ballot is not subject to the deadlines in this subsection.

G. If the application for a mailed ballot from a voter who is not a federal qualified elector indicates that the mailed ballot is to be delivered to an address other than an address listed on the voter's certificate of registration, the county clerk shall prepare a notice of requested mailed ballot. The notice of requested mailed ballot shall inform the voter of the address to which the ballot was mailed along with the phone number of the county clerk's office and the internet address of the voter web portal provided by the secretary of state. The notice of requested mailed ballot shall be delivered to the address provided on the voter's certificate of registration on the same day the county clerk delivers the mailed ballot to the address requested by the voter.

H. An application for a mailed ballot from a voter who is a federal qualified elector is timely if received by the county clerk no later than seven days prior to the election; provided that the voter provides information permitting secured electronic delivery of the ballot to the voter. An application for a mailed ballot from a voter who is a federal qualified elector who does not provide information permitting secured electronic delivery of the ballot is timely if received by the county clerk no later than fourteen days prior to the election.

I. To return a mailed ballot, each voter shall provide in the space provided for that purpose under the privacy flap of the official mailing envelope the voter's signature on a line located under the required attestation and the last four digits of the voter's social security number, which shall constitute the required voter identification.

The attestation shall include the pre-printed name of the voter to whom the mailed ballot was sent. No additional information shall be required of a voter to return a mailed ballot.

J. Upon receipt of a mailed ballot, the county clerk shall remove the privacy flap to verify that the voter signed the official mailing envelope and confirm that the last four digits of the social security number provided by the voter matches the information available to the county clerk. If the signature is present and the last four digits of the voter's social security number match, the county clerk shall note in the absentee ballot register that the ballot was accepted and shall transfer the ballot to the special deputy for mailed ballots for delivery to the absent voter election board. If either the voter's signature is missing or the last four digits of the voter's social security number are not provided or do not match, the county clerk shall reject the mailed ballot and make the appropriate notation in the absentee ballot register and shall transfer the ballot to the special deputy for mailed ballots for delivery to the absent voter election board. If the mailed ballot is rejected, the county clerk shall within one day send the voter a notice of rejection, along with information regarding how the voter may cure the reason for the rejection. When an application for a mailed ballot is rejected pursuant to this section, the county clerk shall send a notice of rejection to the mailing address on the voter's certificate of registration and, if different, also to the address listed on the voter's application for a mailed ballot. The determination of the county clerk to accept or reject a mailed ballot is subject to a later interposition of a challenge before the absent voter election board. In addition to existing procedures in the Election Code for qualifying a previously rejected absentee ballot after election day, a previously rejected absentee ballot may be qualified by the presiding judge and election judges of the absent voter election board before the day of the election if the ballot was rejected for the lack of a signature or missing required voter identification if the voter provides such information pursuant to procedures established by the secretary of state.

K. A political party with a candidate on the ballot may appoint a challenger to observe the determination made by the county clerk to accept or reject a mailed ballot. The challenger shall not interpose a challenge to the county clerk, but may make notes to interpose a challenge to the absent voter election board; provided that a challenger shall not copy, record or transcribe any portion of a voter's social security number.



Challengers are subject to the same public health requirements as county clerk staff and election board members.

L. On election night, the absent voter election board shall recess upon the earlier of completion of its work or 11:00 p.m. An absent voter election board that recesses at 11:00 p.m. shall continue its work only between the hours of 9:30 a.m. and 8:00 p.m. on each subsequent day until the board has completed its work.

M. If the absent voter election board does not complete its work by 11:00 p.m. on election night, the county clerk shall notify the county sheriff's office that a deputy is required to be present to secure the room or facility where uncounted ballots are locked overnight. If the sheriff indicates a sheriff's deputy is unavailable, the county clerk shall notify the secretary of state who shall request state police to assign a patrolman to secure the room or facility where uncounted ballots are locked overnight. The county clerk shall provide as much notice as is practicable in order to secure law enforcement personnel to secure the uncounted ballots overnight. A sheriff's deputy or state police patrolman is required for overnight watch any time the absent voter election board is not present until the return of the absent voter election board. If neither a sheriff's deputy nor a state police patrolman is available, the county clerk or chief deputy shall remain on site until the return of the absent voter election board and shall allow any challenger or observer to remain present, as well.

N. When preparing the county canvass report, each county clerk shall appoint an election board to conduct a machine tabulation or hand tally if the county clerk has received and logged any:

- (1) paper ballots not previously tabulated;
- (2) mailed ballots delivered to an election board not previously tabulated;
- (3) provisional paper ballots that have been qualified and contain votes that are to be counted; or

(4) ballots with write-in votes not previously counted.

O. Certificates of registration and cancellations of existing voter registrations not processed until after the election pursuant to existing law may be processed by the county clerk beginning the first Monday following the election; provided that such certificates of registration and cancellations of existing voter registrations shall be processed beginning the first business day following approval of the report of the county canvass by the county canvassing board.

P. No later than fifty days before the election and in consultation with the department of health, the secretary of state shall procure sufficient personal protective equipment and sanitizing supplies for distribution to each county clerk and for each early, mobile and election day polling location.

Q. Nothing in this section shall alter or modify the time lines or procedures provided in the Uniform Military and Overseas Voters Act except for the deadlines provided in this section for the request of a military-overseas ballot by a voter who is a federal qualified elector. Nothing in this section shall alter or modify the time lines or procedures provided in the Intimate Partner Violence Survivor Suffrage Act.

R. The secretary of state shall deposit sufficient funds in the business reply mail account for each county clerk to ensure delivery of all mailed ballot applications and returned mailed ballots.

S. Notwithstanding any limitations to the contrary, the state board of finance shall authorize sufficient funds to be timely distributed to the secretary of state and the department of health for necessary and reasonable expenses incurred pursuant to this section.

T. The compiler shall not compile this section, but shall reference it in a compiler's note."

## **Chapter 17 Section 2 Laws 2021**

SECTION 2. DELAYED REPEAL.--Section 1 of this act is repealed effective December 31, 2021.

## **Chapter 17 Section 3 Laws 2021**

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

# **LAWS 2021, CHAPTER 18**

**SFC/Senate Bill 17**  
**Approved April 5, 2021**

### **AN ACT**

RELATING TO PUBLIC EDUCATION; ENACTING THE FAMILY INCOME INDEX ACT; REQUIRING THE CALCULATION OF A FAMILY INCOME INDEX AND PROVIDING FOR FUNDING DISTRIBUTIONS TO SCHOOL DISTRICTS THROUGH THAT INDEX; REQUIRING ALLOCATIONS TO ELIGIBLE PUBLIC SCHOOLS; PROVIDING ALLOWABLE USES FOR DISTRIBUTIONS AND ALLOCATIONS; REQUIRING INFORMATION-SHARING AGREEMENTS.

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

## **Chapter 18 Section 1 Laws 2021**

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

"SHORT TITLE.--This act may be cited as the "Family Income Index Act"."

## **Chapter 18 Section 2 Laws 2021**

SECTION 2. A new section of the Public School Code is enacted to read:

"DEFINITIONS.--As used in the Family Income Index Act:

- A. "above average income" means a household income of two hundred twenty-five percent or a higher percentage of the federal poverty level;
- B. "extremely low income" means a household income of up to seventy-five percent of the federal poverty level;
- C. "low income" means a household income of at least one hundred thirty percent but less than one hundred eighty-five percent of the federal poverty level;
- D. "moderate income" means a household income of at least one hundred eighty-five percent but less than two hundred twenty-five percent of the federal poverty level;
- E. "school district" includes a state-chartered charter school; and
- F. "very low income" means a household income greater than seventy-five percent but less than one hundred thirty percent of the federal poverty level."

## **Chapter 18 Section 3 Laws 2021**

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

"FAMILY INCOME INDEX--INCOME CATEGORIES--CALCULATION--  
INFORMATION-SHARING AGREEMENTS.--

A. The department shall calculate a family income index for each public school, using the following information:

(1) the department shall obtain family income information sufficient to identify the total number of households in each public school in each of the income categories in Subsection C of this section, based on tax return data of families of students enrolled in that public school and for whose households the taxation and revenue department is able to locate tax return information;

(2) for students whose families the taxation and revenue department is unable to identify tax return data for pursuant to Paragraph (1) of this subsection, family income information sufficient to identify the total number of households in each public school in each of the income categories in Subsection C of this section, based on income information provided to the human services department by families applying for benefits; and

(3) for a student whose family income is not available to the taxation and revenue department or the human services department, the department shall use income statistics from the most current census information for the reported address of the student to determine to which income category in Subsection C of this section the student is assigned.

B. The taxation and revenue department and the human services department shall enter into information-sharing agreements with the department to provide the information requested by the department pursuant to Subsection A of this section.

C. Pursuant to Subsection D of this section, the department shall calculate the percentage of student households for each public school in each of the following income categories using information obtained as provided in Subsection A of this section:

(1) extremely low income;

- (2) very low income;
- (3) low income;
- (4) moderate income; and
- (5) above average income.

D. The number of students from each public school in each category shall be divided by the public school's total enrollment to determine the percentage of students in each category. The family income index for each public school is as follows:

(1) for fiscal year 2022, the sum of the percentages of the public school's students in the extremely low and very low income categories during the preceding fiscal year;

(2) for fiscal year 2023, the average of the sum of the percentages of the public school's students in the extremely low and very low income categories during the immediately preceding two fiscal years; and

(3) for fiscal year 2024 and each subsequent fiscal year, the average of the sum of the percentages of the public school's students in the extremely low and very low income categories during the immediately preceding three fiscal years.

E. The department shall rank all public schools in the state from lowest family income index to highest family income index by October 31 of each year.

F. The department shall provide the percentage of students at each public school in each income category to the legislative education study committee and the legislative finance committee by November 15 of each year."

## Chapter 18 Section 4 Laws 2021

SECTION 4. A new section of the Public School Code is enacted to read:

"THRESHOLD FOR FUNDING DISTRIBUTION--DISTRIBUTION OF FAMILY INCOME INDEX FUNDS--ALLOCATIONS TO ELIGIBLE PUBLIC SCHOOLS.--

A. Except as provided in Subsection E of this section, each year, to determine the number of public schools that are eligible for family income index allocations through their respective school districts, the department shall:

(1) identify the school districts that have public schools within the fifty percent of public schools on the department's ranked list pursuant to Subsection E of Section 3 of the Family Income Index Act with the highest family income indices; and

(2) multiply the total number of public schools within each of the school districts that are identified in Paragraph (1) of this subsection by one-tenth, and if the product is:

(a) less than one, the product shall be rounded to one; and

(b) more than one, the product shall be rounded to the nearest whole number.

B. The number of eligible public schools within a school district identified in Paragraph (1) of Subsection A of this section for which funding may be allocated pursuant to this section is equal to the rounded product determined pursuant to Paragraph (2) of Subsection A of this section. Each year, the public schools that are eligible for an allocation are those public schools within each school district that have the highest family income indices.

C. An allocation for an eligible public school is limited to the greater of that public school's proportional share as determined pursuant to Subsection D of this section or twenty thousand dollars (\$20,000).

D. To determine the proportional share of funding that the department distributes to a school district for each eligible public school, the number of eligible students in each eligible public school shall be divided by the total number of eligible students at all eligible public schools. Each eligible public school's proportional share shall be multiplied by the total amount appropriated for distribution pursuant to the Family Income Index Act.

E. The legislature may establish a different percentage of public schools to be considered pursuant to Paragraphs (1) and (2) of Subsection A of this section.

F. A family income index distribution to a school district for allocation to an eligible public school shall be used exclusively at that public school for the interventions specified in Section 5 of the Family Income Index Act.

G. For the purposes of this section, "eligible students" means students with household incomes in the extremely low income or very low income categories."

## **Chapter 18 Section 5 Laws 2021**

SECTION 5. A new section of the Public School Code is enacted to read:

"USES OF FAMILY INCOME INDEX ALLOCATIONS.--

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



(1) at least one-third for evidence-based, structured literacy interventions that have been shown to improve reading and writing achievement of students;

(2) at least one-third for evidence-based mathematics instruction and interventions, including educational programming intended to improve career and college readiness of at-risk students, dual or concurrent enrollment, and career and technical education; and

(3) no more than one-third on the following interventions:

(a) case management, tutoring and after-school and summer enrichment programs that are delivered by social workers, counselors, teachers or other professional staff;

(b) culturally relevant professional and curriculum development, including those necessary to support language acquisition and bilingual and multicultural education;

(c) whole school interventions, including social and emotional learning programs, multi-layered systems of support, student nutrition programs, school-based health centers and community schools;

(d) instructional resources and materials;

(e) services to engage and support parents and families in the education of students; and

(f) services to engage and support tribal communities in the education of Native American students.

B. A public school that receives an allocation that is less than forty thousand dollars (\$40,000) may use any portion of that allocation on any of the uses specified in Subsection A of this section.

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

## **Chapter 18 Section 6 Laws 2021**

SECTION 6. A new section of the Public School Code is enacted to read:

"EDUCATIONAL PLAN TO INCLUDE ALLOWABLE USES FOR EACH PUBLIC SCHOOL--DISTRIBUTIONS--REPORTING.--

A. A school district shall establish, within its department-approved educational plan, the interventions identified in Section 5 of the Family Income Index Act that will be used in each of its eligible public schools. Each school district that receives a distribution shall provide a report to the department by August 1 after the fiscal year in which it receives a distribution that includes a description of the services the school district has provided for each public school that received an allocation to improve the academic success of students. The report shall include a detailed description of how each public school has used its allocation and the way in which the additional funding has impacted student academic outcomes.

B. The department shall evaluate how each public school used its allocation and the way in which each allocation impacted student academic outcomes and report its findings and recommendations to the legislative finance committee and the legislative education study committee by October 15 of each year beginning in fiscal year 2022."

## **Chapter 18 Section 7 Laws 2021**

SECTION 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

## **LAWS 2021, CHAPTER 19**

**SJC/Senate Bill 80**  
**Approved April 5, 2021**

AN ACT

RELATING TO RACE; PROHIBITING THE IMPOSITION OF DISCIPLINE, DISCRIMINATION OR DISPARATE TREATMENT IN SCHOOLS BASED ON THE HAIR OR CULTURAL OR RELIGIOUS HEADDRESSES OF A STUDENT; DEFINING TERMS IN THE PUBLIC SCHOOL CODE AND THE HUMAN RIGHTS ACT.

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

## **Chapter 19 Section 1 Laws 2021**

SECTION 1. Section 22-5-4.3 NMSA 1978 (being Laws 1986, Chapter 33, Section 9, as amended) is amended to read:

"22-5-4.3. SCHOOL DISCIPLINE POLICIES--STUDENTS MAY SELF-ADMINISTER CERTAIN MEDICATIONS.--

A. Local school boards shall establish student discipline policies and shall file them with the department. The local school board shall involve parents, school personnel and students in the development of these policies, and public hearings shall be held during the formulation of these policies in the high school attendance areas within each school district or on a district-wide basis for those school districts that have

no high school. No local school board shall allow for the imposition of discipline, discrimination or disparate treatment against a student based on the student's race, religion or culture or because of the student's use of protective hairstyles or cultural or religious headdresses.

B. Each school district discipline policy shall establish rules of conduct governing areas of student and school activity, detail specific prohibited acts and activities and enumerate possible disciplinary sanctions, which sanctions may include in-school suspension, school service, suspension or expulsion. Corporal punishment shall be prohibited by each local school board and each governing body of a charter school.

C. An individual school within a school district may establish a school discipline policy, provided that parents, school personnel and students are involved in its development and a public hearing is held in the school prior to its adoption. If an individual school adopts a discipline policy in addition to the local school board's school district discipline policy, it shall submit its policy to the local school board for approval.

D. No school employee who in good faith reports any known or suspected violation of the school discipline policy or in good faith attempts to enforce the policy shall be held liable for any civil damages as a result of such report or of the employee's efforts to enforce any part of the policy.

E. All public school and school district discipline policies shall allow students to carry and self-administer asthma medication and emergency anaphylaxis medication that has been legally prescribed to the student by a licensed health care provider under the following conditions:

(1) the health care provider has instructed the student in the correct and responsible use of the medication;

(2) the student has demonstrated to the health care provider and the school nurse or other school official the skill level necessary to use the medication and any device that is necessary to administer the medication as prescribed;

(3) the health care provider formulates a written treatment plan for managing asthma or anaphylaxis episodes of the student and for medication use by the student during school hours or school-sponsored activities, including transit to or from school or school-sponsored activities; and

(4) the student's parent has completed and submitted to the school any written documentation required by the school or the school district, including the treatment plan required in Paragraph (3) of this subsection and other documents related to liability.

F. The parent of a student who is allowed to carry and self-administer asthma medication and emergency anaphylaxis medication may provide the school with backup medication that shall be kept in a location to which the student has immediate access in the event of an asthma or anaphylaxis emergency.

G. Authorized school personnel who in good faith provide a person with backup medication as provided in this section shall not be held liable for civil damages as a result of providing the medication.

H. As used in this section:

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

(2) "protective hairstyles" includes such hairstyles as braids, locs, twists, tight coils or curls, cornrows, bantu knots, afros, weaves, wigs or head wraps; and

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

## **Chapter 19 Section 2 Laws 2021**

SECTION 2. Section 22-8B-4 NMSA 1978 (being Laws 1999, Chapter 281, Section 4, as amended) is amended to read:

"22-8B-4. CHARTER SCHOOLS' RIGHTS AND RESPONSIBILITIES--  
OPERATION.--

A. A charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, physical or mental handicap, serious medical condition, race, creed, color, sex, gender identity, sexual orientation, spousal affiliation, national origin, religion, ancestry or need for special education services and shall not allow for the imposition of discipline, discrimination or disparate treatment against a student based on the student's race, religion or culture or because of the student's use of protective hairstyles or cultural or religious headdresses.

B. A charter school shall be governed by a governing body in the manner set forth in the charter contract; provided that a governing body shall have at least five members; and provided further that no member of a governing body for a charter school that is initially approved on or after July 1, 2005 or whose charter is renewed on or after July 1, 2005 shall serve on the governing body of another charter school. No member of a local school board shall be a member of a governing body for a charter school or employed in any capacity by a locally chartered charter school located within the local school board's school district during the term of office for which the member was elected or appointed.

C. A charter school shall be responsible for:

(1) its own operation, including preparation of a budget, subject to audits pursuant to the Audit Act; and

(2) contracting for services and personnel matters.

D. A charter school may contract with a school district, a university or college, the state, another political subdivision of the state, the federal government or one of its agencies, a tribal government or any other third party for the use of a facility, its operation and maintenance and the provision of any service or activity that the charter school is required to perform in order to carry out the educational program described in its charter contract. Facilities used by a charter school shall meet the standards required pursuant to Section 22-8B-4.2 NMSA 1978.

E. A conversion school chartered before July 1, 2007 may choose to continue using the school district facilities and equipment it had been using prior to conversion, subject to the provisions of Subsection F of this section.

F. The school district in which a charter school is geographically located shall provide a charter school with available facilities for the school's operations unless the facilities are currently used for other educational purposes. An agreement for the use of school district facilities by a charter school may provide for reasonable lease payments; provided that the payments do not exceed the sum of the lease reimbursement rate provided in Subparagraph (b) of Paragraph (1) of Subsection I of Section 22-24-4 NMSA 1978 plus any reimbursement for actual direct costs incurred by the school district in providing the facilities; and provided further that any lease payments received by a school district may be retained by the school district and shall not be considered to be cash balances in any calculation pursuant to Section 22-8-41 NMSA 1978. The available facilities provided by a school district to a charter school shall meet all occupancy standards as specified by the public school capital outlay council. As used in this subsection, "other educational purposes" includes health clinics, daycare centers, teacher training centers, school district administration functions and other ancillary services related to a school district's functions and operations.

G. A locally chartered charter school may pay the costs of operation and maintenance of its facilities or may contract with the school district to provide facility operation and maintenance services.

H. Locally chartered charter school facilities are eligible for state and local capital outlay funds and shall be included in the school district's five-year facilities plan.

I. A locally chartered charter school shall negotiate with a school district to provide transportation to students eligible for transportation under the provisions of the Public School Code. The school district, in conjunction with the charter school, may establish a limit for student transportation to and from the charter school site not to extend beyond the school district boundary.

J. A charter school shall be a nonsectarian, nonreligious and non-home-based public school.

K. Except as otherwise provided in the Public School Code, a charter school shall not charge tuition or have admission requirements.

L. With the approval of the chartering authority, a single charter school may maintain separate facilities at two or more locations within the same school district; but, for purposes of calculating program units pursuant to the Public School Finance Act, the separate facilities shall be treated together as one school.

M. A charter school shall be subject to the provisions of Section 22-2-8 NMSA 1978 and the Assessment and Accountability Act.

N. Within constitutional and statutory limits, a charter school may acquire and dispose of property; provided that, upon termination of the charter, all assets of the locally chartered charter school shall revert to the local school board and all assets of the state-chartered charter school shall revert to the state, except that, if all or any portion of a state-chartered charter school facility is financed with the proceeds of



general obligation bonds issued by a local school board, the facility shall revert to the local school board.

O. The governing body of a charter school may accept or reject any charitable gift, grant, devise or bequest; provided that no such gift, grant, devise or bequest shall be accepted if subject to any condition contrary to law or to the terms of the charter. The particular gift, grant, devise or bequest shall be considered an asset of the charter school to which it is given.

P. The governing body may contract and sue and be sued. A local school board shall not be liable for any acts or omissions of the charter school.

Q. A charter school shall comply with all state and federal health and safety requirements applicable to public schools, including those health and safety codes relating to educational building occupancy.

R. A charter school is a public school that may contract with a school district or other party for provision of financial management, food services, transportation, facilities, education-related services or other services. The governing body shall not contract with a for-profit entity for the management of the charter school.

S. To enable state-chartered charter schools to submit required data to the department, an accountability data system shall be maintained by the department.

T. A charter school shall comply with all applicable state and federal laws and rules related to providing special education services. Charter school students with disabilities and their parents retain all rights under the federal Individuals with Disabilities Education Act and its implementing state and federal rules. Each charter school is responsible for identifying, evaluating and offering a free appropriate public education to all eligible children who are accepted for enrollment in that charter school. The state-chartered charter school, as a local educational agency, shall assume responsibility for determining students' needs for special education and related services. The division may promulgate rules to implement the requirements of this subsection.

U. As used in this section:

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

(2) "protective hairstyles" includes such hairstyles as braids, locs, twists, tight coils or curls, cornrows, bantu knots, afros, weaves, wigs or head wraps; and

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

## **Chapter 19 Section 3 Laws 2021**

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

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

A. "person" means one or more individuals, a partnership, association, organization, corporation, joint venture, legal representative, trustees, receivers or the state and all of its political subdivisions;

B. "employer" means any person employing four or more persons and any person acting for an employer;

C. "commission" means the human rights commission;

D. "director" or "bureau" means the human rights bureau of the labor relations division of the workforce solutions department;

E. "employee" means any person in the employ of an employer or an applicant for employment;

F. "labor organization" means any organization that exists for the purpose in whole or in part of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment or of other mutual aid or protection in connection with employment;

G. "employment agency" means any person regularly undertaking with or without compensation to procure opportunities to work or to procure, recruit or refer employees;

H. "public accommodation" means any establishment that provides or offers its services, facilities, accommodations or goods to the public, but does not include a bona fide private club or other place or establishment that is by its nature and use distinctly private;

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

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

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

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

M. "physical or mental handicap" means a physical or mental impairment that substantially limits one or more of a person's major life activities. A person is also

considered to be physically or mentally handicapped if the person has a record of a physical or mental handicap or is regarded as having a physical or mental handicap;

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

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

P. "sexual orientation" means heterosexuality, homosexuality or bisexuality, whether actual or perceived;

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

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

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

- (1) the nature and cost of the accommodation;
- (2) the financial resources of the employer involved in the provision of the reasonable accommodation;
- (3) the number of persons the employer employs;

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

T. "cultural or religious headdresses" includes hijabs, head wraps or other headdresses used as part of an individual's personal cultural or religious beliefs;

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

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

## **Chapter 19 Section 4 Laws 2021**

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

# **LAWS 2021, CHAPTER 20**

**Senate Bill 140, aa**  
**Approved April 5, 2021**

## **AN ACT**

RELATING TO DOMESTIC AFFAIRS; UPDATING CHILD SUPPORT PROVISIONS; PROVIDING FOR THE IMPUTATION OF INCOME; PROVIDING THAT INCARCERATION MAY NOT BE TREATED AS VOLUNTARY UNEMPLOYMENT; REQUIRING JUSTIFICATION FOR DEVIATION FROM THE CHILD SUPPORT GUIDELINES; CREATING THE CHILD SUPPORT GUIDELINES REVIEW COMMISSION; PROVIDING DUTIES; REQUIRING A REPORT; PROVIDING THAT THE HEALTH CARE NEEDS OF A MINOR CHILD ARE AN ADEQUATE BASIS FOR MODIFICATION OF A CHILD SUPPORT ORDER; AMENDING SECTIONS OF THE MANDATORY MEDICAL SUPPORT ACT TO CHANGE REFERENCES TO "HEALTH INSURANCE" TO "HEALTH CARE COVERAGE" AND REFERENCES TO "INSURERS" TO "CARRIERS"; PROVIDING THAT FEES RELATING TO ADJUDICATING PARENTAGE NOT BE ORDERED TO BE PAID LATER THAN THREE YEARS FROM THE DATE OF FILING FOR CHILD SUPPORT; PROVIDING THAT RETROACTIVE CHILD SUPPORT BE LIMITED TO THREE YEARS.

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

### **Chapter 20 Section 1 Laws 2021**

SECTION 1. Section 40-4-11.1 NMSA 1978 (being Laws 1988, Chapter 87, Section 2, as amended) is amended to read:

"40-4-11.1. CHILD SUPPORT--GUIDELINES.--

A. In any action to establish or modify child support, the child support guidelines as set forth in this section shall be applied to determine the child support due and shall be a rebuttable presumption for the amount of such child support. Every decree or judgment or stipulation of child support that deviates from the guideline amount shall contain a statement of the reasons for the deviation.

B. The purposes of the child support guidelines are to:

(1) establish as state policy an adequate standard of support for children, subject to the ability of parents to pay;

(2) make awards more equitable by ensuring more consistent treatment of persons in similar circumstances; and

(3) improve the efficiency of the court process by promoting settlements and giving courts and the parties guidance in establishing levels of awards.

C. For purposes of the guidelines specified in this section:

(1) "income" means actual gross income of a parent if employed to full capacity or potential income if unemployed or underemployed. The gross income of a parent means only the income and earnings of that parent and not the income of subsequent spouses, notwithstanding the community nature of both incomes after remarriage; and

(2) "gross income" includes income from any source and includes but is not limited to income from salaries, wages, tips, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, social security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, significant in-kind benefits that reduce personal living expenses, prizes and alimony or maintenance received, provided:

(a) "gross income" shall not include benefits received from: 1) means-tested public assistance programs, including, but not limited to, temporary assistance for needy families, supplemental security income and general assistance; 2) the earnings or public assistance benefits of a child who is the subject of a child support award; or 3) child support received by a parent for the support of other children;

(b) for income from self-employment, rent, royalties, proprietorship of a business or joint ownership of a partnership or closely held corporation, "gross income" means gross receipts minus ordinary and necessary expenses required to produce such income, but ordinary and necessary expenses do not include expenses determined by the court to be inappropriate for purposes of calculating child support;

(c) "gross income" shall not include the amount of alimony payments actually paid in compliance with a court order;

(d) "gross income" shall not include the amount of child support actually paid by a parent in compliance with a court order for the support of prior children; and

(e) "gross income" shall not include a reasonable amount for a parent's obligation to support prior children who are in that parent's custody. A duty to support subsequent children is not ordinarily a basis for reducing support owed to children of the parties but may be a defense to a child support increase for the children of the parties. In raising such a defense, a party may use Table A as set forth in Subsection M of this section to calculate the support for the subsequent children.

D. If a court finds that a parent has willfully failed to obtain or maintain appropriate employment or is willfully underemployed, the court may impute to that parent an income equal to that parent's earning and employment potential.

(1) The following criteria shall be used:



- (a) availability of employment opportunities for the parent;
- (b) the parent's employment history;
- (c) the parent's income history;
- (d) the parent's job skills;
- (e) the parent's education;
- (f) the parent's age and health;
- (g) the parent's history of convictions and incarceration; and
- (h) the parent's ability to obtain or maintain employment due to providing care for a child of the parties who is under the age of six or is disabled.

(2) Minimum wage may be imputed if a parent has no recent employment or earnings history and that parent has the capacity to earn minimum wage. The minimum wage to be imputed to that parent is the prevailing minimum wage in the locality where that parent resides.

E. Income may not be imputed to a parent if the parent is incarcerated for a period of one hundred eighty days or longer. Incarceration is not considered a voluntary unemployment.

F. As used in this section:

(1) "children of the parties" means the natural or adopted child or children of the parties to the action before the court but shall not include the natural or adopted child or children of only one of the parties;

(2) "basic visitation" means a custody arrangement whereby one parent has physical custody and the other parent has visitation with the children of the parties less than thirty-five percent of the time. Such arrangements can exist where the parties share responsibilities pursuant to Section 40-4-9.1 NMSA 1978; and

(3) "shared responsibility" means a custody arrangement whereby each parent provides a suitable home for the children of the parties, when the children of the parties spend at least thirty-five percent of the year in each home and the parents significantly share the duties, responsibilities and expenses of parenting.

G. The basic child support obligation shall be calculated based on the combined income of both parents and shall be paid by them proportionately pursuant to Subsection L of this section.

H. Physical custody adjustments shall be made as follows:

(1) for basic visitation situations, the basic child support obligation shall be calculated using the basic child support schedule, Worksheet A and instructions contained in Subsection L of this section. The court may provide for a partial abatement of child support for visitations of one month or longer; and

(2) for shared responsibility arrangements, the basic child support obligation shall be calculated using the basic child support schedule, Worksheet B and instructions contained in Subsection L of this section.

I. In shared responsibility situations, each parent retains the percentage of the basic support obligation equal to the number of twenty-four-hour days of responsibility spent by each child with each respective parent divided by three hundred sixty-five.

J. The cost of providing medical and dental insurance for the children of the parties and the net reasonable child-care costs incurred on behalf of these children due

to employment or job search of either parent shall be paid by each parent in proportion to that parent's income, in addition to the basic obligation.

K. The child support may also include the payment of the following expenses not covered by the basic child support obligation:

(1) any extraordinary medical, dental and counseling expenses incurred on behalf of the children of the parties. Such extraordinary expenses are uninsured expenses in excess of one hundred dollars (\$100) per child per year;

(2) any extraordinary educational expenses for children of the parties;  
and

(3) transportation and communication expenses necessary for long distance visitation or time sharing.

L. Whenever application of the child support guidelines set forth in this section requires a person to pay to another person more than forty percent of the paying person's gross income for a single child support obligation for current support, there shall be a presumption of a substantial hardship, justifying a deviation from the guidelines.

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M. BASIC CHILD SUPPORT SCHEDULE

Both Parents' Combined Adjusted Gross Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
0 - 1,000	Minimum Order of \$60 plus \$15 for each additional child.					
1,000 - 1,050	100	115	130	145	160	175
1,050 - 1,100	140	155	170	185	200	215

1,100 - 1,150	180	195	210	225	240	255
1,150 - 1,200	220	235	250	265	280	295
1,200 - 1,250	234	275	290	305	320	335
1,250 - 1,300	243	315	330	345	360	375
1,300 - 1,350	252	355	370	385	400	415
1,350 - 1,400	260	382	410	425	440	455
1,400 - 1,450	269	394	450	465	480	495
1,450 - 1,500	277	407	490	505	520	535
1,500 - 1,550	286	419	507	545	560	575
1,550 - 1,600	294	431	521	582	600	615
1,600 - 1,650	302	444	536	599	640	655
1,650 - 1,700	311	456	551	616	677	695
1,700 - 1,750	319	468	566	632	696	735
1,750 - 1,800	328	481	581	649	714	775
1,800 - 1,850	336	493	596	665	732	796
1,850 - 1,900	344	505	610	682	750	815
1,900 - 1,950	352	517	625	698	767	834
1,950 - 2,000	360	529	639	714	785	853
2,000 - 2,050	368	540	653	730	802	872
2,050 - 2,100	376	552	667	745	820	891
2,100 - 2,150	384	564	682	761	837	910
2,150 - 2,200	392	576	696	777	855	929
2,200 - 2,250	400	588	710	793	872	948
2,250 - 2,300	408	599	724	809	890	967
2,300 - 2,350	416	611	739	825	907	986
2,350 - 2,400	424	623	753	841	925	1,005
2,400 - 2,450	432	635	767	857	942	1,024
2,450 - 2,500	440	646	781	873	960	1,043
2,500 - 2,550	448	658	795	888	977	1,062
2,550 - 2,600	456	670	810	904	995	1,081
2,600 - 2,650	464	682	824	920	1,012	1,100
2,650 - 2,700	472	693	838	936	1,030	1,119
2,700 - 2,750	480	705	852	952	1,047	1,138
2,750 - 2,800	488	717	866	968	1,064	1,157
2,800 - 2,850	496	729	881	984	1,082	1,176
2,850 - 2,900	504	740	895	999	1,099	1,195

2,900 - 2,950	512	752	909	1,015	1,117	1,214
2,950 - 3,000	520	764	923	1,031	1,134	1,233
3,000 - 3,050	528	776	937	1,047	1,152	1,252
3,050 - 3,100	536	787	952	1,063	1,169	1,271
3,100 - 3,150	544	799	966	1,079	1,187	1,290
3,150 - 3,200	552	811	980	1,095	1,204	1,309
3,200 - 3,250	560	823	994	1,110	1,221	1,328
3,250 - 3,300	568	834	1,008	1,126	1,239	1,347
3,300 - 3,350	576	846	1,022	1,142	1,256	1,366
3,350 - 3,400	584	858	1,037	1,158	1,274	1,385
3,400 - 3,450	592	870	1,051	1,174	1,291	1,404
3,450 - 3,500	601	881	1,065	1,190	1,309	1,423
3,500 - 3,550	609	893	1,079	1,206	1,326	1,441
3,550 - 3,600	617	905	1,093	1,221	1,344	1,460
3,600 - 3,650	625	917	1,108	1,237	1,361	1,479
3,650 - 3,700	633	928	1,122	1,253	1,378	1,498
3,700 - 3,750	641	940	1,136	1,269	1,396	1,517
3,750 - 3,800	649	952	1,150	1,285	1,413	1,536
3,800 - 3,850	657	964	1,164	1,301	1,431	1,555
3,850 - 3,900	665	975	1,179	1,317	1,448	1,574
3,900 - 3,950	673	987	1,193	1,332	1,466	1,593
3,950 - 4,000	681	999	1,207	1,348	1,483	1,612
4,000 - 4,050	689	1,011	1,221	1,364	1,501	1,631
4,050 - 4,100	697	1,022	1,235	1,380	1,518	1,650
4,100 - 4,150	705	1,034	1,250	1,396	1,535	1,669
4,150 - 4,200	713	1,046	1,264	1,412	1,553	1,688
4,200 - 4,250	721	1,058	1,278	1,428	1,570	1,707
4,250 - 4,300	728	1,068	1,290	1,441	1,585	1,723
4,300 - 4,350	734	1,078	1,303	1,455	1,601	1,740
4,350 - 4,400	741	1,088	1,315	1,469	1,616	1,756
4,400 - 4,450	748	1,098	1,327	1,483	1,631	1,773
4,450 - 4,500	755	1,109	1,340	1,496	1,646	1,789
4,500 - 4,550	762	1,119	1,352	1,510	1,661	1,806
4,550 - 4,600	769	1,129	1,364	1,524	1,676	1,822
4,600 - 4,650	776	1,139	1,377	1,538	1,691	1,839
4,650 - 4,700	783	1,149	1,389	1,551	1,707	1,855

4,700 - 4,750	790	1,160	1,401	1,565	1,722	1,871
4,750 - 4,800	797	1,170	1,413	1,579	1,737	1,888
4,800 - 4,850	804	1,180	1,426	1,593	1,752	1,904
4,850 - 4,900	811	1,190	1,438	1,606	1,767	1,921
4,900 - 4,950	818	1,200	1,450	1,620	1,782	1,937
4,950 - 5,000	825	1,210	1,463	1,634	1,797	1,954
5,000 - 5,050	832	1,221	1,475	1,648	1,812	1,970
5,050 - 5,100	839	1,231	1,487	1,661	1,828	1,987
5,100 - 5,150	842	1,235	1,491	1,666	1,832	1,992
5,150 - 5,200	845	1,237	1,493	1,668	1,835	1,995
5,200 - 5,250	848	1,240	1,495	1,670	1,838	1,997
5,250 - 5,300	850	1,242	1,498	1,673	1,840	2,000
5,300 - 5,350	853	1,245	1,500	1,675	1,843	2,003
5,350 - 5,400	856	1,247	1,502	1,677	1,845	2,006
5,400 - 5,450	859	1,250	1,504	1,680	1,848	2,008
5,450 - 5,500	861	1,252	1,506	1,682	1,850	2,011
5,500 - 5,550	864	1,255	1,508	1,684	1,853	2,014
5,550 - 5,600	867	1,257	1,510	1,686	1,855	2,017
5,600 - 5,650	870	1,259	1,512	1,689	1,858	2,019
5,650 - 5,700	872	1,262	1,514	1,691	1,860	2,022
5,700 - 5,750	875	1,265	1,516	1,694	1,863	2,025
5,750 - 5,800	879	1,269	1,522	1,700	1,870	2,032
5,800 - 5,850	882	1,274	1,527	1,706	1,876	2,039
5,850 - 5,900	886	1,278	1,532	1,711	1,883	2,046
5,900 - 5,950	890	1,283	1,538	1,717	1,889	2,053
5,950 - 6,000	893	1,287	1,543	1,723	1,896	2,061
6,000 - 6,050	897	1,292	1,548	1,729	1,902	2,068
6,050 - 6,100	901	1,296	1,553	1,735	1,909	2,075
6,100 - 6,150	904	1,301	1,559	1,741	1,915	2,082
6,150 - 6,200	908	1,306	1,564	1,747	1,922	2,089
6,200 - 6,250	912	1,310	1,569	1,753	1,928	2,096
6,250 - 6,300	915	1,315	1,575	1,759	1,935	2,103
6,300 - 6,350	919	1,319	1,580	1,765	1,941	2,110
6,350 - 6,400	923	1,325	1,587	1,772	1,950	2,119
6,400 - 6,450	929	1,333	1,596	1,783	1,961	2,132
6,450 - 6,500	935	1,340	1,605	1,793	1,972	2,144

6,500 - 6,550	941	1,348	1,614	1,803	1,984	2,156
6,550 - 6,600	947	1,355	1,624	1,814	1,995	2,169
6,600 - 6,650	953	1,363	1,633	1,824	2,006	2,181
6,650 - 6,700	959	1,371	1,642	1,834	2,018	2,193
6,700 - 6,750	964	1,378	1,651	1,845	2,029	2,206
6,750 - 6,800	970	1,386	1,661	1,855	2,040	2,218
6,800 - 6,850	976	1,393	1,670	1,865	2,052	2,230
6,850 - 6,900	982	1,401	1,679	1,876	2,063	2,243
6,900 - 6,950	988	1,409	1,688	1,886	2,074	2,255
6,950 - 7,000	994	1,416	1,698	1,896	2,086	2,267
7,000 - 7,050	999	1,423	1,706	1,905	2,096	2,278
7,050 - 7,100	1,003	1,429	1,713	1,913	2,104	2,287
7,100 - 7,150	1,007	1,436	1,720	1,921	2,113	2,297
7,150 - 7,200	1,011	1,442	1,727	1,929	2,122	2,307
7,200 - 7,250	1,015	1,448	1,734	1,937	2,131	2,316
7,250 - 7,300	1,019	1,455	1,741	1,945	2,140	2,326
7,300 - 7,350	1,023	1,461	1,749	1,953	2,149	2,336
7,350 - 7,400	1,027	1,467	1,756	1,961	2,157	2,345
7,400 - 7,450	1,031	1,474	1,763	1,969	2,166	2,355
7,450 - 7,500	1,035	1,480	1,770	1,977	2,175	2,364
7,500 - 7,550	1,039	1,486	1,777	1,985	2,184	2,374
7,550 - 7,600	1,043	1,493	1,785	1,993	2,193	2,384
7,600 - 7,650	1,047	1,499	1,792	2,001	2,202	2,393
7,650 - 7,700	1,049	1,502	1,795	2,005	2,205	2,397
7,700 - 7,750	1,051	1,504	1,797	2,008	2,208	2,401
7,750 - 7,800	1,054	1,506	1,800	2,011	2,212	2,404
7,800 - 7,850	1,056	1,508	1,802	2,013	2,215	2,407
7,850 - 7,900	1,058	1,510	1,805	2,016	2,218	2,411
7,900 - 7,950	1,060	1,512	1,807	2,019	2,221	2,414
7,950 - 8,000	1,062	1,514	1,810	2,022	2,224	2,417
8,000 - 8,050	1,064	1,516	1,812	2,024	2,227	2,420
8,050 - 8,100	1,066	1,518	1,815	2,027	2,230	2,424
8,100 - 8,150	1,068	1,520	1,817	2,030	2,233	2,427
8,150 - 8,200	1,070	1,522	1,820	2,032	2,236	2,430
8,200 - 8,250	1,073	1,524	1,822	2,035	2,239	2,433
8,250 - 8,300	1,075	1,526	1,824	2,038	2,242	2,437

8,300 - 8,350	1,078	1,530	1,829	2,043	2,247	2,443
8,350 - 8,400	1,081	1,534	1,834	2,048	2,253	2,449
8,400 - 8,450	1,085	1,539	1,838	2,053	2,259	2,455
8,450 - 8,500	1,088	1,543	1,843	2,058	2,264	2,461
8,500 - 8,550	1,092	1,547	1,848	2,064	2,270	2,468
8,550 - 8,600	1,095	1,551	1,852	2,069	2,276	2,474
8,600 - 8,650	1,099	1,555	1,857	2,074	2,282	2,480
8,650 - 8,700	1,102	1,560	1,862	2,079	2,287	2,486
8,700 - 8,750	1,106	1,564	1,866	2,085	2,293	2,492
8,750 - 8,800	1,109	1,568	1,871	2,090	2,299	2,499
8,800 - 8,850	1,113	1,572	1,876	2,095	2,304	2,505
8,850 - 8,900	1,116	1,577	1,880	2,100	2,310	2,511
8,900 - 8,950	1,120	1,581	1,885	2,105	2,316	2,517
8,950 - 9,000	1,123	1,584	1,889	2,110	2,321	2,523
9,000 - 9,050	1,125	1,586	1,893	2,114	2,326	2,528
9,050 - 9,100	1,128	1,588	1,897	2,119	2,331	2,533
9,100 - 9,150	1,130	1,591	1,901	2,123	2,335	2,539
9,150 - 9,200	1,133	1,593	1,905	2,128	2,340	2,544
9,200 - 9,250	1,136	1,595	1,909	2,132	2,345	2,549
9,250 - 9,300	1,138	1,598	1,913	2,136	2,350	2,554
9,300 - 9,350	1,141	1,600	1,917	2,141	2,355	2,560
9,350 - 9,400	1,144	1,602	1,920	2,145	2,360	2,565
9,400 - 9,450	1,146	1,605	1,924	2,150	2,364	2,570
9,450 - 9,500	1,149	1,607	1,928	2,154	2,369	2,575
9,500 - 9,550	1,151	1,609	1,932	2,158	2,374	2,581
9,550 - 9,600	1,154	1,612	1,936	2,163	2,379	2,586
9,600 - 9,650	1,157	1,614	1,940	2,167	2,384	2,591
9,650 - 9,700	1,159	1,616	1,944	2,172	2,389	2,597
9,700 - 9,750	1,162	1,619	1,948	2,176	2,394	2,602
9,750 - 9,800	1,165	1,621	1,952	2,180	2,398	2,607
9,800 - 9,850	1,167	1,623	1,956	2,185	2,403	2,612
9,850 - 9,900	1,170	1,626	1,960	2,189	2,408	2,618
9,900 - 9,950	1,173	1,628	1,964	2,194	2,413	2,623
9,950 - 10,000	1,176	1,634	1,970	2,200	2,420	2,631
10,000 - 10,050	1,180	1,640	1,976	2,207	2,427	2,639
10,050 - 10,100	1,184	1,646	1,982	2,213	2,435	2,647



10,100 - 10,150	1,188	1,652	1,987	2,220	2,442	2,654
10,150 - 10,200	1,192	1,658	1,993	2,226	2,449	2,662
10,200 - 10,250	1,196	1,663	1,999	2,233	2,456	2,670
10,250 - 10,300	1,200	1,669	2,005	2,240	2,464	2,678
10,300 - 10,350	1,204	1,675	2,011	2,246	2,471	2,686
10,350 - 10,400	1,208	1,681	2,017	2,253	2,478	2,694
10,400 - 10,450	1,212	1,687	2,023	2,259	2,485	2,701
10,450 - 10,500	1,216	1,693	2,029	2,266	2,492	2,709
10,500 - 10,550	1,220	1,698	2,034	2,272	2,500	2,717
10,550 - 10,600	1,224	1,704	2,040	2,279	2,507	2,725
10,600 - 10,650	1,228	1,710	2,046	2,286	2,514	2,733
10,650 - 10,700	1,232	1,716	2,052	2,292	2,521	2,741
10,700 - 10,750	1,236	1,722	2,058	2,299	2,529	2,749
10,750 - 10,800	1,240	1,728	2,065	2,306	2,537	2,757
10,800 - 10,850	1,244	1,735	2,071	2,313	2,545	2,766
10,850 - 10,900	1,249	1,741	2,077	2,321	2,553	2,775
10,900 - 10,950	1,253	1,748	2,084	2,328	2,561	2,783
10,950 - 11,000	1,257	1,754	2,090	2,335	2,568	2,792
11,000 - 11,050	1,262	1,761	2,097	2,342	2,576	2,801
11,050 - 11,100	1,266	1,767	2,103	2,349	2,584	2,809
11,100 - 11,150	1,270	1,773	2,110	2,357	2,592	2,818
11,150 - 11,200	1,275	1,780	2,116	2,364	2,600	2,826
11,200 - 11,250	1,279	1,785	2,123	2,371	2,608	2,835
11,250 - 11,300	1,283	1,790	2,129	2,379	2,616	2,844
11,300 - 11,350	1,287	1,795	2,136	2,386	2,625	2,853
11,350 - 11,400	1,291	1,800	2,143	2,393	2,633	2,862
11,400 - 11,450	1,295	1,805	2,149	2,401	2,641	2,871
11,450 - 11,500	1,298	1,810	2,156	2,408	2,649	2,879
11,500 - 11,550	1,302	1,815	2,163	2,416	2,657	2,888
11,550 - 11,600	1,306	1,820	2,169	2,423	2,665	2,897
11,600 - 11,650	1,310	1,824	2,176	2,430	2,673	2,906
11,650 - 11,700	1,314	1,829	2,182	2,438	2,682	2,915
11,700 - 11,750	1,318	1,834	2,189	2,445	2,690	2,924
11,750 - 11,800	1,322	1,839	2,196	2,453	2,698	2,933
11,800 - 11,850	1,326	1,844	2,202	2,460	2,706	2,941
11,850 - 11,900	1,330	1,849	2,209	2,467	2,714	2,950

11,900 - 11,950	1,334	1,854	2,216	2,475	2,722	2,959
11,950 - 12,000	1,338	1,859	2,222	2,482	2,730	2,968
12,000 - 12,050	1,342	1,864	2,229	2,490	2,739	2,977
12,050 - 12,100	1,346	1,869	2,235	2,497	2,747	2,986
12,100 - 12,150	1,350	1,874	2,242	2,504	2,755	2,994
12,150 - 12,200	1,354	1,879	2,249	2,512	2,763	3,003
12,200 - 12,250	1,358	1,884	2,255	2,519	2,771	3,012
12,250 - 12,300	1,362	1,888	2,262	2,527	2,779	3,021
12,300 - 12,350	1,366	1,893	2,269	2,534	2,787	3,030
12,350 - 12,400	1,370	1,898	2,275	2,541	2,796	3,039
12,400 - 12,450	1,374	1,903	2,282	2,549	2,804	3,048
12,450 - 12,500	1,378	1,908	2,288	2,556	2,812	3,056
12,500 - 12,550	1,382	1,913	2,295	2,564	2,820	3,065
12,550 - 12,600	1,386	1,918	2,302	2,571	2,828	3,074
12,600 - 12,650	1,390	1,923	2,308	2,578	2,836	3,083
12,650 - 12,700	1,394	1,928	2,315	2,586	2,844	3,092
12,700 - 12,750	1,398	1,933	2,322	2,593	2,853	3,101
12,750 - 12,800	1,402	1,938	2,328	2,601	2,861	3,110
12,800 - 12,850	1,406	1,943	2,335	2,608	2,869	3,118
12,850 - 12,900	1,410	1,948	2,341	2,615	2,877	3,127
12,900 - 12,950	1,414	1,952	2,348	2,623	2,885	3,136
12,950 - 13,000	1,418	1,957	2,355	2,630	2,893	3,145
13,000 - 13,050	1,421	1,961	2,359	2,636	2,899	3,151
13,050 - 13,100	1,424	1,965	2,364	2,641	2,905	3,157
13,100 - 13,150	1,427	1,969	2,368	2,646	2,910	3,163
13,150 - 13,200	1,430	1,973	2,373	2,651	2,916	3,169
13,200 - 13,250	1,432	1,976	2,377	2,656	2,921	3,175
13,250 - 13,300	1,435	1,980	2,382	2,661	2,927	3,181
13,300 - 13,350	1,438	1,984	2,386	2,666	2,932	3,187
13,350 - 13,400	1,441	1,988	2,391	2,671	2,938	3,193
13,400 - 13,450	1,444	1,991	2,395	2,676	2,943	3,199
13,450 - 13,500	1,447	1,995	2,400	2,681	2,949	3,205
13,500 - 13,550	1,450	1,999	2,404	2,686	2,954	3,211
13,550 - 13,600	1,453	2,003	2,409	2,691	2,960	3,217
13,600 - 13,650	1,456	2,006	2,413	2,696	2,965	3,223
13,650 - 13,700	1,459	2,010	2,418	2,701	2,971	3,229

13,700 - 13,750	1,462	2,014	2,422	2,706	2,976	3,235
13,750 - 13,800	1,465	2,018	2,427	2,711	2,982	3,241
13,800 - 13,850	1,468	2,022	2,431	2,716	2,987	3,247
13,850 - 13,900	1,471	2,025	2,436	2,721	2,993	3,253
13,900 - 13,950	1,473	2,029	2,440	2,726	2,998	3,259
13,950 - 14,000	1,476	2,033	2,445	2,731	3,004	3,265
14,000 - 14,050	1,479	2,037	2,449	2,736	3,009	3,271
14,050 - 14,100	1,482	2,040	2,454	2,741	3,015	3,277
14,100 - 14,150	1,485	2,044	2,458	2,746	3,020	3,283
14,150 - 14,200	1,488	2,047	2,462	2,750	3,025	3,288
14,200 - 14,250	1,490	2,051	2,466	2,755	3,030	3,294
14,250 - 14,300	1,493	2,054	2,470	2,759	3,035	3,299
14,300 - 14,350	1,496	2,057	2,474	2,764	3,040	3,304
14,350 - 14,400	1,498	2,061	2,478	2,768	3,045	3,310
14,400 - 14,450	1,501	2,064	2,482	2,772	3,050	3,315
14,450 - 14,500	1,503	2,067	2,486	2,777	3,055	3,320
14,500 - 14,550	1,506	2,071	2,490	2,781	3,059	3,326
14,550 - 14,600	1,509	2,074	2,494	2,786	3,064	3,331
14,600 - 14,650	1,511	2,077	2,498	2,790	3,069	3,336
14,650 - 14,700	1,514	2,081	2,502	2,795	3,074	3,342
14,700 - 14,750	1,516	2,084	2,506	2,799	3,079	3,347
14,750 - 14,800	1,519	2,087	2,510	2,803	3,084	3,352
14,800 - 14,850	1,521	2,091	2,514	2,808	3,089	3,357
14,850 - 14,900	1,524	2,094	2,518	2,812	3,094	3,363
14,900 - 14,950	1,527	2,097	2,522	2,817	3,098	3,368
14,950 - 15,000	1,529	2,101	2,526	2,821	3,103	3,373
15,000 - 15,050	1,532	2,104	2,530	2,826	3,108	3,379
15,050 - 15,100	1,534	2,107	2,534	2,830	3,113	3,384
15,100 - 15,150	1,537	2,111	2,538	2,835	3,118	3,389
15,150 - 15,200	1,540	2,114	2,542	2,839	3,123	3,395
15,200 - 15,250	1,542	2,117	2,546	2,843	3,128	3,400
15,250 - 15,300	1,545	2,121	2,550	2,848	3,133	3,405
15,300 - 15,350	1,547	2,124	2,554	2,852	3,138	3,410
15,350 - 15,400	1,550	2,127	2,557	2,857	3,142	3,416
15,400 - 15,450	1,553	2,131	2,561	2,861	3,147	3,421
15,450 - 15,500	1,555	2,134	2,565	2,866	3,152	3,426

15,500 - 15,550	1,558	2,137	2,569	2,870	3,157	3,432
15,550 - 15,600	1,560	2,141	2,573	2,874	3,162	3,437
15,600 - 15,650	1,563	2,144	2,577	2,879	3,167	3,442
15,650 - 15,700	1,566	2,147	2,581	2,883	3,172	3,448
15,700 - 15,750	1,568	2,151	2,585	2,888	3,177	3,453
15,750 - 15,800	1,571	2,154	2,589	2,892	3,181	3,458
15,800 - 15,850	1,573	2,157	2,593	2,897	3,186	3,464
15,850 - 15,900	1,576	2,161	2,597	2,901	3,191	3,469
15,900 - 15,950	1,579	2,164	2,601	2,906	3,196	3,474
15,950 - 16,000	1,581	2,167	2,605	2,910	3,201	3,479
16,000 - 16,050	1,584	2,171	2,609	2,914	3,206	3,485
16,050 - 16,100	1,586	2,174	2,613	2,919	3,211	3,490
16,100 - 16,150	1,589	2,177	2,617	2,923	3,216	3,495
16,150 - 16,200	1,591	2,181	2,621	2,928	3,220	3,501
16,200 - 16,250	1,594	2,184	2,625	2,932	3,225	3,506
16,250 - 16,300	1,597	2,187	2,629	2,937	3,230	3,511
16,300 - 16,350	1,599	2,191	2,633	2,941	3,235	3,517
16,350 - 16,400	1,602	2,194	2,637	2,945	3,240	3,522
16,400 - 16,450	1,604	2,197	2,641	2,950	3,245	3,527
16,450 - 16,500	1,607	2,201	2,645	2,954	3,250	3,532
16,500 - 16,550	1,610	2,204	2,649	2,959	3,255	3,538
16,550 - 16,600	1,612	2,207	2,653	2,963	3,260	3,543
16,600 - 16,650	1,615	2,211	2,657	2,968	3,264	3,548
16,650 - 16,700	1,617	2,214	2,661	2,972	3,269	3,554
16,700 - 16,750	1,620	2,217	2,665	2,976	3,274	3,559
16,750 - 16,800	1,623	2,220	2,669	2,981	3,279	3,564
16,800 - 16,850	1,625	2,224	2,672	2,985	3,284	3,569
16,850 - 16,900	1,628	2,227	2,676	2,990	3,288	3,575
16,900 - 16,950	1,630	2,230	2,680	2,994	3,293	3,580
16,950 - 17,000	1,633	2,234	2,684	2,998	3,298	3,585
17,000 - 17,050	1,635	2,237	2,688	3,003	3,303	3,590
17,050 - 17,100	1,638	2,240	2,692	3,007	3,308	3,596
17,100 - 17,150	1,640	2,243	2,696	3,011	3,313	3,601
17,150 - 17,200	1,643	2,247	2,700	3,016	3,317	3,606
17,200 - 17,250	1,645	2,250	2,704	3,020	3,322	3,611
17,250 - 17,300	1,648	2,253	2,708	3,025	3,327	3,616

17,300 - 17,350	1,651	2,257	2,712	3,029	3,332	3,622
17,350 - 17,400	1,653	2,260	2,716	3,033	3,337	3,627
17,400 - 17,450	1,656	2,263	2,719	3,038	3,341	3,632
17,450 - 17,500	1,658	2,266	2,723	3,042	3,346	3,637
17,500 - 17,550	1,661	2,270	2,727	3,046	3,351	3,643
17,550 - 17,600	1,663	2,273	2,731	3,051	3,356	3,648
17,600 - 17,650	1,666	2,276	2,735	3,055	3,361	3,653
17,650 - 17,700	1,668	2,279	2,739	3,059	3,365	3,658
17,700 - 17,750	1,671	2,283	2,743	3,064	3,370	3,663
17,750 - 17,800	1,673	2,286	2,746	3,068	3,375	3,668
17,800 - 17,850	1,676	2,289	2,750	3,072	3,379	3,673
17,850 - 17,900	1,678	2,292	2,754	3,076	3,384	3,678
17,900 - 17,950	1,681	2,295	2,758	3,080	3,388	3,683
17,950 - 18,000	1,683	2,298	2,761	3,084	3,393	3,688
18,000 - 18,050	1,685	2,301	2,765	3,089	3,397	3,693
18,050 - 18,100	1,688	2,304	2,769	3,093	3,402	3,698
18,100 - 18,150	1,690	2,308	2,772	3,097	3,407	3,703
18,150 - 18,200	1,693	2,311	2,776	3,101	3,411	3,708
18,200 - 18,250	1,695	2,314	2,780	3,105	3,416	3,713
18,250 - 18,300	1,698	2,317	2,784	3,109	3,420	3,718
18,300 - 18,350	1,700	2,320	2,787	3,113	3,425	3,723
18,350 - 18,400	1,702	2,323	2,791	3,118	3,429	3,728
18,400 - 18,450	1,705	2,326	2,795	3,122	3,434	3,733
18,450 - 18,500	1,707	2,329	2,799	3,126	3,439	3,738
18,500 - 18,550	1,710	2,332	2,802	3,130	3,443	3,743
18,550 - 18,600	1,712	2,336	2,806	3,134	3,448	3,748
18,600 - 18,650	1,715	2,339	2,810	3,138	3,452	3,753
18,650 - 18,700	1,717	2,342	2,813	3,143	3,457	3,758
18,700 - 18,750	1,719	2,345	2,817	3,147	3,461	3,763
18,750 - 18,800	1,722	2,348	2,821	3,151	3,466	3,768
18,800 - 18,850	1,724	2,351	2,825	3,155	3,471	3,772
18,850 - 18,900	1,727	2,354	2,828	3,159	3,475	3,777
18,900 - 18,950	1,729	2,357	2,832	3,163	3,480	3,782
18,950 - 19,000	1,732	2,361	2,836	3,167	3,484	3,787
19,000 - 19,050	1,734	2,364	2,839	3,172	3,489	3,792
19,050 - 19,100	1,736	2,367	2,843	3,176	3,493	3,797

19,100 - 19,150	1,739	2,370	2,847	3,180	3,498	3,802
19,150 - 19,200	1,741	2,373	2,851	3,184	3,503	3,807
19,200 - 19,250	1,744	2,376	2,854	3,188	3,507	3,812
19,250 - 19,300	1,746	2,379	2,858	3,192	3,512	3,817
19,300 - 19,350	1,749	2,382	2,862	3,197	3,516	3,822
19,350 - 19,400	1,751	2,386	2,865	3,201	3,521	3,827
19,400 - 19,450	1,753	2,389	2,869	3,205	3,525	3,832
19,450 - 19,500	1,756	2,392	2,873	3,209	3,530	3,837
19,500 - 19,550	1,758	2,395	2,877	3,213	3,535	3,842
19,550 - 19,600	1,761	2,398	2,880	3,217	3,539	3,847
19,600 - 19,650	1,763	2,401	2,884	3,222	3,544	3,852
19,650 - 19,700	1,766	2,404	2,888	3,226	3,548	3,857
19,700 - 19,750	1,768	2,407	2,892	3,230	3,553	3,862
19,750 - 19,800	1,770	2,410	2,895	3,234	3,557	3,867
19,800 - 19,850	1,773	2,414	2,899	3,238	3,562	3,872
19,850 - 19,900	1,775	2,417	2,903	3,242	3,567	3,877
19,900 - 19,950	1,778	2,420	2,906	3,246	3,571	3,882
19,950 - 20,000	1,780	2,423	2,910	3,251	3,576	3,887
20,000 - 20,050	1,783	2,426	2,914	3,255	3,580	3,892
20,050 - 20,100	1,785	2,429	2,918	3,259	3,585	3,897
20,100 - 20,150	1,787	2,432	2,921	3,263	3,589	3,902
20,150 - 20,200	1,790	2,435	2,925	3,267	3,594	3,907
20,200 - 20,250	1,792	2,439	2,929	3,271	3,599	3,912
20,250 - 20,300	1,795	2,442	2,932	3,276	3,603	3,917
20,300 - 20,350	1,797	2,445	2,936	3,280	3,608	3,922
20,350 - 20,400	1,800	2,448	2,940	3,284	3,612	3,927
20,400 - 20,450	1,802	2,451	2,944	3,288	3,617	3,931
20,450 - 20,500	1,804	2,454	2,947	3,292	3,621	3,936
20,500 - 20,550	1,807	2,457	2,951	3,296	3,626	3,941
20,550 - 20,600	1,809	2,460	2,955	3,300	3,631	3,946
20,600 - 20,650	1,812	2,463	2,958	3,305	3,635	3,951
20,650 - 20,700	1,814	2,467	2,962	3,309	3,640	3,956
20,700 - 20,750	1,817	2,470	2,966	3,313	3,644	3,961
20,750 - 20,800	1,819	2,473	2,970	3,317	3,649	3,966
20,800 - 20,850	1,821	2,476	2,973	3,321	3,653	3,971
20,850 - 20,900	1,824	2,479	2,977	3,325	3,658	3,976

20,900 - 20,950	1,826	2,482	2,981	3,330	3,663	3,981
20,950 - 21,000	1,829	2,485	2,985	3,334	3,667	3,986
21,000 - 21,050	1,831	2,488	2,988	3,338	3,672	3,991
21,050 - 21,100	1,834	2,492	2,992	3,342	3,676	3,996
21,100 - 21,150	1,836	2,495	2,996	3,346	3,681	4,001
21,150 - 21,200	1,838	2,498	2,999	3,350	3,685	4,006
21,200 - 21,250	1,841	2,501	3,003	3,355	3,690	4,011
21,250 - 21,300	1,843	2,504	3,007	3,359	3,695	4,016
21,300 - 21,350	1,846	2,507	3,011	3,363	3,699	4,021
21,350 - 21,400	1,848	2,510	3,014	3,367	3,704	4,026
21,400 - 21,450	1,851	2,513	3,018	3,371	3,708	4,031
21,450 - 21,500	1,853	2,517	3,022	3,375	3,713	4,036
21,500 - 21,550	1,855	2,520	3,025	3,379	3,717	4,041
21,550 - 21,600	1,858	2,523	3,029	3,384	3,722	4,046
21,600 - 21,650	1,860	2,526	3,033	3,388	3,727	4,051
21,650 - 21,700	1,863	2,529	3,037	3,392	3,731	4,056
21,700 - 21,750	1,865	2,532	3,040	3,396	3,736	4,061
21,750 - 21,800	1,868	2,535	3,044	3,400	3,740	4,066
21,800 - 21,850	1,870	2,538	3,048	3,404	3,745	4,071
21,850 - 21,900	1,872	2,541	3,052	3,409	3,749	4,076
21,900 - 21,950	1,875	2,545	3,055	3,413	3,754	4,081
21,950 - 22,000	1,877	2,548	3,059	3,417	3,759	4,086
22,000 - 22,050	1,880	2,551	3,063	3,421	3,763	4,090
22,050 - 22,100	1,882	2,554	3,066	3,425	3,768	4,095
22,100 - 22,150	1,885	2,557	3,070	3,429	3,772	4,100
22,150 - 22,200	1,887	2,560	3,074	3,433	3,777	4,105
22,200 - 22,250	1,889	2,563	3,078	3,438	3,781	4,110
22,250 - 22,300	1,892	2,566	3,081	3,442	3,786	4,115
22,300 - 22,350	1,894	2,570	3,085	3,446	3,791	4,120
22,350 - 22,400	1,897	2,573	3,089	3,450	3,795	4,125
22,400 - 22,450	1,899	2,576	3,092	3,454	3,800	4,130
22,450 - 22,500	1,902	2,579	3,096	3,458	3,804	4,135
22,500 - 22,550	1,904	2,582	3,100	3,463	3,809	4,140
22,550 - 22,600	1,906	2,585	3,104	3,467	3,813	4,145
22,600 - 22,650	1,909	2,588	3,107	3,471	3,818	4,150
22,650 - 22,700	1,911	2,591	3,111	3,475	3,823	4,155

22,700 - 22,750	1,914	2,594	3,115	3,479	3,827	4,160
22,750 - 22,800	1,916	2,598	3,118	3,483	3,832	4,165
22,800 - 22,850	1,919	2,601	3,122	3,487	3,836	4,170
22,850 - 22,900	1,921	2,604	3,126	3,492	3,841	4,175
22,900 - 22,950	1,923	2,607	3,130	3,496	3,845	4,180
22,950 - 23,000	1,926	2,610	3,133	3,500	3,850	4,185
23,000 - 23,050	1,928	2,613	3,137	3,504	3,855	4,190
23,050 - 23,100	1,931	2,616	3,141	3,508	3,859	4,195
23,100 - 23,150	1,933	2,619	3,145	3,512	3,864	4,200
23,150 - 23,200	1,936	2,623	3,148	3,517	3,868	4,205
23,200 - 23,250	1,938	2,626	3,152	3,521	3,873	4,210
23,250 - 23,300	1,940	2,629	3,156	3,525	3,877	4,215
23,300 - 23,350	1,943	2,632	3,159	3,529	3,882	4,220
23,350 - 23,400	1,945	2,635	3,163	3,533	3,887	4,225
23,400 - 23,450	1,948	2,638	3,167	3,537	3,891	4,230
23,450 - 23,500	1,950	2,641	3,171	3,542	3,896	4,235
23,500 - 23,550	1,953	2,644	3,174	3,546	3,900	4,240
23,550 - 23,600	1,955	2,647	3,178	3,550	3,905	4,245
23,600 - 23,650	1,957	2,651	3,182	3,554	3,909	4,249
23,650 - 23,700	1,960	2,654	3,185	3,558	3,914	4,254
23,700 - 23,750	1,962	2,657	3,189	3,562	3,919	4,259
23,750 - 23,800	1,965	2,660	3,193	3,566	3,923	4,264
23,800 - 23,850	1,967	2,663	3,197	3,571	3,928	4,269
23,850 - 23,900	1,970	2,666	3,200	3,575	3,932	4,274
23,900 - 23,950	1,972	2,669	3,204	3,579	3,937	4,279
23,950 - 24,000	1,974	2,672	3,208	3,583	3,941	4,284
24,000 - 24,050	1,977	2,676	3,211	3,587	3,946	4,289
24,050 - 24,100	1,979	2,679	3,215	3,591	3,951	4,294
24,100 - 24,150	1,982	2,682	3,219	3,596	3,955	4,299
24,150 - 24,200	1,984	2,685	3,223	3,600	3,960	4,304
24,200 - 24,250	1,987	2,688	3,226	3,604	3,964	4,309
24,250 - 24,300	1,989	2,691	3,230	3,608	3,969	4,314
24,300 - 24,350	1,991	2,694	3,234	3,612	3,973	4,319
24,350 - 24,400	1,994	2,697	3,238	3,616	3,978	4,324
24,400 - 24,450	1,996	2,701	3,241	3,620	3,983	4,329
24,450 - 24,500	1,999	2,704	3,245	3,625	3,987	4,334



24,500 - 24,550	2,001	2,707	3,249	3,629	3,992	4,339
24,550 - 24,600	2,004	2,710	3,252	3,633	3,996	4,344
24,600 - 24,650	2,006	2,713	3,256	3,637	4,001	4,349
24,650 - 24,700	2,008	2,716	3,260	3,641	4,005	4,354
24,700 - 24,750	2,011	2,719	3,264	3,645	4,010	4,359
24,750 - 24,800	2,013	2,722	3,267	3,650	4,015	4,364
24,800 - 24,850	2,016	2,725	3,271	3,654	4,019	4,369
24,850 - 24,900	2,018	2,729	3,275	3,658	4,024	4,374
24,900 - 24,950	2,021	2,732	3,278	3,662	4,028	4,379
24,950 - 25,000	2,023	2,735	3,282	3,666	4,033	4,384
25,000 - 25,050	2,025	2,738	3,286	3,670	4,037	4,389
25,050 - 25,100	2,028	2,741	3,290	3,674	4,042	4,394
25,100 - 25,150	2,030	2,744	3,293	3,679	4,047	4,399
25,150 - 25,200	2,033	2,747	3,297	3,683	4,051	4,404
25,200 - 25,250	2,035	2,750	3,301	3,687	4,056	4,408
25,250 - 25,300	2,038	2,754	3,304	3,691	4,060	4,413
25,300 - 25,350	2,040	2,757	3,308	3,695	4,065	4,418
25,350 - 25,400	2,042	2,760	3,312	3,699	4,069	4,423
25,400 - 25,450	2,045	2,763	3,316	3,704	4,074	4,428
25,450 - 25,500	2,047	2,766	3,319	3,708	4,079	4,433
25,500 - 25,550	2,050	2,769	3,323	3,712	4,083	4,438
25,550 - 25,600	2,052	2,772	3,327	3,716	4,088	4,443
25,600 - 25,650	2,055	2,775	3,331	3,720	4,092	4,448
25,650 - 25,700	2,057	2,778	3,334	3,724	4,097	4,453
25,700 - 25,750	2,059	2,782	3,338	3,729	4,101	4,458
25,750 - 25,800	2,062	2,785	3,342	3,733	4,106	4,463
25,800 - 25,850	2,064	2,788	3,345	3,737	4,111	4,468
25,850 - 25,900	2,067	2,791	3,349	3,741	4,115	4,473
25,900 - 25,950	2,069	2,794	3,353	3,745	4,120	4,478
25,950 - 26,000	2,072	2,797	3,357	3,749	4,124	4,483
26,000 - 26,050	2,074	2,800	3,360	3,753	4,129	4,488
26,050 - 26,100	2,076	2,803	3,364	3,758	4,133	4,493
26,100 - 26,150	2,079	2,807	3,368	3,762	4,138	4,498
26,150 - 26,200	2,081	2,810	3,371	3,766	4,143	4,503
26,200 - 26,250	2,084	2,813	3,375	3,770	4,147	4,508
26,250 - 26,300	2,086	2,816	3,379	3,774	4,152	4,513

26,300 - 26,350	2,089	2,819	3,383	3,778	4,156	4,518
26,350 - 26,400	2,091	2,822	3,386	3,783	4,161	4,523
26,400 - 26,450	2,093	2,825	3,390	3,787	4,165	4,528
26,450 - 26,500	2,096	2,828	3,394	3,791	4,170	4,533
26,500 - 26,550	2,098	2,832	3,398	3,795	4,175	4,538
26,550 - 26,600	2,101	2,835	3,401	3,799	4,179	4,543
26,600 - 26,650	2,103	2,838	3,405	3,803	4,184	4,548
26,650 - 26,700	2,106	2,841	3,409	3,807	4,188	4,553
26,700 - 26,750	2,108	2,844	3,412	3,812	4,193	4,558
26,750 - 26,800	2,110	2,847	3,416	3,816	4,197	4,563
26,800 - 26,850	2,113	2,850	3,420	3,820	4,202	4,568
26,850 - 26,900	2,115	2,853	3,424	3,824	4,207	4,572
26,900 - 26,950	2,118	2,856	3,427	3,828	4,211	4,577
26,950 - 27,000	2,120	2,860	3,431	3,832	4,216	4,582
27,000 - 27,050	2,123	2,863	3,435	3,837	4,220	4,587
27,050 - 27,100	2,125	2,866	3,438	3,841	4,225	4,592
27,100 - 27,150	2,127	2,869	3,442	3,845	4,229	4,597
27,150 - 27,200	2,130	2,872	3,446	3,849	4,234	4,602
27,200 - 27,250	2,132	2,875	3,450	3,853	4,239	4,607
27,250 - 27,300	2,135	2,878	3,453	3,857	4,243	4,612
27,300 - 27,350	2,137	2,881	3,457	3,862	4,248	4,617
27,350 - 27,400	2,140	2,885	3,461	3,866	4,252	4,622
27,400 - 27,450	2,142	2,888	3,464	3,870	4,257	4,627
27,450 - 27,500	2,144	2,891	3,468	3,874	4,261	4,632
27,500 - 27,550	2,147	2,894	3,472	3,878	4,266	4,637
27,550 - 27,600	2,149	2,897	3,476	3,882	4,271	4,642
27,600 - 27,650	2,152	2,900	3,479	3,886	4,275	4,647
27,650 - 27,700	2,154	2,903	3,483	3,891	4,280	4,652
27,700 - 27,750	2,157	2,906	3,487	3,895	4,284	4,657
27,750 - 27,800	2,159	2,909	3,491	3,899	4,289	4,662
27,800 - 27,850	2,161	2,913	3,494	3,903	4,293	4,667
27,850 - 27,900	2,164	2,916	3,498	3,907	4,298	4,672
27,900 - 27,950	2,166	2,919	3,502	3,911	4,303	4,677
27,950 - 28,000	2,169	2,922	3,505	3,916	4,307	4,682
28,000 - 28,050	2,171	2,925	3,509	3,920	4,312	4,687
28,050 - 28,100	2,174	2,928	3,513	3,924	4,316	4,692

28,100 - 28,150	2,176	2,931	3,517	3,928	4,321	4,697
28,150 - 28,200	2,178	2,934	3,520	3,932	4,325	4,702
28,200 - 28,250	2,181	2,938	3,524	3,936	4,330	4,707
28,250 - 28,300	2,183	2,941	3,528	3,940	4,335	4,712
28,300 - 28,350	2,186	2,944	3,531	3,945	4,339	4,717
28,350 - 28,400	2,188	2,947	3,535	3,949	4,344	4,722
28,400 - 28,450	2,191	2,950	3,539	3,953	4,348	4,727
28,450 - 28,500	2,193	2,953	3,543	3,957	4,353	4,731
28,500 - 28,550	2,195	2,956	3,546	3,961	4,357	4,736
28,550 - 28,600	2,198	2,959	3,550	3,965	4,362	4,741
28,600 - 28,650	2,200	2,962	3,554	3,970	4,367	4,746
28,650 - 28,700	2,203	2,966	3,557	3,974	4,371	4,751
28,700 - 28,750	2,205	2,969	3,561	3,978	4,376	4,756
28,750 - 28,800	2,208	2,972	3,565	3,982	4,380	4,761
28,800 - 28,850	2,210	2,975	3,569	3,986	4,385	4,766
28,850 - 28,900	2,212	2,978	3,572	3,990	4,389	4,771
28,900 - 28,950	2,215	2,981	3,576	3,994	4,394	4,776
28,950 - 29,000	2,217	2,984	3,580	3,999	4,399	4,781
29,000 - 29,050	2,220	2,987	3,584	4,003	4,403	4,786
29,050 - 29,100	2,222	2,991	3,587	4,007	4,408	4,791
29,100 - 29,150	2,225	2,994	3,591	4,011	4,412	4,796
29,150 - 29,200	2,227	2,997	3,595	4,015	4,417	4,801
29,200 - 29,250	2,229	3,000	3,598	4,019	4,421	4,806
29,250 - 29,300	2,232	3,003	3,602	4,024	4,426	4,811
29,300 - 29,350	2,234	3,006	3,606	4,028	4,431	4,816
29,350 - 29,400	2,237	3,009	3,610	4,032	4,435	4,821
29,400 - 29,450	2,239	3,012	3,613	4,036	4,440	4,826
29,450 - 29,500	2,242	3,016	3,617	4,040	4,444	4,831
29,500 - 29,550	2,244	3,019	3,621	4,044	4,449	4,836
29,550 - 29,600	2,246	3,022	3,624	4,049	4,453	4,841
29,600 - 29,650	2,249	3,025	3,628	4,053	4,458	4,846
29,650 - 29,700	2,251	3,028	3,632	4,057	4,462	4,851
29,700 - 29,750	2,254	3,031	3,636	4,061	4,467	4,856
29,750 - 29,800	2,256	3,034	3,639	4,065	4,472	4,861
29,800 - 29,850	2,259	3,037	3,643	4,069	4,476	4,866
29,850 - 29,900	2,261	3,040	3,647	4,073	4,481	4,871

29,900 - 29,950	2,263	3,044	3,650	4,078	4,485	4,876
29,950 - 30,000	2,266	3,047	3,654	4,082	4,490	4,881

Income of \$30,000

or more	2,266 + 6.4% of income over \$30,000	3,047 + 8.1% of income over \$30,000	3,654 + 9.6% of income over \$30,000	4,082 + 10.7% of income over \$30,000	4,490 + 11.8% of income over \$30,000	4,881 + 12.8% of income over \$30,000
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WORKSHEET A - BASIC VISITATION

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

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

STATE OF NEW MEXICO

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

\_\_\_\_\_,

Petitioner,

1. Gross Monthly Income	\$_____	+	\$_____	=	\$_____
	—				
2. Percentage of Combined Income					
(Each parent's income divided by combined income)		+	_____%	=	100%
	_____				
	%				
3. Number of Children _____					
4. Basic Support from Schedule					
(Use combined income from Line 1)				=	_____
5. Children's Health and Dental Insurance Premium	_____	+	_____	=	_____
6. Work-Related Child Care	_____	+	_____	=	_____
7. Additional Expenses	_____	+	_____	=	_____
8. Total Support (Add Lines 5, 6 and 7 for each parent and Lines 4, 5, 6 and 7 for combined column)	_____	+	_____	=	_____
9. Each Parent's Obligation (Combined Column Line 8 x each parent's Line 2)	_____		_____		
10 Enter amount for each parent from					

Line 8 - \_\_\_\_\_

11 Each Parent's Net

Obligation (Subtract  
Line 10 from Line 9  
for each parent).

\_\_\_\_\_ Other  
Parent pays Custodial  
Parent this Amount  
\_\_\_\_\_ PAYS \_\_\_\_\_ EACH MONTH \$ \_\_\_\_\_

\_\_\_\_\_  
Petitioner's Signature  
Date: \_\_\_\_\_

\_\_\_\_\_  
Respondent's Signature

vs.

\_\_\_\_\_

Respondent.

MONTHLY CHILD SUPPORT OBLIGATION

Custodial Parent	Other Parent	Combined
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\_\_\_\_\_

BASIC VISITATION

## INSTRUCTIONS FOR WORKSHEET A

### Line 1. Gross monthly income:

Includes all income, except TANF, food stamps and supplemental security income. If a parent pays child support by court order to other children, subtract from gross income. Use current income if steady. If income varies a lot from month to month, use an average of the last twelve months, if available, or last year's income tax return. Add both parents' gross incomes and put total under the combined column.

### Line 2. Percentage of Combined Income:

Divide each parent's income by combined income to get that parent's percentage of combined income.

### Lines 3 and 4. Basic Support:

Fill in number of children on worksheet (Line 3). Round combined income to nearest fifty dollars (\$50.00). Look at the basic child support schedule. In the far left-hand column of the basic child support schedule, find the rounded combined income figure. Read across to the column with the correct number of children. Enter that amount on Line 4.

### Line 5. Children's Health and Dental Insurance Premium:

Enter the cost paid by a parent for covering these children with medical and dental insurance under that parent's column on Line 5. Add costs paid by each parent and enter under the combined column on Line 5.

### Line 6. Work-Related Child Care:

Enter the cost paid by each parent for work-related child care. If the cost varies (for example, between school year and summer), take the total yearly cost and divide by

twelve. Enter each parent's figure in that parent's column on Line 6. Add the cost for both parents and enter in the combined column on Line 6.

Line 7. Additional Expenses:

Enter the amounts paid by each parent for additional expenses provided by Subsection J of this section on Line 7. Add the cost for both parents and enter in the combined column on Line 7.

Line 8. Total Support:

Total the basic support amount from Line 4 in the combined column with the combined column on Lines 5, 6 and 7 and enter the totals in the combined column on Line 8.

Line 9. Each Parent's Obligation:

Multiply the total child support amount on Line 8 by each parent's percentage share on Line 2, and enter each parent's dollar share under that parent's column on Line 9.

Line 10. Total Support:

Enter the total amount shown for each parent on Line 8 beside the "minus" marks on Line 10.

Line 11. Each Parent's Net Obligation:

For each parent, subtract the amount on Line 10 from the amount on Line 9. Enter the difference for each parent in that parent's column on Line 11. The amount in the box "other parent" is what that parent pays to the custodial parent each month. Do not subtract the amount on the custodial parent's Line 11 from the amount in the other parent's box. The custodial parent is presumed to use the amount in that parent's column on Line 11 for the children.



WORKSHEET B - SHARED RESPONSIBILITY

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

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

STATE OF NEW MEXICO

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

\_\_\_\_\_,

Petitioner,

vs.

\_\_\_\_\_,

Respondent.

MONTHLY CHILD SUPPORT OBLIGATION

Part 1 - Basic Support:	Mother	Father	Combined
1. Gross Monthly Income	\$_____	+	\$_____ = \$_____
2. Percentage of Combined Income (Each parent's income divided)	—	—	

by combined income)	<u>          </u>	+	<u>          </u>	=	100%
	%		%		
3. Number of Children	<u>          </u>				
4. Basic Support from Schedule					
(Use combined income from Line 1)				=	<u>          </u>
5. Shared Responsibility Basic					
Obligation (Line 4 x 1.5)				=	<u>          </u>
6. Each Parent's Share (Line 5					
x each parent's Line 2)	<u>          </u>		<u>          </u>		
	-				
7. Number of 24-Hour Days with Each Parent (must total 365)	<u>          </u>	+	<u>          </u>	=	<u>  365  </u>
	-				
8. Percentage with Each Parent					
(Line 7 divided by 365)	<u>          </u>	+	<u>          </u>	=	100%
	%		%		
9. Amount Retained (Line 6 x Line 8 for Each Parent)	<u>          </u>		<u>          </u>		
	-				
10 Each Parent's Basic					

	Obligation (subtract Line 9 from Line 6)	_____	_____	
		-		
11	Amount Transferred			
	.			
	(subtract smaller amount on Line 10 from larger amount on Line 10). Parent with larger amount on Line 10 pays other parent the difference.			_____
	Part 2 - Additional Payments:			
12	Children's Health and Dental Insurance Premium	_____	+	_____ = _____
		-		
13	Work-Related Child Care	_____	+	_____ = _____
		-		
14	Additional Expenses	_____	+	_____ = _____
		-		
15	Total Additional			
	.			

Payments (Add Lines  
12, 13 and 14 for each  
parent and for combined  
column)

\_\_\_\_\_ + \_\_\_\_\_ = \_\_\_\_\_

16 Each Parent's Obligation

—

.  
(Combined Column Line  
15  
x each parent's Line 2)

\_\_\_\_\_

17 Amount Transferred

—

.  
(Subtract each parent's  
Line 16 from that parent's  
Line 15).  
Parent with "minus"  
figure pays that amount  
to other parent.

\_\_\_\_\_

Part 3 - Net Amount Transferred:

18 Combine Lines 11 and 17

.  
by  
addition if same parent  
pays  
on both lines, otherwise by  
subtraction.

—

\_\_\_\_\_

\_\_\_\_\_ PAYS \_\_\_\_\_ EACH MONTH \$ \_\_\_\_\_

\_\_\_\_\_  
Petitioner's Signature

\_\_\_\_\_  
Respondent's Signature

Date: \_\_\_\_\_

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SHARED RESPONSIBILITY  
INSTRUCTIONS FOR WORKSHEET B

Part 1 - Basic Support:

Line 1. Gross Monthly Income:

Includes all income, except TANF, food stamps and supplemental security income. See text for allowed deductions from income. Use current income if steady. If income varies a lot from month to month, use an average of the last twelve months, if available, or last year's income tax return. Add both parents' gross incomes and put total under the combined column.

Line 2. Percentage of Combined Income:

Divide each parent's income by combined income to get that parent's percentage of combined income.

Lines 3 and 4. Basic Support:

Fill in the number of children on the worksheet (Line 3). Round combined income to nearest fifty dollars (\$50.00). Look at the basic child support schedule. In the far left-hand column of that schedule, find the rounded combined income figure. Read across to the column with the correct number of children. Enter that amount on Line 4.

Line 5. Shared Responsibility Basic Obligation:

Multiply the basic obligation on Line 4 by 1.5.

Line 6. Each Parent's Share:

Multiply the support amount on Line 5 by each parent's percentage share on Line 2, and enter each parent's dollar share under that parent's column on Line 6.

Line 7. Each Parent's Time of Care for Children:

Enter the number of twenty-four-hour days of responsibility that each parent has each child in a year according to the parenting plan.

Line 8. Percentage of Twenty-Four-Hour Days With Each Parent:

Divide each parent's number of twenty-four-hour days (Line 7) by three hundred sixty-five to obtain a percentage.

Line 9. Amount Retained:

Under shared responsibility arrangements, each parent retains the percentage of the basic support obligation equal to the number of twenty-four-hour days of responsibility spent by each child with each respective parent divided by three hundred sixty-five. Multiply each parent's share of basic support (Line 6) by the percentage in that parent's Line 8 and enter the result on that parent's Line 9. This is the amount that each parent retains to pay the children's expenses during that parent's periods of responsibility.

Line 10. Each Parent's Basic Obligation:

Subtract the amount retained by each parent for direct expenses (Line 9) from that parent's share (Line 6) and enter the difference on that parent's Line 10.

Line 11. Amount Transferred for Basic Support:

In shared responsibility situations, both parents are entitled not only to retain money for direct expenses but also to receive contributions from the other parent toward those expenses. Therefore, subtract the smaller amount on Line 10 from the larger amount on Line 10 to arrive at a net amount transferred for basic support.

Part 2 - Additional Payments:

Line 12. Children's Health and Dental Insurance Premium:

Enter the cost paid by a parent for covering these children with medical and dental insurance under that parent's column on Line 12. Add costs paid by each parent and enter under the combined column on Line 12.

Line 13. Work-Related Child Care:

Enter the cost paid by each parent for work-related child care. If the cost varies (for example, between school year and summer), take the total yearly cost and divide by twelve. Enter each parent's figure in that parent's column on Line 13. Add the cost for both parents and enter in the combined column on Line 13.

Line 14. Additional Expenses:

Enter the cost paid by each parent for additional expenses provided by Subsection J of this section on Line 14.

Line 15. Total Additional Payments:

For each parent, total the amount paid by that parent for insurance, child care and additional expenses (Lines 12, 13 and 14). Enter the total in that parent's column on Line 15 and the total of both parents' expenses under the combined column on Line 15.

Line 16. Each Parent's Obligation:

Multiply the total additional payments (combined column on Line 15) by each parent's percentage share of income on Line 2, and enter each parent's dollar share of the additional payments on that parent's Line 16.

Line 17. Amount Transferred:

Subtract each parent's obligation for additional expenses (that parent's Line 16) from the total additional payments made by that parent (that parent's Line 15). The parent with a "minus" figure pays the other parent the amount on Line 17.

Part 3 - Net Amount Transferred:

Line 18. Combine Lines 11 and 17:

Combine the amount owed by one parent to the other for basic support (Line 11) and the amount owed by one parent to the other for additional payments (Line 17). If the same parent owes for both obligations, add Lines 11 and 17, and enter the total on Line 18. If one parent owes for basic support and the other owes for additional payments, subtract the smaller amount from the larger and enter on Line 18. Fill in the blanks by stating which parent pays and which parent receives the net amount transferred."



## **Chapter 20 Section 2 Laws 2021**

SECTION 2. Section 40-4-11.2 NMSA 1978 (being Laws 1989, Chapter 36, Section 1) is amended to read:

"40-4-11.2. GROUNDS FOR DEVIATION FROM CHILD SUPPORT GUIDELINES.--Any deviation from the child support guideline amounts set forth in Section 40-4-11.1 NMSA 1978 shall be supported by a written finding in the decree, judgment or order of child support that application of the guidelines would be unjust or inappropriate. A finding that rebuts the child support guidelines shall state the amount of support that would have been required under the guidelines and the justification of why the order varies from the guidelines. Circumstances creating a substantial hardship in the obligor, obligee or subject children may justify a deviation upward or downward from the amount that would otherwise be payable under the guidelines."

## **Chapter 20 Section 3 Laws 2021**

SECTION 3. Section 40-4-11.3 NMSA 1978 (being Laws 1989, Chapter 36, Section 2) is amended to read:

"40-4-11.3. CHILD SUPPORT GUIDELINES REVIEW COMMISSION--  
CREATED--REVIEW OF CHILD SUPPORT GUIDELINES.--

A. There is created the "child support guidelines review commission", which is administratively attached to the human services department. The commission shall consist of seven members who shall be appointed by the secretary of human services. The commission shall be organized once every four years for a term not to exceed thirty days. The commission shall, within four years of the effective date of this section and every four years thereafter:

(1) review the child support guidelines set forth in Section 40-4-11.1 NMSA 1978 to ensure that the application of the guidelines results in the determination of appropriate child support order amounts; and

(2) provide a report of its findings to the secretary of human services.

B. The human services department shall publish online and make accessible to the public the:

(1) findings of the child support guidelines review commission;

(2) membership of the commission; and

(3) date of the next quadrennial review.

C. Members of the child support guidelines review commission shall not be paid but shall receive per diem and mileage as provided in the Per Diem and Mileage Act."

## **Chapter 20 Section 4 Laws 2021**

SECTION 4. Section 40-4-11.4 NMSA 1978 (being Laws 1990, Chapter 58, Section 1, as amended) is amended to read:

"40-4-11.4. MODIFICATION OF CHILD SUPPORT ORDERS--EXCHANGE OF FINANCIAL INFORMATION.--

A. A court may modify a child support obligation upon a showing of material and substantial changes in circumstances subsequent to the adjudication of the pre-existing order, including the health care needs of a child, to include the availability of health care coverage. There shall be a presumption of material and substantial changes in circumstances if application of the child support guidelines in Section 40-4-11.1 NMSA 1978 would result in a deviation upward or downward of more than twenty

percent of the existing child support obligation and the petition for modification is filed more than one year after the filing of the pre-existing order.

B. All child support orders shall contain a provision for the annual exchange of financial information by the obligor and obligee upon a written request by either party. The financial information to be furnished shall include:

- (1) federal and state tax returns, including all schedules, for the year preceding the request;
- (2) W-2 statements for the year preceding the request;
- (3) Internal Revenue Service Form 1099s for the year preceding the request;
- (4) work-related daycare statements for the year preceding the request;
- (5) dependent medical insurance premiums for the year preceding the request; and
- (6) wage and payroll statements for four months preceding the request.

For the purposes of this subsection, the wages of a subsequent spouse may be omitted from the financial information provided by either the obligor or the obligee.

C. The requirement to provide for the child's health care needs in the order, through insurance or other means, shall be a basis to initiate an adjustment of an order, regardless of whether an adjustment in the amount of child support is necessary."

## **Chapter 20 Section 5 Laws 2021**

SECTION 5. Section 40-4C-2 NMSA 1978 (being Laws 1990, Chapter 78, Section 2, as amended) is amended to read:

"40-4C-2. PURPOSE.--To ensure that children have access to quality medical care, it is the purpose of the Mandatory Medical Support Act to require parents to provide or purchase health care coverage for their minor children when such coverage is available."

## **Chapter 20 Section 6 Laws 2021**

SECTION 6. Section 40-4C-3 NMSA 1978 (being Laws 1990, Chapter 78, Section 3, as amended) is amended to read:

"40-4C-3. DEFINITIONS.--As used in the Mandatory Medical Support Act:

A. "carrier" means an entity that offers, delivers or administers an employment-related or other group health care coverage plan, a health maintenance organization, a nonprofit health care plan or other type of health care coverage plan under which medical or dental services are provided, regardless of service delivery mechanism;

B. "cash medical support" means an amount ordered to be paid toward the cost of health care coverage provided by a public entity or by another parent through employment or otherwise, or for other medical costs not covered by health care coverage;

C. "court" means any district court ordering support by a medical support obligor;

D. "department" means the human services department;

E. "employer" means an individual, organization, agency, business or corporation hiring a medical support obligor for pay;

F. "gross income" means income from any source and includes income from salaries, wages, tips, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, social security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, significant in-kind benefits that reduce personal living expenses, prizes and alimony or maintenance received; provided that:

(1) "gross income" does not include benefits received from:

(a) means-tested public assistance programs, including temporary assistance for needy families, supplemental security income and general assistance;

(b) the earnings or public assistance benefits of a child who is the subject of a child support award; or

(c) child support received by a parent for the support of other children;

(2) for income from self-employment, rent, royalties, proprietorship of a business or joint ownership of a partnership or closely held corporation, "gross income" means gross receipts minus ordinary and necessary expenses required to produce such income, but ordinary and necessary expenses do not include expenses determined by the court to be inappropriate for purposes of calculating child support;

(3) "gross income" does not include the amount of alimony payments actually paid in compliance with a court order;

(4) "gross income" does not include the amount of child support actually paid by a parent in compliance with a court order for the support of prior children; and

(5) "gross income" does not include a reasonable amount for a parent's obligation to support prior children who are in that parent's custody. A duty to support subsequent children is not ordinarily a basis for reducing support owed to children of the parties but may be a defense to a child support increase for the children of the parties. In raising such a defense, a party may use Table A as set forth in Subsection M of Section 40-4-11.1 NMSA 1978 to calculate the support for the subsequent children;

G. "health care coverage" means fee-for-service, health maintenance organization, preferred provider organization and other types of private health insurance and public health care coverage under which medical services may be provided to minor children;

H. "medical support obligee" means a person to whom a duty of medical support is owed or a person, including the department, who has commenced a proceeding for enforcement of a duty to provide health support for each minor child or for registration of a support order that includes a provision for such support for each minor child;

I. "medical support obligor" means a person owing a duty to provide health support or against whom a proceeding for the enforcement of such a duty of support is commenced or for registration of a support order that includes provisions for such support for each minor child;

J. "minor child" means a child younger than eighteen years of age who has not been emancipated; and

K. "national medical support notice" means a notice to an employer that an employee's child must be covered by the employment-related group health and dental care coverage plan pursuant to a court order."

## Chapter 20 Section 7 Laws 2021

SECTION 7. Section 40-4C-4 NMSA 1978 (being Laws 1990, Chapter 78, Section 4, as amended) is amended to read:

"40-4C-4. MEDICAL SUPPORT--ORDER.--

A. The court shall determine a parent or both parents to be a medical support obligor based on the following:

(1) the availability of health care coverage that meets or exceeds the minimum standards required under the Mandatory Medical Support Act; and

(2) the availability of health care coverage through an employment-related or other group health and dental care coverage plan.

B. When a medical support obligor is ordered to provide health care coverage, the medical support obligor shall properly name each minor child on behalf of whom medical support is owed as an eligible dependent enrolled in health care coverage.

C. The court may consider the impact of the cost of health care coverage on the payment of the base child support amounts in determining whether the coverage shall be ordered; provided that:

(1) the health care coverage for the minor child shall be available to the parent responsible for providing medical support at a reasonable cost;

(2) cash medical support or the cost of health care coverage for the minor child is considered reasonable in cost if the cost to the parent responsible for providing medical support does not exceed five percent of the parent's gross income; and

(3) the court shall allocate the cost of coverage between the minor child's parents by including the costs in the child support worksheet as set forth in Section 40-4-11.1 NMSA 1978.

D. The court may order the medical support obligor to obtain health care coverage for each minor child to whom medical support is owed if the court finds that health care coverage for each minor child is not available to the medical support obligor through an employment-related or other group health care coverage plan.

E. The court shall require the medical support obligor to pay cash medical support in specific dollar amounts when:

(1) a public entity provides health care coverage;

(2) the court finds that health care coverage is not available at the time an order is entered or modified and until such time that health care coverage becomes available; or

(3) the court finds that the health care coverage required to be obtained by a medical support obligor does not pay all the medical or dental expenses of each minor child.

F. The court shall require the medical support obligor to be liable to the custodial parent or the department for all or a portion of the uninsured or uncovered medical and dental expenses of each minor child.

G. The court shall require the medical support obligor to provide health care coverage or dental care coverage for the benefit of the medical support obligee if it is available at no additional cost to the medical support obligor.

H. The court in any proceeding for the establishment, enforcement or modification of a child support obligation may modify an existing order of support or



establish child support, as applicable, for each minor child to incorporate the provisions for medical and dental support ordered pursuant to the Mandatory Medical Support Act."

## **Chapter 20 Section 8 Laws 2021**

SECTION 8. Section 40-4C-5 NMSA 1978 (being Laws 1990, Chapter 78, Section 5, as amended) is amended to read:

"40-4C-5. ORDER--PROOF OF COMPLIANCE--NOTICE.--

A. The medical support obligor shall provide to the medical support obligee within thirty days of receipt of effective notice of a court order for health care coverage pursuant to the Mandatory Medical Support Act written proof of the medical support obligor's compliance with that order. Compliance means either that the health care coverage has been obtained or that a correct and complete application for health care coverage has been made.

B. The medical support obligee shall forward a copy of the court order for health care coverage issued pursuant to the Mandatory Medical Support Act to the medical support obligor's employer or union only when ordered to do so by the court or when:

(1) the medical support obligor fails to provide written proof of compliance with the court order to the medical support obligee within thirty days of the medical support obligor's receipt of effective written notice of the court order;

(2) the medical support obligee serves by mail at the medical support obligor's last known post office address written notice on the medical support obligor of the medical support obligee's intent to enforce the order; and

(3) the medical support obligor fails to provide within fifteen days after the date the medical support obligee mailed the notice in Paragraph (2) of this

subsection written proof to the medical support obligee that the medical support obligor has obtained the health care coverage ordered by the court or has applied for such coverage.

C. Upon receipt of a court order for health care coverage pursuant to the Mandatory Medical Support Act, the employer or union shall forward a copy of the order to the carrier or dental care coverage provider, as applicable."

## **Chapter 20 Section 9 Laws 2021**

SECTION 9. Section 40-4C-6 NMSA 1978 (being Laws 1990, Chapter 78, Section 6, as amended) is amended to read:

"40-4C-6. OBLIGATIONS--EMPLOYERS, UNIONS AND CARRIERS--PLAN.--

A. Upon receipt of a national medical support notice or the court order for health care coverage pursuant to Section 40-4C-5 NMSA 1978 or upon application of the medical support obligor pursuant to the court order, the employer or union shall enroll the minor child as an eligible dependent in the health care coverage plan and withhold any required premium from the medical support obligor's income or wages. If more than one health care coverage plan and dental care coverage plan is offered by the employer, union or carrier, the minor child shall be enrolled in the plan in which the medical support obligor is enrolled. If the medical support obligor is not enrolled in a plan, the child shall be enrolled in a plan that meets the minimum coverage criteria required pursuant to the Mandatory Medical Support Act. If the medical support obligor is not enrolled in a plan, the premiums charged for the child or children of the medical support obligor shall be those charged for the enrollment of the medical support obligor only.

B. In any instance in which the medical support obligor is required by a court order to provide health care coverage for each minor child and the medical support obligor is eligible for health care coverage through an

employment-related or other group health care coverage plan, the employer, union or carrier shall do the following:

(1) permit the medical support obligor to enroll for health care coverage each minor child who is otherwise eligible for coverage without regard to any enrollment season restrictions;

(2) enroll each minor child for health care coverage if the medical support obligor fails to enroll each minor child upon application by the medical support obligee or the department;

(3) not disenroll or eliminate coverage of any minor child so enrolled unless:

(a) the employer is provided with satisfactory written evidence that the court order is no longer in effect;

(b) the minor child is or will be enrolled in comparable health care coverage that meets the health care coverage criteria required pursuant to the Mandatory Medical Support Act and that will take effect not later than the effective date of the disenrollment;

(c) the medical support obligor has terminated employment; or

(d) the employer has eliminated health care coverage for all of its employees; and

(4) withhold from the medical support obligor's compensation the medical support obligor's share, if any, of premiums for health care coverage and to pay the share of premiums to the carrier, unless otherwise provided in law or regulation.

C. In those instances in which the medical support obligor fails or refuses to execute any document necessary to enroll a minor child in a health care coverage plan

ordered by the court, the required information and authorization may be provided by the department or the custodial parent or guardian of the minor child.

D. Information and authorization provided by the department or the custodial parent or guardian of a minor child shall be valid for the purpose of meeting enrollment requirements of the health care coverage plan and shall not affect the obligation of the employer or union and the carrier to enroll the minor child in the health care coverage plan for which other eligibility, enrollment, underwriting terms and other requirements are met. In instances in which a minor child is covered through the medical support obligor, the carrier shall provide all information to the medical support obligee that may be helpful or necessary for the minor child to obtain benefits.

E. A minor child that a medical support obligor is required to cover as an eligible dependent pursuant to the Mandatory Medical Support Act shall be considered for health care coverage purposes as a dependent of the medical support obligor until the child is emancipated or until further order of the court.

F. In instances in which a minor child is provided health care coverage through a medical support obligor, unless prohibited by federal law, the carrier is prohibited from denying health care coverage of the minor child on the grounds that: (1) the minor child was born out of wedlock; (2) the minor child is not claimed as a dependent on the medical support obligor's federal income tax return; or (3) the minor child does not reside with the medical support obligor or reside in the carrier's service area.

G. In instances in which a minor child is provided health care coverage through a medical support obligor, the carrier is prohibited from imposing requirements on the department that are different from requirements applicable to an agent or assignee of any other individual covered by the health care coverage plan.

H. In instances in which a minor child is provided health care coverage through a medical support obligor who is a noncustodial parent, the carrier shall permit the custodial parent or health care provider, with the approval of the custodial parent, to

submit claims for covered services without the approval of the medical support obligor. The carrier shall make payments on submitted claims directly to the custodial parent or the health care provider.

I. If the medical support obligor is terminated, the employer shall notify the department of the termination."

## **Chapter 20 Section 10 Laws 2021**

SECTION 10. Section 40-4C-7 NMSA 1978 (being Laws 1990, Chapter 78, Section 7) is amended to read:

"40-4C-7. HEALTH CARE COVERAGE REQUIRED.--Any health care coverage plan ordered for a minor child pursuant to the Mandatory Medical Support Act shall, at a minimum, meet minimum standards of acceptable coverage, deductibles, cost-sharing, lifetime benefits, out-of-pocket expenses, co-payments and plan requirements as set forth in regulations promulgated by the secretary of human services pursuant to the Mandatory Medical Support Act. To be an acceptable choice under that act, a health maintenance organization plan, in addition to meeting minimum standards, shall have a coverage area specified under the plan that includes the residential area of the minor child who is covered under the plan as an eligible dependent."

## **Chapter 20 Section 11 Laws 2021**

SECTION 11. Section 40-4C-10 NMSA 1978 (being Laws 1990, Chapter 78, Section 10, as amended) is amended to read:

"40-4C-10. EMPLOYER, UNION OR CARRIER NOTICE.--When an order for health care coverage pursuant to the Mandatory Medical Support Act is in effect, upon termination of the medical support obligor's employment or upon termination of the health care coverage, the employer, union or carrier shall make a good faith effort to

notify the department and the other parent within ten days of the termination date with notice of conversion privileges."

## **Chapter 20 Section 12 Laws 2021**

SECTION 12. Section 40-4C-11 NMSA 1978 (being Laws 1990, Chapter 78, Section 11, as amended) is amended to read:

"40-4C-11. RELEASE OF INFORMATION.--When an order for health care coverage pursuant to the Mandatory Medical Support Act is in effect, the medical support obligor's employer, union or carrier shall release to the other parent, upon request, information on such coverage, including the name of the carrier."

## **Chapter 20 Section 13 Laws 2021**

SECTION 13. Section 40-4C-12 NMSA 1978 (being Laws 1990, Chapter 78, Section 12, as amended) is amended to read:

"40-4C-12. MEDICAL SUPPORT OBLIGOR LIABILITY.--

A. A medical support obligor who fails to maintain the health care coverage for the benefit of a minor child as ordered pursuant to the Mandatory Medical Support Act shall be liable to the department or the other parent for any medical and dental expenses incurred from the date of the court order.

B. A medical support obligor who receives payment from a third party for the costs of medical or dental services provided to a minor child and who fails to use the payment to reimburse the department is liable to the department to the extent of the department's payment for the services. The department is authorized to intercept the obligor's tax refund, if the medical support obligor is a noncustodial parent, or use other means of enforcement available to the department to recoup amounts paid. Claims for current or past due child support take priority over any claims made pursuant to this

subsection. Failure to maintain health care coverage as ordered constitutes a showing of increased need and provides a basis for modification of the medical support obligor's child support order.

C. A medical support obligor is required to provide the department with the following information concerning health care coverage:

- (1) medical support obligor's name and tax identification number;
- (2) type of coverage (single or family);
- (3) name, address and identifying number of health care coverage;
- (4) name and tax identification number of other individuals who are provided health care coverage by the medical support obligor;
- (5) effective period of coverage; and
- (6) name, address and the tax identification number of the employer."

## **Chapter 20 Section 14 Laws 2021**

SECTION 14. Section 40-4C-13 NMSA 1978 (being Laws 1990, Chapter 78, Section 13, as amended) is amended to read:

"40-4C-13. DEPARTMENT--DUTIES.--The department shall pursue the establishment and enforcement of an order for health care coverage when a minor child receives public assistance or medicaid or upon application of a custodial or noncustodial parent to the department and payment by the custodial or noncustodial parent of fees required by the department."

## Chapter 20 Section 15 Laws 2021

SECTION 15. Section 40-6A-102 NMSA 1978 (being Laws 1994, Chapter 107, Section 101, as amended) is amended to read:

"40-6A-102. DEFINITIONS.--As used in the Uniform Interstate Family Support Act:

A. "child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent;

B. "child-support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state or foreign country;

C. "convention" means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, concluded at The Hague on November 23, 2007;

D. "duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse or former spouse, including an unsatisfied obligation to provide support;

E. "foreign country" means a country, including a political subdivision thereof, other than the United States, that authorizes the issuance of support orders and:

(1) that has been declared under the law of the United States to be a foreign reciprocating country;

(2) that has established a reciprocal arrangement for child support with this state as provided in Section 40-6A-308 NMSA 1978;



(3) that has enacted a law or established procedures for the issuance and enforcement of support orders that are substantially similar to the procedures pursuant to the Uniform Interstate Family Support Act; or

(4) in which the convention is in force with respect to the United States;

F. "foreign support order" means a support order of a foreign tribunal;

G. "foreign tribunal" means a court, administrative agency or quasi-judicial entity of a foreign country that is authorized to establish, enforce or modify support orders or to determine parentage of a child. "Foreign tribunal" includes a competent authority pursuant to the convention;

H. "gross income" means income from any source and includes income from salaries, wages, tips, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, social security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, significant in-kind benefits that reduce personal living expenses, prizes and alimony or maintenance received; provided that:

(1) "gross income" does not include benefits received from:

(a) means-tested public assistance programs, including temporary assistance for needy families, supplemental security income and general assistance;

(b) the earnings or public assistance benefits of a child who is the subject of a child support award; or

(c) child support received by a parent for the support of other children;

(2) for income from self-employment, rent, royalties, proprietorship of a business or joint ownership of a partnership or closely held corporation, "gross income" means gross receipts minus ordinary and necessary expenses required to produce such income, but ordinary and necessary expenses do not include expenses determined by the court to be inappropriate for purposes of calculating child support;

(3) "gross income" does not include the amount of alimony payments actually paid in compliance with a court order;

(4) "gross income" does not include the amount of child support actually paid by a parent in compliance with a court order for the support of prior children; and

(5) "gross income" does not include a reasonable amount for a parent's obligation to support prior children who are in that parent's custody. A duty to support subsequent children is not ordinarily a basis for reducing support owed to children of the parties but may be a defense to a child support increase for the children of the parties. In raising such a defense, a party may use Table A as set forth in Subsection M of Section 40-4-11.1 NMSA 1978 to calculate the support for the subsequent children;

I. "home state" means the state or foreign country in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state or foreign country in which the child lived from birth with a parent or a person acting as parent. A period of temporary absence of any of them is counted as part of the six-month or other period;

J. "income" means actual gross income of a parent if employed to full capacity or potential income if unemployed or underemployed. The gross income of a parent means only the income and earnings of that parent and not the income of subsequent spouses, notwithstanding the community nature of both incomes after remarriage;

K. "income-withholding order" means an order or other legal process directed to an obligor's employer or other debtor to withhold support from the income of the obligor;

L. "initiating tribunal" means the tribunal of a state or foreign country from which a petition or comparable pleading is forwarded or in which a petition or comparable pleading is filed for forwarding to another state or a foreign country;

M. "issuing foreign country" means the foreign country in which a tribunal issues a support order or a judgment determining parentage of a child;

N. "issuing state" means the state in which a tribunal issues a support order or a judgment determining parentage of a child;

O. "issuing tribunal" means the tribunal of a state or foreign country that issues a support order or a judgment determining parentage of a child;

P. "law" includes decisional and statutory law and rules and regulations having the force of law;

Q. "obligee" means:

(1) an individual to whom a duty of support is or is alleged to be owed or in whose favor a support order or a judgment determining parentage of a child has been issued;

(2) a foreign country, state or political subdivision of a state to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee in place of child support;

(3) an individual seeking a judgment determining parentage of the individual's child; or

(4) a person that is a creditor in a proceeding pursuant to Sections 40-6A-701 through 40-6A-713 NMSA 1978;

R. "obligor" means an individual or the estate of a decedent who:

(1) owes or is alleged to owe a duty of support;

(2) is alleged but has not been adjudicated to be a parent of a child;

(3) is liable under a support order; or

(4) is a debtor in a proceeding pursuant to Sections 40-6A-701 through 40-6A-713 NMSA 1978;

S. "outside this state" means a location in another state or in a country other than the United States, whether or not the country is a foreign country;

T. "person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality or any other legal or commercial entity;

U. "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

V. "register" means to file in a tribunal of this state a support order or judgment determining parentage of a child issued in another state or a foreign country;

W. "registering tribunal" means a tribunal in which a support order or judgment determining parentage of a child is registered;

X. "responding state" means a state in which a petition or comparable pleading for support or to determine parentage of a child is filed or to which a petition or comparable pleading is forwarded for filing from another state or a foreign country;

Y. "responding tribunal" means the authorized tribunal in a responding state or foreign country;

Z. "spousal support order" means a support order for a spouse or former spouse of the obligor;

AA. "state" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession under the jurisdiction of the United States. "State" includes an Indian tribe, pueblo, nation or band;

BB. "support enforcement agency" means a public official, governmental entity or private agency, acting under contract with such a public official or governmental entity, that is authorized to:

(1) seek enforcement of support orders or laws relating to the duty of support;

(2) seek establishment or modification of child support;

(3) request determination of parentage of a child;

(4) attempt to locate obligors or their assets; or

(5) request determination of the controlling child-support order;

CC. "support order" means a judgment, decree, order, decision or directive, whether temporary, final or subject to modification, issued in a state or foreign country for the benefit of a child, a spouse or a former spouse, that provides for monetary support, health care, arrearages, retroactive support or reimbursement for financial

assistance provided to an individual obligee in place of child support. "Support order" may include related costs and fees, interest, income withholding, automatic adjustment, reasonable attorney fees and other relief; and

DD. "tribunal" means a court, administrative agency or quasi-judicial entity authorized to establish, enforce or modify support orders or to determine parentage of a child."

## **Chapter 20 Section 16 Laws 2021**

SECTION 16. Section 40-11A-636 NMSA 1978 (being Laws 2009, Chapter 215, Section 6-636) is amended to read:

"40-11A-636. ORDER ADJUDICATING PARENTAGE.--

A. The district court shall issue an order adjudicating whether a man alleged or claiming to be the father is the parent of the child.

B. An order adjudicating parentage shall identify the child by name and date of birth.

C. Except as otherwise provided in Subsection D of this section, the district court may assess filing fees, reasonable fees of counsel, experts and the child's guardian ad litem, fees for genetic testing, other costs and necessary travel and other reasonable expenses incurred in a proceeding pursuant to this article. The district court may award attorney fees, which may be paid directly to the attorney, who may enforce the order in the attorney's own name. The district court may order these fees, costs and expenses to be paid by any party in proportions and at times as determined by the court, but not exceeding three years from the date of the filing of the action unless there is a substantial showing that paternity could not have been established and an action for child support could not have been brought within three years of the child's birth. The court may order the proportion of any indigent party to be paid from court funds.

D. The district court shall not assess fees, costs or expenses against the support-enforcement agency of this state or another state, except as provided by other law.

E. On request of a party and for good cause shown, the district court may order that the name of the child be changed.

F. If the order of the district court is at variance with the child's birth certificate, the district court shall order the bureau to issue an amended birth certificate.

G. The judgment or order may contain any other provision directed against or on behalf of the appropriate party to the proceeding concerning the duty of past and future support, the custody and guardianship of the child, visitation with the child, the furnishing of bond or other security for the payment of the judgment or any other matter within the jurisdiction of the court. The judgment or order may direct the father to pay the reasonable expenses of the mother's pregnancy, birth and confinement. The court shall order child support retroactive to the date of the child's birth, but not to exceed three years unless there is a substantial showing that paternity could not have been established and an action for child support could not have been brought within three years of the child's birth pursuant to the provisions of Sections 40-4-11 through 40-4-11.3 NMSA 1978; provided that, in deciding whether or how long to order retroactive support, the court shall consider:

(1) whether the alleged or presumed father has absconded or could not be located; and

(2) whether equitable defenses are applicable.

H. Support judgments or orders ordinarily shall be for periodic payments, which may vary in amount. In the best interest of the child, a lump-sum payment or the purchase of an annuity may be ordered in lieu of periodic payments of support; provided, however, nothing in this section shall deprive a state agency of its right to

reimbursement from an appropriate party should the child be a past or future recipient of public assistance.

I. In determining the amount to be paid by a parent for support of the child, a court, child support hearing officer or master shall make such determination in accordance with the provisions of the child support guidelines pursuant to Section 40-4-11.1 NMSA 1978."

SECTION 17. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

## **LAWS 2021, CHAPTER 21**

**SJC/Senate Bill 12**  
**Approved April 5, 2021**

AN ACT

RELATING TO NOTARIAL ACTS; ENACTING THE REVISED UNIFORM LAW ON NOTARIAL ACTS; REQUIRING RULEMAKING BY THE SECRETARY OF STATE; REPEALING SECTIONS OF THE NMSA 1978 PERTAINING TO NOTARIAL ACTS.

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

### **Chapter 21 Section 1 Laws 2021**

SECTION 1. SHORT TITLE.--Sections 1 through 32 of this act may be cited as the "Revised Uniform Law on Notarial Acts".



## Chapter 21 Section 2 Laws 2021

SECTION 2. DEFINITIONS.--In addition to the general definitions provided in Section 12-2A-3 of the Uniform Statute and Rule Construction Act, as used in the Revised Uniform Law on Notarial Acts:

A. "acknowledgment" means a declaration by an individual before a notarial officer that the individual has signed a record for the purpose stated in the record and, if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record;

B. "electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities;

C. "electronic signature" means an electronic symbol, sound or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record;

D. "foreign state" means a government other than the United States, a state or a federally recognized Indian tribe;

E. "in a representative capacity" means acting as:

(1) an authorized officer, agent, partner, trustee or other representative for a person other than an individual;

(2) a public officer, personal representative, guardian or other representative, in the capacity stated in a record;

(3) an agent or attorney-in-fact for a principal; or

(4) an authorized representative of another in any other capacity;

F. "notarial act" means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of this state. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy and noting a protest of a negotiable instrument;

G. "notarial officer" means a notary public or other individual authorized to perform a notarial act;

H. "notary public" means an individual commissioned to perform a notarial act by the secretary of state;

I. "official stamp" means a physical image affixed to or embossed on a tangible record or an electronic image attached to or logically associated with an electronic record and includes an official notary seal;

J. "person" also includes a statutory trust, public corporation, government or governmental subdivision, agency or instrumentality;

K. "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

L. "sign" or "subscribe", when used with present intent to authenticate or adopt a record, means to:

(1) execute or adopt a tangible symbol; or

(2) attach to or logically associate with the record an electronic symbol, sound or process;

M. "signature" means a tangible symbol or an electronic signature that evidences the signing of a record;

N. "stamping device" means:

(1) a physical device capable of affixing to or embossing on a tangible record an official stamp; or

(2) an electronic device or process capable of attaching to or logically associating with an electronic record an official stamp; and

O. "verification on oath or affirmation" means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true.

## **Chapter 21 Section 3 Laws 2021**

### **SECTION 3. AUTHORITY TO PERFORM NOTARIAL ACT.--**

A. A notary public or notarial officer shall perform all notarial acts pursuant to the Revised Uniform Law on Notarial Acts or by law of this state other than the Revised Uniform Law on Notarial Acts.

B. A notarial officer shall not perform a notarial act with respect to a record to which the officer or the officer's spouse or domestic partner is a party or in which either of them has a direct beneficial interest. A notarial act performed in violation of this subsection is voidable.

C. A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record.

## **Chapter 21 Section 4 Laws 2021**

### SECTION 4. REQUIREMENTS FOR CERTAIN NOTARIAL ACTS.--

A. A notarial officer who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.

B. A notarial officer who takes a verification of a statement on oath or affirmation shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the verification has the identity claimed and that the signature on the statement verified is the signature of the individual.

C. A notarial officer who witnesses or attests to a signature shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and signing the record has the identity claimed.

D. A notarial officer who certifies or attests a copy of a record or an item that was copied shall determine that the copy is a full, true and accurate transcription or reproduction of the record or item.

E. A notarial officer who makes or notes a protest of a negotiable instrument shall determine the matters set forth in Subsection B of Section 55-3-505 NMSA 1978.

## **Chapter 21 Section 5 Laws 2021**

### SECTION 5. PERSONAL APPEARANCE REQUIRED--EXCEPTION AUTHORIZED FOR REMOTE NOTARIZATIONS.--

A. If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notarial officer.

B. A remotely located individual may comply with this section or with any other requirement of the laws of this state that state that a person appear before a notarial officer at the time of a notarial act by using communication technology to appear before a notary public or notarial officer.

C. A notary public or notarial officer located in this state may perform a notarial act using communication technology for a remotely located individual if:

(1) the notary public:

(a) has personal knowledge of the identity of the individual pursuant to Subsection A of Section 6 of the Revised Uniform Law on Notarial Acts;

(b) has satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the notary public pursuant to Subsection B of Section 6 of the Revised Uniform Law on Notarial Acts or this section; or

(c) has obtained satisfactory evidence of the identity of the remotely located individual by using at least two different types of identity proofing;

(2) the notary public is able to reasonably confirm that a record before the notary public is the same record in which the remotely located individual made a statement or on which the individual executed a signature;

(3) the notary public, or a person acting on behalf of the notary public, creates an audiovisual recording of the performance of the notarial act; and

(4) for a remotely located individual located outside the United States:

(a) the record: 1) is to be filed with or relates to a matter before a public official or court, governmental entity or other entity subject to the jurisdiction of the United States; or 2) involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States; and

(b) the act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located.

D. If a notarial act is performed pursuant to this section, the certificate of notarial act required by Section 15 of the Revised Uniform Law on Notarial Acts and the short-form certificate provided in Section 15 of the Revised Uniform Law on Notarial Acts shall indicate that the notarial act was performed using communication technology.

E. A short-form certificate provided pursuant to Section 15 of the Revised Uniform Law on Notarial Acts for a notarial act subject to this section is sufficient if it:

(1) complies with rules adopted under Paragraph (1) of Subsection H of this section; or

(2) is in the form provided in Section 15 of the Revised Uniform Law on Notarial Acts and contains a statement substantially as follows: "This notarial act involved the use of communication technology."

F. A notary public, a guardian, a conservator or an agent of a notary public or a personal representative of a deceased notary public shall retain the audiovisual recording created pursuant to Paragraph (3) of Subsection C of this section or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. Unless a different period is required by rule adopted pursuant to Paragraph (4) of Subsection H of this section, the recording must be retained for a period of at least ten years after the recording is made.

G. Before a notarial officer performs the notarial officer's initial notarial act with a remotely located individual under this section, the notarial officer shall notify the secretary of state that the notarial officer will be performing notarial acts with respect to remotely located individuals and identify the technologies the notarial officer intends to use. If the secretary of state has established standards pursuant to Subsection H of this section and Section 26 of the Revised Uniform Law on Notarial Acts for approval of communication technology or identity proofing, the communication technology and identity proofing shall conform to the standards.

H. In addition to adopting rules pursuant to Section 26 of the Revised Uniform Law on Notarial Acts, the secretary of state may adopt rules under this section regarding performance of a notarial act. The rules may:

(1) prescribe the means of performing a notarial act involving a remotely located individual using communication technology;

(2) establish standards for communication technology and identity proofing;

(3) establish requirements or procedures to approve providers of communication technology and the process of identity proofing; and

(4) establish standards and a period for the retention of an audiovisual recording created pursuant to Paragraph (3) of Subsection C of this section.

I. Before adopting, amending or repealing a rule governing performance of a notarial act with respect to a remotely located individual, the secretary of state shall consider:

(1) the most recent standards regarding the performance of a notarial act with respect to a remotely located individual promulgated by national standard-setting organizations and the recommendations of the national association of secretaries of state;

(2) standards, practices and customs of other jurisdictions that have laws substantially similar to this section; and

(3) input from governmental officials and entities and other interested persons.

J. By allowing its communication technology or identity proofing to facilitate a notarial act for a remotely located individual or by providing storage of the audiovisual recording created pursuant to Paragraph (3) of Subsection C of this section, the provider of the communication technology, identity proofing or storage appoints the secretary of state as the provider's agent for service of process in a civil action in this state related to the notarial act.

K. As used in this section:

(1) "communication technology" means an electronic device or process that:

(a) allows a notarial officer and a remotely located individual to communicate with each other simultaneously by sight and sound; and

(b) when necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing or speech impairment;

(2) "identity proofing" means a process or service by which a third person provides a notarial officer with the means to verify the identity of a remotely located individual by a review of personal information from public or private data sources;

(3) "outside the United States" means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin



Islands and any territory, insular possession or other location subject to the jurisdiction of the United States; and

(4) "remotely located individual" means an individual who is not in the physical presence of the notarial officer who performs a notarial act under Subsection C of this section.

## **Chapter 21 Section 6 Laws 2021**

### **SECTION 6. IDENTIFICATION OF INDIVIDUAL.--**

A. A notarial officer has personal knowledge of the identity of an individual appearing before the officer if the individual is personally known to the officer through dealings sufficient to provide reasonable certainty that individual has the identity claimed.

B. A notarial officer has satisfactory evidence of the identity of an individual appearing before the officer if the officer can identify the individual:

(1) by means of:

(a) a passport, driver's license or government-issued nondriver identification card, which is current or expired not more than one year before performance of the notarial act; or

(b) another form of government identification issued to an individual, which is current or expired not more than one year before performance of the notarial act, contains the signature or a photograph of the individual and is satisfactory to the officer; or

(2) by a verification on oath or affirmation of a credible witness personally appearing before the officer, who is unrelated to and unaffected by the

document or transaction, and known to the officer and whom the officer can identify on the basis of a passport, driver's license or government-issued nondriver identification card, which is current or expired not more than one year before performance of the notarial act.

C. A notarial officer may require an individual to provide additional information or identification credentials necessary to assure the officer of the identity of the individual.

## **Chapter 21 Section 7 Laws 2021**

### **SECTION 7. AUTHORITY TO REFUSE TO PERFORM NOTARIAL ACTS.--**

A. A notarial officer may refuse to perform a notarial act if the officer is not satisfied that:

- (1) the individual executing the record is competent or has the capacity to execute the record; or
- (2) the individual's signature is knowingly and voluntarily made.

B. A notarial officer may refuse to perform a notarial act unless refusal is prohibited by a state or federal law other than the Revised Uniform Law on Notarial Acts.

C. In accordance with the Human Rights Act, a notary public or notarial officer shall not discriminate in the performance of a notarial act pursuant to the Revised Uniform Law on Notarial Acts.

## **Chapter 21 Section 8 Laws 2021**

SECTION 8. SIGNATURE IF INDIVIDUAL IS UNABLE TO SIGN.--If an individual is physically unable to sign a record, the individual may direct an individual other than the notarial officer to sign the individual's name on the record. The notarial officer shall insert "Signature affixed by (name of other individual) at the direction of (name of individual)" or words of similar import.

## **Chapter 21 Section 9 Laws 2021**

SECTION 9. NOTARIAL ACTS IN THIS STATE.--

- A. A notarial act may be performed in this state by:
- (1) a notary public of this state;
  - (2) a judge of a court of this state;
  - (3) a court clerk or deputy court clerk of this state while performing a notarial act within the scope of a court clerk's or deputy court clerk's duties;
  - (4) a county clerk or deputy county clerk while performing a notarial act within the scope of the county clerk's or deputy county clerk's duties;
  - (5) an individual licensed to practice law in this state; or
  - (6) any other individual authorized to perform a specific notarial act by the law of this state other than the Revised Uniform Law on Notarial Acts.
- B. The signature and title of an individual performing a notarial act in this state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

C. The signature and title of a notarial officer described in Subsection A of this section conclusively establish the authority of the officer to perform the notarial act. An official stamp is required if the laws of this state require an official stamp.

## **Chapter 21 Section 10 Laws 2021**

### SECTION 10. NOTARIAL ACT IN ANOTHER STATE.--

A. A notarial act performed in another state has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed in that state is performed by a notarial officer or other individual authorized by the law of that state to perform the notarial act.

B. The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

C. The signature and title of a notarial officer described in Subsection A of this section conclusively establish the authority of the officer to perform the notarial act. An official stamp is required if the laws of this state require an official stamp.

## **Chapter 21 Section 11 Laws 2021**

### SECTION 11. NOTARIAL ACT UNDER THE AUTHORITY OF A FEDERALLY RECOGNIZED INDIAN TRIBE.--

A. A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed by a notarial officer of this state, if the act performed in the jurisdiction of the tribe is performed by a notarial officer or other individual authorized by the law of the tribe to perform the notarial act.

B. The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.

C. The signature and title of a notarial officer described in Subsection A of this section conclusively establish the authority of the officer to perform the notarial act. An official stamp is required if the laws of the tribe require an official stamp.

## **Chapter 21 Section 12 Laws 2021**

### SECTION 12. NOTARIAL ACT UNDER FEDERAL AUTHORITY.--

A. A notarial act performed under federal law has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed under federal law is performed by:

- (1) a judge;
- (2) a court clerk or deputy court clerk;
- (3) an individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law;
- (4) an individual designated a notarizing officer by the United States department of state for performing notarial acts overseas; or
- (5) any other individual authorized by federal law to perform the notarial act.

B. The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.

C. The signature and title of an officer described in Subsection A of this section conclusively establish the authority of the officer to perform the notarial act.

## **Chapter 21 Section 13 Laws 2021**

### **SECTION 13. FOREIGN NOTARIAL ACTS.--**

A. If a notarial act is performed under authority and in the jurisdiction of a foreign state or constituent unit of the foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the law of this state as if performed by a notarial officer of this state.

B. If the title of office and indication of authority to perform notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

C. The signature and official stamp of an individual holding an office described in Subsection B of this section are prima facie evidence that the signature is genuine and the individual holds the designated title.

D. An apostille in the form prescribed by the Hague Convention of October 5, 1961 and issued by a foreign state party to the Hague Convention of October 5, 1961 conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

E. A consular authentication issued by an individual designated by the United States department of state as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

## Chapter 21 Section 14 Laws 2021

### SECTION 14. CERTIFICATE OF NOTARIAL ACT.--

- A. A notarial act shall be evidenced by a certificate. The certificate shall:
- (1) be executed contemporaneously with the performance of the notarial act;
  - (2) be signed and dated by the notarial officer and, if the notarial officer is a notary public, be signed in the same manner as on file with the secretary of state;
  - (3) identify the jurisdiction in which the notarial act is performed;
  - (4) contain the title of office of the notarial officer;
  - (5) if the notarial officer is a notary public, indicate the notary public's commission number and the date of expiration of the notarial officer's commission;
  - (6) identify the judicial district or area served if the notarial officer is a judge, court clerk or deputy court clerk;
  - (7) identify the county served if the notarial officer is a county clerk or deputy county clerk; and
  - (8) identify the state bar number if the notarial officer is an attorney but is not in a category identified in Paragraph (6) or (7) of this subsection and is not a judge.
- B. If a notarial act regarding a tangible record is performed by a notary public, an official stamp shall be affixed to or embossed on the certificate. If a notarial act is performed regarding a tangible record by a notarial officer other than a notary

public and the certificate contains the information specified in Paragraphs (2), (3), (4), (5), (6) and (7) of Subsection A of this section, an official stamp shall be affixed to or embossed on the certificate. If a notarial act regarding an electronic record is performed by a notarial officer and the certificate contains the information specified in Paragraphs (2), (3), (4), (5), (6) and (7) of Subsection A of this section, an official stamp shall be attached to or logically associated with the certificate.

C. A certificate of a notarial act is sufficient if it meets the requirements of Subsections A and B of this section and:

(1) is in a short-form set forth in Section 15 of the Revised Uniform Law on Notarial Acts;

(2) is in a form otherwise permitted by the law of this state;

(3) is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed; or

(4) sets forth the actions of the notarial officer, and the actions are sufficient to meet the requirements of the notarial act as provided in Sections 4, 5 and 6 of the Revised Uniform Law on Notarial Acts or law of this state other than the Revised Uniform Law on Notarial Acts.

D. By executing a certificate of a notarial act, a notarial officer certifies that the officer has complied with the requirements and made the determinations specified in Sections 4, 5 and 6 of the Revised Uniform Law on Notarial Acts.

E. A notarial officer shall not affix the officer's signature to, or logically associate it with, a certificate until after the notarial act has been performed.

F. If a notarial act is performed regarding a tangible record, a certificate shall be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate shall be affixed to, or logically associated with, the



electronic record. If the secretary of state has established standards pursuant to Section 26 of the Revised Uniform Law on Notarial Acts for attaching, affixing or logically associating the certificate, the process shall conform to the standards.

## Chapter 21 Section 15 Laws 2021

SECTION 15. SHORT-FORM CERTIFICATES.--The following short-form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by Subsections A and B of Section 14 of the Revised Uniform Law on Notarial Acts:

A. for an acknowledgment in an individual capacity:

State of \_\_\_\_\_

[County] of \_\_\_\_\_

This record was acknowledged before me on \_\_\_\_\_

Date

by \_\_\_\_\_.

Name(s) of individual(s)

\_\_\_\_\_

Signature of notarial officer

Stamp

[\_\_\_\_\_]

Title of office

[New Mexico state bar identification number, judicial district or area, county or notary public commission number and date of commission expiration: \_\_\_\_\_];

B. for an acknowledgment in a representative capacity:

State of \_\_\_\_\_

[County] of \_\_\_\_\_

This record was acknowledged before me on \_\_\_\_\_ by

Date

\_\_\_\_\_

Name(s) of individual(s)

as (type of authority, such as officer or trustee) of (name of party on behalf of whom record was executed).

\_\_\_\_\_

Signature of notarial officer

Stamp

[\_\_\_\_\_]

Title of office

[New Mexico state bar identification number, judicial district or area, county served or notary public commission number and date of commission expiration: \_\_\_\_\_];

C. for a verification on oath or affirmation:

State of \_\_\_\_\_

[County] of \_\_\_\_\_

Signed and sworn to (or affirmed) before me on \_\_\_\_\_

Date

by \_\_\_\_\_.

Name(s) of individual(s)

making statement

\_\_\_\_\_

Signature of notarial officer

Stamp

[\_\_\_\_\_]

Title of office

[New Mexico state bar identification number, judicial district or area, county served or notary public commission number and date of commission expiration: \_\_\_\_\_];

D. for witnessing or attesting a signature:

State of \_\_\_\_\_

[County] of \_\_\_\_\_

Signed (or attested) before me on \_\_\_\_\_ by

Date

\_\_\_\_\_.

Name(s) of individual(s)

\_\_\_\_\_

Signature of notarial officer

Stamp

[\_\_\_\_\_]

Title of office

[New Mexico state bar identification number, judicial district or area, county served or notary public commission number and date of commission expiration:

\_\_\_\_\_]; and

E. for certifying a copy of a record:

State of \_\_\_\_\_

[County] of \_\_\_\_\_

I certify that this is a true and correct copy of a record in the possession of

\_\_\_\_\_.

Dated \_\_\_\_\_

\_\_\_\_\_

Signature of notarial officer

Stamp

[\_\_\_\_\_]

Title of office

[New Mexico state bar identification number, judicial district or area, county served or notary public commission number and date of commission expiration: \_\_\_\_\_].

## **Chapter 21 Section 16 Laws 2021**

SECTION 16. OFFICIAL STAMP.--The official stamp of a notarial officer shall:

A. include the notarial officer's name, jurisdiction and New Mexico state bar identification number if the notary public is licensed to practice law in this state, judicial district or area served if the notarial officer is a judge, court clerk or deputy court clerk, county if the notarial officer is a county clerk or deputy county clerk or notary public commission number and date of commission expiration and other information required by the secretary of state;

B. be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated; and

C. be filed with the secretary of state before the notarial officer performs the notarial officer's initial notarial act.

## **Chapter 21 Section 17 Laws 2021**

### SECTION 17. STAMPING DEVICE.--

A. A notary public is responsible for the security of the notary public's stamping device and may not allow another individual to use the device to perform a notarial act. On resignation from, or the revocation or expiration of, the notary public's commission, or on the expiration of the date set forth in the stamping device, if any, the notary public shall disable the stamping device by destroying, defacing, damaging, erasing or securing it against use in a manner that renders it unusable. On the death or adjudication of incompetency of a notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the stamping device shall render it unusable by destroying, defacing, damaging, erasing or securing it against use in a manner that renders it unusable.

B. If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative or guardian shall promptly notify the secretary of state on discovering that the device is lost or stolen.

## **Chapter 21 Section 18 Laws 2021**

### SECTION 18. JOURNAL.--

A. A notary public in this state shall maintain a journal in which the notary public chronicles all notarial acts that the notary public performs. The notary public shall

retain the journal for ten years after the performance of the last notarial act chronicled in the journal.

B. A journal may be created on a tangible medium or in an electronic format. A notary public performing notarial acts pursuant to Subsection E of this section shall maintain only one journal at a time to chronicle all notarial acts, whether those notarial acts are performed regarding tangible or electronic records; provided that a notary public may keep a journal in a tangible medium for tangible records and an electronic journal for electronic records. If the journal is maintained on a tangible medium, it must be a permanent, bound register with numbered pages. If the journal is maintained in an electronic format, it must be in a permanent, tamper-evident electronic format complying with the rules of the secretary of state.

C. An entry in a journal must be made contemporaneously with performance of the notarial act and contain the following information:

- (1) the date and time of the notarial act;
- (2) a description of the record, if any, and type of notarial act;
- (3) the full name and address of each individual for whom the notarial act is performed;
- (4) if identity of the individual is based on personal knowledge, a statement to that effect;
- (5) if identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the identification credential presented, if any, including the date of issuance and expiration of any identification credential; and
- (6) the fee, if any, charged by the notary public.

D. If a notary public's journal is lost or stolen, the notary public shall promptly notify the secretary of state on discovering that the journal is lost or stolen.

E. Pursuant to the requirements provided in Subsections B and C of this section, a notarial officer licensed to practice law in this state shall maintain a journal when performing notarial acts for members of the public unrelated to an established attorney-client relationship.

F. On resignation from, or the revocation or suspension of, a notary public's commission, the notary public shall retain the notary public's journal in accordance with Subsection A of this section and inform the secretary of state of where the journal is located.

G. Instead of retaining a journal as provided in Subsections A and F of this section, a current or former notary public may transmit the journal to the secretary of state, the state records officer or a repository approved by the secretary of state.

H. On the death or adjudication of incompetency of a current or former notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the journal shall transmit the journal to the secretary of state, the state records officer or a repository approved by the secretary of state.

## **Chapter 21 Section 19 Laws 2021**

### **SECTION 19. NOTIFICATION REGARDING PERFORMANCE OF NOTARIAL ACT ON ELECTRONIC RECORD--SELECTION OF TECHNOLOGY.--**

A. A notary public or notarial officer shall select one or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person may not require a notary public or notarial officer to perform a notarial act with respect to an electronic record with a technology that the notary public has not selected.



B. Before performing the notary public's or notarial officer's initial notarial act with respect to an electronic record, a notary public or notarial officer shall notify the secretary of state that the notary public will be performing notarial acts with respect to electronic records and identify the technology the notary public intends to use. If the secretary of state has established standards for approval of technology pursuant to Section 26 of the Revised Uniform Law on Notarial Acts, the technology must conform to the standards. If the technology conforms to those standards, the secretary of state shall approve the use of the technology.

## **Chapter 21 Section 20 Laws 2021**

### **SECTION 20. COMMISSION AS NOTARY PUBLIC QUALIFICATIONS--NO IMMUNITY OR BENEFIT.--**

A. An individual may apply to the secretary of state for a commission as a notary public. The applicant shall comply with and provide the information required by rules established by the secretary of state and pay any application fee.

B. To qualify for the commission as a notary public, an applicant shall:

- (1) be at least eighteen years of age;
- (2) be a citizen or permanent legal resident of the United States;
- (3) be a resident of or have a place of employment in this state;
- (4) be able to read and write English;
- (5) not be disqualified to receive a commission under Section 22 of the Revised Uniform Law on Notarial Acts;

(6) have passed the examination required pursuant to Subsection A of Section 21 of the Revised Uniform Law on Notarial Acts; and

(7) not otherwise be qualified as a notarial officer; provided that an individual who is employed as a court clerk, deputy court clerk, county clerk or deputy county clerk may also be commissioned as a notary public.

C. Before issuance of a commission as a notary public, an applicant for the commission shall execute an oath of office pursuant to the laws of this state and submit it to the secretary of state.

D. Before issuance of a commission as a notary public, the notary public or applicant for a commission shall submit to the secretary of state an assurance in the form of a surety bond or its functional equivalent in the amount of ten thousand dollars (\$10,000). The assurance must be issued by a surety or other entity licensed or authorized to do business in this state. The assurance must cover acts performed during the term of the notary public's commission and must be in the form prescribed by the secretary of state. If a notary public violates law with respect to notaries public in this state, the surety or issuing entity is liable under the assurance. The surety or issuing entity shall give thirty days notice to the secretary of state before canceling the assurance. The surety or issuing entity shall notify the secretary of state not later than thirty days after making a payment to a claimant under the assurance. A notary public may perform notarial acts in this state only during the period that a valid assurance is on file with the secretary of state.

E. On compliance with this section, the secretary of state shall issue a commission as a notary public to an applicant for a term of four years.

F. A commission to act as a notary public authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by law of this state on public officials or employees.

G. At least thirty days before expiration of each notary public's commission, the secretary of state shall mail a notice of expiration to the notary public's mailing address of record. A notary public may be reappointed upon making an application in the same manner as required for an original application.

## **Chapter 21 Section 21 Laws 2021**

### **SECTION 21. EXAMINATION OF NOTARY PUBLIC AND NOTARIAL OFFICERS--CONTINUING LEGAL EDUCATION REQUIREMENTS.--**

A. An applicant for a commission as a notary public who does not hold a commission in this state is required to pass an examination administered by the secretary of state or an entity approved by the secretary of state. The examination will be based on the course of study described in Subsection B of this section.

B. The secretary of state or an entity approved by the secretary of state shall offer regularly a course of study to applicants who do not hold commissions as notaries public in this state. The course must cover the laws, rules, procedures and ethics relevant to notarial acts.

C. A notarial officer authorized to practice law in this state may obtain one unit of continuing legal education credit, pursuant to rules established by the board of bar commissioners of the state of New Mexico, for participating in continuing legal education related to performing the notarial acts.

## **Chapter 21 Section 22 Laws 2021**

### **SECTION 22. GROUNDS TO DENY, REFUSE TO RENEW, REVOKE, SUSPEND OR CONDITION COMMISSION OF NOTARY PUBLIC.--**

A. The state ethics commission may deny, refuse to renew, revoke, suspend or impose a condition on a commission as notary public for any act or omission that

demonstrates that the individual lacks the honesty, integrity, competence or reliability to act as a notary public, including:

- (1) failure to comply with the Revised Uniform Law on Notarial Acts;
- (2) a fraudulent, dishonest or deceitful misstatement or omission in the application for a commission as a notary public submitted to the state ethics commission;
- (3) a conviction of the applicant or notary public of any felony or a crime involving fraud, dishonesty or deceit during the term of the notary public's commission or during the five years immediately preceding such term;
- (4) a finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty or deceit;
- (5) failure by the notary public to discharge any duty required of a notary public, whether by the provisions of the Revised Uniform Law on Notarial Acts, rules of the secretary of state or any federal or state law;
- (6) use of false or misleading advertising or representation by the notary public representing that the notary has a duty, right or privilege that the notary does not have;
- (7) violation by the notary public of a rule of the secretary of state regarding a notary public;
- (8) denial, refusal to renew, revocation, suspension or conditioning of a notary public commission in another state;
- (9) failure of the notary public to maintain an assurance as provided in Subsection D of Section 20 of the Revised Uniform Law on Notarial Acts; or

(10) if the individual ceases to be a resident of this state or ceases to be employed in this state.

B. The secretary of state may deny or refuse to renew an applicant upon notice from the state ethics commission of adverse action upon a notary public.

C. The authority of the state ethics commission to deny, refuse to renew, suspend, revoke or impose conditions on a commission as a notary public does not prevent a person from seeking and obtaining other criminal or civil remedies provided by law.

## **Chapter 21 Section 23 Laws 2021**

SECTION 23. DATABASE OF NOTARIES PUBLIC.--The secretary of state shall maintain an electronic database of notaries public providing the following:

A. information and a means through which a person may verify the authority of a notary public to perform notarial acts; and

B. indication of whether a notary public has notified the secretary of state that the notary public will be performing notarial acts on electronic records.

## **Chapter 21 Section 24 Laws 2021**

SECTION 24. PROHIBITED ACTS.--

A. A commission as a notary public does not authorize an individual to:

(1) assist persons in drafting legal records, give legal advice or otherwise practice law;

(2) act as an immigration consultant or an expert on immigration matters;

(3) represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship or related matters; or

(4) receive compensation for performing any of the activities listed in this subsection.

B. A notary public shall not engage in false or deceptive advertising.

C. A notary public, other than an attorney licensed to practice law in this state, shall not use the term "notario" or "notario publico".

D. A notary public shall not advertise or represent that the notary public may assist persons in drafting legal records, give legal advice or otherwise practice law. If a notary public who is not an attorney licensed to practice law in this state in any manner advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media and the internet, the notary public shall include the following statement or an alternate statement authorized or required by the secretary of state, in the advertisement or representation, prominently and in each language used in the advertisement or representation: "I am not an attorney licensed to practice law in this state. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities.". If the form of advertisement or representation is not broadcast media, print media or the internet and does not permit inclusion of the statement required by this subsection because of size, the statement shall be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.

E. Except as otherwise allowed by law, a notary public shall not withhold access to or possession of an original record provided by a person that seeks performance of a notarial act by the notary public.

F. A notary public shall not:

- (1) perform a notarial act on a blank or incomplete record;
- (2) certify or authenticate a photograph;
- (3) perform a notarial act with intent to deceive or defraud; or
- (4) use the title of notary public or official stamp to endorse, promote, denounce or oppose any product, service, contest, candidate or other offering.

G. A notarial officer shall not:

- (1) make or deliver a certificate of notarial act containing statements that the notarial officer knows to be false; or
- (2) knowingly perform a notarial act for an individual who does not comply with Section 6 of the Revised Uniform Law on Notarial Acts.

H. A notarial officer who violates any of the provisions of Subsections A through G of this section is guilty of a misdemeanor for each violation and upon conviction shall be punished by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment for a period not exceeding six months, or both.

I. An individual who performs a purported notarial act with knowledge that the individual's commission as a notary public has expired or that the individual is otherwise disqualified from the office of notary public or as a notarial officer is guilty of a misdemeanor and upon conviction shall be punished by a fine of five hundred dollars (\$500) and shall be removed from office by the state ethics commission.

## **Chapter 21 Section 25 Laws 2021**

SECTION 25. VALIDITY OF NOTARIAL ACTS.--Except as otherwise provided in Subsection B of Section 3 of the Revised Uniform Law on Notarial Acts, the failure of a notarial officer to perform a duty or meet a requirement specified in the Revised Uniform Law on Notarial Acts does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under the Revised Uniform Law on Notarial Acts does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on law of this state other than the Revised Uniform Law on Notarial Acts or law of the United States. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

## **Chapter 21 Section 26 Laws 2021**

### SECTION 26. RULES.--

A. The secretary of state may adopt rules to implement the Revised Uniform Law on Notarial Acts. Rules adopted regarding the performance of notarial acts with respect to electronic records may not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification. The rules may:

- (1) prescribe the manner of performing notarial acts regarding tangible and electronic records;
- (2) include provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident;
- (3) include provisions to ensure integrity in the creation, transmittal, storage or authentication of electronic records or signatures;



(4) prescribe the process of granting, renewing, conditioning, denying, suspending or revoking a notary public commission and assuring the trustworthiness of an individual holding a commission as notary public;

(5) include provisions to prevent fraud or mistake in the performance of notarial acts;

(6) establish the process for approving and accepting surety bonds and other forms of assurance pursuant to Subsection D of Section 20 of the Revised Uniform Law on Notarial Acts;

(7) provide for the administration of the examination pursuant to Subsection A of Section 21 of the Revised Uniform Law on Notarial Acts and the course of study pursuant to Subsection B of Section 21 of the Revised Uniform Law on Notarial Acts; and

(8) provide for the administration of continuing legal education for notarial officers authorized to practice law in this state in collaboration with the board of bar commissioners of the state of New Mexico and pursuant to rules adopted by the board of bar commissioners of the state of New Mexico.

B. In adopting, amending or repealing rules about notarial acts with respect to electronic records, the secretary of state shall consider, so far as is consistent with the Revised Uniform Law on Notarial Acts:

(1) the most recent standards regarding electronic records promulgated by national bodies, such as the national association of secretaries of state;

(2) standards, practices and customs of other jurisdictions that substantially enact the Revised Uniform Law on Notarial Acts; and

(3) the views of governmental officials and entities and other interested persons.

## **Chapter 21 Section 27 Laws 2021**

### SECTION 27. NOTARY PUBLIC COMMISSION IN EFFECT.--

- A. A commission as a notary public in effect on the effective date of the Revised Uniform Law on Notarial Acts continues until its date of expiration.
- B. A notarial officer authorized to practice law in this state is authorized to practice notarial acts with no expiration of this authority but shall maintain an active license to practice law.
- C. A notary public not authorized to practice law in this state who applies to renew a commission as a notary public on or after the effective date of the Revised Uniform Law on Notarial Acts is subject to and shall comply with the Revised Uniform Law on Notarial Acts.
- D. A notary public or notarial officer, in performing notarial acts after the effective date of the Revised Uniform Law on Notarial Acts, shall comply with the Revised Uniform Law on Notarial Acts.

## **Chapter 21 Section 28 Laws 2021**

### SECTION 28. FEES.--

- A. A notary public or notarial officer may charge the maximum fee specified in this section, charge less than the maximum fee or waive the fee.
- B. An employer shall not establish fees for notarial services that are in excess of those specified in this section nor on the attributes of the principal as delineated.

C. The maximum fees that may be charged by a notary public or notarial officer licensed to practice law for notarial acts are:

- (1) for acknowledgments, five dollars (\$5.00) per acknowledgment;
- (2) for oaths or affirmations without a signature, five dollars (\$5.00) per person;
- (3) for jurats, five dollars (\$5.00) per jurat; and
- (4) for copy certifications, fifty cents (\$.50) per page with a minimum total charge of five dollars (\$5.00).

D. A notary public or notarial officer may charge a travel fee when traveling to perform a notarial act if:

- (1) the notary public and the person requesting the notarial act agree upon the travel fee in advance of the travel; and
- (2) the notary public explains to the person requesting the notarial act that the travel fee is separate from the notarial fees and not mandated by law.

E. In addition to the fees prescribed in Subsections C and D of this section, a notary public may charge a technology fee not to exceed twenty-five dollars (\$25.00) or other amount established by rule by the secretary of state per notarial act performed with respect to an electronic record.

## **Chapter 21 Section 29 Laws 2021**

SECTION 29. INSPECTION OF PUBLIC RECORDS ACT COMPLIANCE.--

A. Members of the public may request journal entry or audiovisual recordings related to a specified notarial act transaction pursuant to the Inspection of Public Records Act.

B. A request made pursuant to Subsection A of this section shall name the notarial act transaction with particularity, naming the document subject to the notarial act in the request for which the journal entry or audiovisual recording is sought.

C. No request for records relating to a notarial act that does not name the document subject to the notarial act shall be enforceable pursuant to the Inspection of Public Records Act.

## **Chapter 21 Section 30 Laws 2021**

SECTION 30. SAVING CLAUSE.--The Revised Uniform Law on Notarial Acts does not affect the validity or effect of a notarial act performed before the effective date of the Revised Uniform Law on Notarial Acts.

## **Chapter 21 Section 31 Laws 2021**

SECTION 31. UNIFORMITY OF APPLICATION AND CONSTRUCTION.--In applying and construing the Revised Uniform Law on Notarial Acts, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

## **Chapter 21 Section 32 Laws 2021**

SECTION 32. RELATION TO FEDERAL ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.--The Revised Uniform Law on Notarial Acts modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, but does not modify, limit or supersede Section 101(c) of that

act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

## **Chapter 21 Section 33 Laws 2021**

SECTION 33. Section 10-16G-9 NMSA 1978 (being Laws 2019, Chapter 86, Section 9) is amended to read:

"10-16G-9. COMMISSION JURISDICTION--COMPLIANCE PROVISIONS.--

A. The commission has jurisdiction to enforce the applicable civil compliance provisions for public officials, public employees, candidates, persons subject to the Campaign Reporting Act, government contractors, lobbyists and lobbyists' employers of:

- (1) the Campaign Reporting Act;
- (2) the Financial Disclosure Act;
- (3) the Gift Act;
- (4) the Lobbyist Regulation Act;
- (5) the Voter Action Act;
- (6) the Governmental Conduct Act;
- (7) the Procurement Code;
- (8) the State Ethics Commission Act;
- (9) the Revised Uniform Law on Notarial Acts; and

(10) Article 9, Section 14 of the constitution of New Mexico.

B. All complaints filed with a public agency regarding the statutes listed in Subsection A of this section shall be forwarded to the commission.

C. The commission may choose to act on some or all aspects of a complaint and forward other aspects of a complaint to another state or federal agency with jurisdiction over the matter in accordance with Subsection E of this section.

D. If the commission decides not to act on a complaint, whether the complaint was filed with the commission or forwarded from another public agency, or decides only to act on part of a complaint, the commission shall promptly forward the complaint, or any part of a complaint on which it does not wish to act, to the public agency that has appropriate jurisdiction within ten days of the decision. The complainant and respondent shall be notified in writing when the complainant's request has been forwarded to another agency unless otherwise provided pursuant to Subsection H of Section 10-16G-10 NMSA 1978.

E. The commission may share jurisdiction with other public agencies having authority to act on a complaint or any aspect of a complaint. Such shared jurisdiction shall be formalized through an agreement entered into by all participating agencies involved with the complaint and the director. The commission may also investigate a complaint referred to the commission by the legislature, or a legislative committee, in accordance with an agreement entered into pursuant to policies of the New Mexico legislative council or rules of the house of representatives or senate.

F. The commission may file a court action to enforce the civil compliance provisions of an act listed in Subsection A of this section. The court action shall be filed in the district court in the county where the respondent resides."

## Chapter 21 Section 34 Laws 2021

SECTION 34. Section 14-8-4 NMSA 1978 (being Laws 1901, Chapter 62, Section 18, as amended) is amended to read:

"14-8-4. ACKNOWLEDGMENT NECESSARY FOR RECORDING--  
EXCEPTIONS--RECORDING OF DUPLICATES.--

A. Any original instrument of writing duly acknowledged may be filed and recorded. Any instrument of writing not duly acknowledged may not be filed and recorded or considered of record, though so entered, unless otherwise provided in this section.

B. For purposes of this section, "acknowledged" means notarized by a person empowered to perform notarial acts pursuant to the Revised Uniform Law on Notarial Acts.

C. The following documents need not be acknowledged but may be filed and recorded:

- (1) court-certified copies of a court order, judgment or other judicial decree;
- (2) court-certified transcripts of any money judgment obtained in a court of New Mexico or, pursuant to Section 14-9-9 NMSA 1978, in the United States district court for the district of New Mexico;
- (3) land patents and land office receipts;
- (4) notice of lis pendens filed pursuant to Section 38-1-14 NMSA 1978;

(5) provisional orders creating improvement districts pursuant to Section 4-55A-7 NMSA 1978;

(6) notices of levy on real estate under execution or writ of attachment when filed by a peace officer pursuant to Section 39-4-4 NMSA 1978;

(7) surveys of land that do not create a division of land but only show existing tracts of record when filed by a professional surveyor pursuant to Section 61-23-28.2 NMSA 1978;

(8) certified copies of foreign wills, marriages or birth certificates duly authenticated; and

(9) instruments of writing in any manner affecting lands in the state filed pursuant to Section 14-9-7 NMSA 1978, when these instruments have been duly executed by an authorized public officer.

D. If an original instrument of writing is unavailable but, if it were available, could be filed and recorded in accordance with this section, a duplicate of that instrument shall be accepted for filing and recording if accompanied by an affidavit executed pursuant to this subsection. The affidavit shall:

(1) provide the name, telephone number and mailing address of the affiant;

(2) provide information regarding the execution of the instrument, consideration paid, delivery or other information establishing that the original instrument, if it were available, would be entitled to be recorded pursuant to Subsection A of this section;

(3) specify the reason the duplicate is filed and recorded in place of the original instrument;



(4) include a statement that the duplicate is a true and correct copy of the original instrument; and

(5) be acknowledged and made under oath confirming that the statements set forth in the affidavit are true and correct and of the personal knowledge of the affiant.

E. The filing of a duplicate instrument in accordance with Subsection D of this section shall not incur a fee in addition to the fee, if any, charged for filing an original instrument. When the clerk records the instrument, the grantor and grantee shall be those of the duplicate instrument and the name of the affiant shall be indexed under miscellaneous information.

F. Any filing or recording permitted or required under the provisions of the Uniform Commercial Code need not comply with the requirements of this section.

G. Instruments acknowledged on behalf of a corporation need not have the corporation's seal affixed thereto in order to be filed and recorded."

## **Chapter 21 Section 35 Laws 2021**

SECTION 35. TEMPORARY PROVISION--REVISED UNIFORM LAWS ON NOTARIAL ACTS.--References in the New Mexico Statutes Annotated to the Notary Public Act or the Uniform Law on Notarial Acts shall be deemed to be references to the Revised Uniform Law on Notarial Acts.

## **Chapter 21 Section 36 Laws 2021**

SECTION 36. REPEAL.--Sections 14-12A-1 through 14-12A-26 and 14-14-1 through 14-14-11 NMSA 1978 (being Laws 2003, Chapter 286, Sections 1 through 26 and Laws 1993, Chapter 281, Sections 1 through 11) are repealed.

## **Chapter 21 Section 37 Laws 2021**

SECTION 37. APPLICABILITY.--The provisions of this act apply to notarial acts performed in this state on and after January 1, 2022.

## **Chapter 21 Section 38 Laws 2021**

SECTION 38. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2022.

# **LAWS 2021, CHAPTER 22**

**Senate Bill 20**  
**Approved April 5, 2021**

AN ACT

RELATING TO TAXATION; CHANGING A DISTRIBUTION OF THE MOTOR VEHICLE EXCISE TAX FROM THE LOCAL GOVERNMENTS ROAD FUND TO THE TRANSPORTATION PROJECT FUND.

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

## **Chapter 22 Section 1 Laws 2021**

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

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

receipts attributable to the tax and associated penalties and interest shall be distributed as follows:

- A. fifty-nine and thirty-nine hundredths percent to the general fund;
- B. twenty-one and eighty-six hundredths percent to the state road fund; and
- C. eighteen and seventy-five hundredths percent to the transportation project fund."

## **Chapter 22 Section 2 Laws 2021**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

# **LAWS 2021, CHAPTER 23**

**Senate Bill 21, aa**  
**Approved April 5, 2021**

AN ACT

RELATING TO RETIREE HEALTH CARE; AMENDING CERTAIN DEFINITIONS IN THE RETIREE HEALTH CARE ACT TO CONFORM TO THE FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT; REPEALING PROVISIONS OF LAW RELATING TO THE DISCOUNT PRESCRIPTION DRUG PROGRAM.

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

## Chapter 23 Section 1 Laws 2021

SECTION 1. Section 10-7C-4 NMSA 1978 (being Laws 1990, Chapter 6, Section 4, as amended) is amended to read:

"10-7C-4. DEFINITIONS.--As used in the Retiree Health Care Act:

A. "active employee" means an employee of a public institution or any other public employer participating in either the Educational Retirement Act, the Public Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act or the Public Employees Retirement Reciprocity Act or an employee of an independent public employer;

B. "authority" means the retiree health care authority created pursuant to the Retiree Health Care Act;

C. "basic plan of benefits" means only those coverages generally associated with a medical plan of benefits;

D. "board" means the board of the retiree health care authority;

E. "current retiree" means an eligible retiree who is receiving a disability or normal retirement benefit under the Educational Retirement Act, the Public Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act, the Public Employees Retirement Reciprocity Act or the retirement program of an independent public employer on or before July 1, 1990;

F. "eligible dependent" means a person obtaining retiree health care coverage based upon that person's relationship to an eligible retiree as follows:

- (1) a spouse;

- (2) a child under the age of twenty-six who is:
  - (a) a natural child;
  - (b) a legally adopted child;
  - (c) a stepchild living in the same household who is primarily dependent on the eligible retiree for maintenance and support;
  - (d) a child for whom the eligible retiree is the legal guardian and who is primarily dependent on the eligible retiree for maintenance and support, as long as evidence of the guardianship is evidenced in a court order or decree; or
  - (e) a foster child living in the same household;
- (3) a dependent child over twenty-six who is wholly dependent on the eligible retiree for maintenance and support and who is incapable of self-sustaining employment by reason of intellectual disability or physical handicap; provided that proof of incapacity and dependency shall be provided within thirty-one days after the child reaches the limiting age and at such times thereafter as may be required by the board;
- (4) a surviving spouse defined as follows:
  - (a) "surviving spouse" means the spouse to whom a retiree was married at the time of death; or
  - (b) "surviving spouse" means the spouse to whom a deceased vested active employee was married at the time of death; or
- (5) a surviving dependent child who is the dependent child of a deceased eligible retiree and whose other parent is also deceased;

G. "eligible employer" means either:

(1) a "retirement system employer", which means an institution of higher education, a school district or other entity participating in the public school insurance authority, a state agency, state court, magistrate court, municipality, county or public entity, each of which is affiliated under or covered by the Educational Retirement Act, the Public Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act or the Public Employees Retirement Reciprocity Act; or

(2) an "independent public employer", which means a municipality, county or public entity that is not a retirement system employer;

H. "eligible retiree" means:

(1) a "nonsalaried eligible participating entity governing authority member", which means a person who is not a retiree and who:

(a) has served without salary as a member of the governing authority of an employer eligible to participate in the benefits of the Retiree Health Care Act and is certified to be such by the executive director of the public school insurance authority;

(b) has maintained group health insurance coverage through that member's governing authority if such group health insurance coverage was available and offered to the member during the member's service as a member of the governing authority; and

(c) was participating in the group health insurance program under the Retiree Health Care Act prior to July 1, 1993; or

(d) notwithstanding the provisions of Subparagraphs (b) and (c) of this paragraph, is eligible under Subparagraph (a) of this paragraph and has applied before August 1, 1993 to the authority to participate in the program;

(2) a "salaried eligible participating entity governing authority member", which means a person who is not a retiree and who:

(a) has served with salary as a member of the governing authority of an employer eligible to participate in the benefits of the Retiree Health Care Act;

(b) has maintained group health insurance through that member's governing authority, if such group health insurance was available and offered to the member during the member's service as a member of the governing authority; and

(c) was participating in the group health insurance program under the Retiree Health Care Act prior to July 1, 1993; or

(d) notwithstanding the provisions of Subparagraphs (b) and (c) of this paragraph, is eligible under Subparagraph (a) of this paragraph and has applied before August 1, 1993 to the authority to participate in the program;

(3) an "eligible participating retiree", which means a person who:

(a) falls within the definition of a retiree, has made contributions to the fund for at least five years prior to retirement and whose eligible employer during that period of time made contributions as a participant in the Retiree Health Care Act on the person's behalf, unless that person retires on or before July 1, 1995, in which event the time period required for employee and employer contributions shall become the period of time between July 1, 1990 and the date of retirement, and who is certified to be a retiree by the educational retirement director, the executive secretary of the public employees retirement board or the governing authority of an independent public employer;

(b) falls within the definition of a retiree, retired prior to July 1, 1990 and is certified to be a retiree by the educational retirement director, the executive

secretary of the public employees retirement association or the governing authority of an independent public employer; but this paragraph does not include a retiree who was an employee of an eligible employer who exercised the option not to be a participating employer pursuant to the Retiree Health Care Act and did not after January 1, 1993 elect to become a participating employer; unless the retiree: 1) retired on or before June 30, 1990; and 2) at the time of retirement, did not have a retirement health plan or retirement health insurance coverage available from the retiree's employer; or

(c) is a retiree who: 1) was at the time of retirement an employee of an eligible employer who exercised the option not to be a participating employer pursuant to the Retiree Health Care Act, but which eligible employer subsequently elected after January 1, 1993 to become a participating employer; 2) has made contributions to the fund for at least five years prior to retirement and whose eligible employer during that period of time made contributions as a participant in the Retiree Health Care Act on the person's behalf, unless that person retires prior to the eligible employer's election to become a participating employer or less than five years after the date participation begins when the participation date begins before July 1, 2009, in which event the time period required for employee and employer contributions shall become the period of time, if any, between the date participation begins and the date of retirement or when the participation date begins on or after July 1, 2009, in which event the person and employer shall contribute to the fund an amount equal to the full actuarial present value of the accrued benefits as determined by the authority; and 3) is certified to be a retiree by the educational retirement director, the executive director of the public employees retirement board or the governing authority of an independent public employer;

(4) a "legislative member", which means a person who is not a retiree and who served as a member of the New Mexico legislature for at least two years, but is no longer a member of the legislature and is certified to be such by the legislative council service; or

(5) a "former participating employer governing authority member", which means a person, other than a nonsalaried eligible participating entity governing



authority member or a salaried eligible participating entity governing authority member, who is not a retiree and who served as a member of the governing authority of a participating employer for at least four years but is no longer a member of the governing authority and whose length of service is certified by the chief executive officer of the participating employer;

I. "fund" means the retiree health care fund;

J. "group health insurance" means coverage that includes but is not limited to life insurance, accidental death and dismemberment, hospital care and benefits, surgical care and treatment, medical care and treatment, dental care, eye care, obstetrical benefits, prescribed drugs, medicines and prosthetic devices, medicare supplement, medicare carveout, medicare coordination and other benefits, supplies and services through the vehicles of indemnity coverages, health maintenance organizations, preferred provider organizations and other health care delivery systems as provided by the Retiree Health Care Act and other coverages considered by the board to be advisable;

K. "ineligible dependents" includes:

- (1) those dependents created by common law relationships;
- (2) dependents while in active military service;
- (3) parents, aunts, uncles, brothers, sisters, grandchildren and other family members left in the care of an eligible retiree without evidence of legal guardianship; and
- (4) anyone not specifically referred to as an eligible dependent pursuant to the rules adopted by the board;

L. "participating employee" means an employee of a participating employer, which employee has not been expelled from participation in the Retiree Health Care Act pursuant to Section 10-7C-10 NMSA 1978;

M. "participating employer" means an eligible employer who has satisfied the conditions for participating in the benefits of the Retiree Health Care Act, including the requirements of Subsection M of Section 10-7C-7 NMSA 1978 and Subsection D or E of Section 10-7C-9 NMSA 1978, as applicable;

N. "public entity" means a flood control authority, economic development district, council of governments, regional housing authority, conservancy district or other special district or special purpose government; and

O. "retiree" means a person who:

(1) is receiving:

(a) a disability or normal retirement benefit or survivor's benefit pursuant to the Educational Retirement Act;

(b) a disability or normal retirement benefit or survivor's benefit pursuant to the Public Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act or the Public Employees Retirement Reciprocity Act; or

(c) a disability or normal retirement benefit or survivor's benefit pursuant to the retirement program of an independent public employer to which that employer has made periodic contributions; or

(2) is not receiving a survivor's benefit but is the eligible dependent of a person who received a disability or normal retirement benefit pursuant to the Educational Retirement Act, the Public Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act or the Public Employees Retirement Reciprocity Act."

## **Chapter 23 Section 2 Laws 2021**

SECTION 2. Section 10-7C-5 NMSA 1978 (being Laws 1990, Chapter 6, Section 5, as amended by Laws 2002, Chapter 75, Section 1 and by Laws 2002, Chapter 80, Section 1) is amended to read:

"10-7C-5. AUTHORITY CREATED.--There is created the "retiree health care authority", which is established to provide for comprehensive group health insurance programs under the Retiree Health Care Act."

## **Chapter 23 Section 3 Laws 2021**

SECTION 3. REPEAL.--Sections 10-7C-17 through 10-7C-19 NMSA 1978 (being Laws 2002, Chapter 75, Section 2 and Laws 2002, Chapter 80, Section 2; Laws 2002, Chapter 75, Section 3 and Laws 2002, Chapter 80, Section 3; and Laws 2002, Chapter 75, Section 4 and Laws 2002, Chapter 80, Section 4, as amended) are repealed.

## **Chapter 23 Section 4 Laws 2021**

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

# **LAWS 2021, CHAPTER 24**

**Senate Bill 27, w/ec**  
**Approved April 5, 2021**

AN ACT

RELATING TO HOUSING; EXPANDING THE PURPOSE OF THE NEW MEXICO  
HOUSING TRUST FUND ACT TO INCLUDE THE PRESERVATION OF HOUSING;

PERMITTING THE DEVELOPMENT OF PROGRAM GUIDELINES; PERMITTING CERTAIN FUNDS TO BE AWARDED BASED ON NEED; DECLARING AN EMERGENCY.

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

## **Chapter 24 Section 1 Laws 2021**

SECTION 1. Section 58-18C-2 NMSA 1978 (being Laws 2005, Chapter 105, Section 2) is amended to read:

"58-18C-2. PURPOSE.--The purpose of the New Mexico Housing Trust Fund Act is to provide flexible funding for housing initiatives in order to produce and preserve significant housing investment in the state."

## **Chapter 24 Section 2 Laws 2021**

SECTION 2. Section 58-18C-3 NMSA 1978 (being Laws 2005, Chapter 105, Section 3) is amended to read:

"58-18C-3. DEFINITIONS.--As used in the New Mexico Housing Trust Fund Act:

- A. "affordable housing" means residential housing primarily for persons or households of low or moderate income;
- B. "authority" means the New Mexico mortgage finance authority;
- C. "committee" means the New Mexico housing trust fund advisory committee;
- D. "fund" means the New Mexico housing trust fund;

E. "persons of low or moderate income" means persons and households within the state who are determined by the authority to lack sufficient income to pay enough to cause private enterprise to build and preserve an adequate supply of decent, safe and sanitary residential housing in their locality or in an area reasonably accessible to their locality and whose incomes are below the income levels established by the authority to be in need of the assistance made available by the New Mexico Housing Trust Fund Act, taking into consideration, without limitation, such factors as defined under that act; and

F. "residential housing" means any building, structure or portion thereof that is primarily occupied, or designed or intended primarily for occupancy, as a residence by one or more households and any real property that is offered for sale or lease for the construction or location thereon of such a building, structure or portion thereof. "Residential housing" includes congregate housing, manufactured homes and housing intended to provide or providing transitional or temporary housing for homeless persons."

## **Chapter 24 Section 3 Laws 2021**

SECTION 3. Section 58-18C-5 NMSA 1978 (being Laws 2005, Chapter 105, Section 5) is amended to read:

"58-18C-5. ADVISORY COMMITTEE CREATED.--

A. The "New Mexico housing trust fund advisory committee" is created. The committee shall consist of the following nine members, who shall represent geographically the state, affordable housing advocates and practitioners:

- (1) three public members appointed by the governor;
- (2) three public members appointed by the president pro tempore of the senate; and

(3) three public members appointed by the speaker of the house of representatives.

B. Members of the committee shall be appointed for two-year terms and shall be eligible for reappointment. Vacancies shall be filled by the appropriate appointing authority.

C. The committee shall be advisory to the authority and shall be subject to oversight by the Mortgage Finance Authority Act oversight committee.

D. The committee shall review all project applications or program guidelines and make recommendations to the authority for funding them. The committee shall not be involved in or advisory to the authority in matters relating to the investment of the fund.

E. The committee shall adopt rules regarding:

(1) the time, place and procedures of committee meetings; and

(2) the procedures for the review of and standards for recommending applications or program guidelines for loans or grant projects."

## **Chapter 24 Section 4 Laws 2021**

SECTION 4. Section 58-18C-6 NMSA 1978 (being Laws 2005, Chapter 105, Section 6) is amended to read:

"58-18C-6. AWARD OF FUNDS--ACCOUNTABILITY.--

A. Trust funds shall be awarded either on a competitive basis or based on need as determined by the authority. The authority's staff shall work with the committee to develop an application and applicant scoring mechanism or program guidelines that

encourage applicants to develop solutions that are responsive to local needs and are consistent with sound housing policy.

B. The authority's governing body shall be responsible for ensuring that on an overall basis the total funds awarded for housing activities attract at least three times as much funding from other sources."

## **Chapter 24 Section 5 Laws 2021**

SECTION 5. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

# **LAWS 2021, CHAPTER 25**

**Senate Bill 32, aa**  
**Approved April 5, 2021**

AN ACT

RELATING TO WILDLIFE; ENACTING THE WILDLIFE CONSERVATION AND PUBLIC SAFETY ACT; PROVIDING FOR RESTRICTIONS ON THE USE OF TRAPS, SNARES AND POISONS; PROVIDING PENALTIES.

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

## **Chapter 25 Section 1 Laws 2021**

SECTION 1. A new Section 17-11-1 NMSA 1978 is enacted to read:

"17-11-1. SHORT TITLE.--Chapter 17, Article 11 NMSA 1978 may be cited as the "Wildlife Conservation and Public Safety Act"."

## Chapter 25 Section 2 Laws 2021

SECTION 2. A new Section 17-11-2 NMSA 1978 is enacted to read:

"17-11-2. DEFINITIONS.--As used in the Wildlife Conservation and Public Safety Act:

A. "bona fide scientific research" means a research project that is not being conducted for commercial gain from the sale of animal parts and that is conducted by employees or contractors of the department or authorized by a scientific collection permit from the department;

B. "cage trap" means a trap that captures a live animal but does not grip an animal's body or body part and is not intended to kill the animal, including a live trap, a cage or box trap, a colony trap, a net and a suitcase-type live beaver trap, but does not include a corral;

C. "department" means the department of game and fish;

D. "depredation trapping" means the act of setting traps, snares or poisons on public land to reduce or prevent damage caused by wildlife to property or waterways, including harvested and stored crops and livestock;

E. "domestic animal" means any animal that is bred for and is typically subject to human control;

F. "ecosystem management" means actions that are necessary to maintain or increase the long-term sustainability and integrity of an entire system of living wildlife and their environment, including the restoration and conservation of wildlife populations and habitat, wildlife relocation, medical treatment of wildlife and the protection of threatened or endangered species;



G. "feral animal" means a domestic animal existing in an untamed state outside captivity or domestication and not under human control;

H. "government entity" means a local, state or federal government body or agency, a political subdivision of the state or an employee, agent or representative of the body, agency or political subdivision when acting within the scope of its governmental duties, but does not include an Indian nation, tribe or pueblo;

I. "leghold trap" means a spring-actuated device, either padded or unpadded, designed to capture an animal by the foot, leg or other limb, including a steel-jawed leghold trap, a padded-jaw leghold trap, a foot-hold trap, an egg trap, a duffer trap and all other similar traps;

J. "lethal body-gripping trap" means a rotating jaw trap designed to capture an animal by the body that is intended to fatally crush or otherwise kill the animal and includes conibear traps and all other similar traps;

K. "public land" means state-owned land, state-leased land, lands held in trust by the state, lands administered by the United States fish and wildlife service, the United States forest service, the federal bureau of land management, the national park service, the United States department of defense, state parks and any county or municipality, but does not include the interior of physical structures or land belonging to or held in trust for an Indian nation, tribe or pueblo;

L. "snare" means a wire or cable with a single closing device, often with a noose, with or without stops, that is used to capture, strangle or otherwise entangle an animal, but does not include use of a catch pole, leash or tether lawfully used by a person to temporarily restrain or relocate an animal;

M. "trap" includes a leghold trap, lethal body-gripping trap or cage trap;

N. "wildlife" means a member of a vertebrate species that is native to or found in New Mexico that is not under the direct control of a human or in captivity, but does not include a feral or escaped domestic animal; and

O. "wildlife poison" means an explosive compound or deleterious substance used in a manner intended to kill wildlife."

### **Chapter 25 Section 3 Laws 2021**

SECTION 3. A new Section 17-11-3 NMSA 1978 is enacted to read:

"17-11-3. PROHIBITIONS ON PUBLIC LAND.--It is a violation of the Wildlife Conservation and Public Safety Act to use a trap, snare or wildlife poison for purposes of capturing, injuring or killing an animal on public land except as provided in Section 17-11-4 NMSA 1978."

### **Chapter 25 Section 4 Laws 2021**

SECTION 4. A new Section 17-11-4 NMSA 1978 is enacted to read:

"17-11-4. EXCEPTIONS.--The provisions of the Wildlife Conservation and Public Safety Act do not apply to:

A. the taking of wildlife with firearms, fishing equipment, archery equipment, falconry equipment or other implements in hand, when used as authorized by law;

B. the taking or control of birds, fish or rodents not defined as furbearers in Section 17-5-2 NMSA 1978;

C. a government entity acting in the course of its official duties to prevent or mitigate actual threats to human health and safety;

D. ecosystem management conducted by the department, the United States fish and wildlife service or a conservancy district of the state or its employee, agent or representative acting in the course of its official duties;

E. bona fide scientific research;

F. depredation trapping conducted by the department or a designated agent of the department using non-lethal traps or non-lethal snares, but only when accompanied by visible signs at the location of each device notifying the public of the presence of such devices;

G. the use of cage traps to recover or to provide veterinary care or husbandry to a domestic animal or feral animal as authorized by law, or to abate damages caused by any animal to property, crops or livestock; provided that:

(1) once the damage has been abated, use of the cage trap shall cease; and

(2) any captured animal is disposed of in accordance with rules established by the department or appropriate animal agency; or

H. enrolled members of a federally recognized Indian nation, tribe or pueblo when trapping is conducted solely for religious or ceremonial purposes pursuant to rules issued by the department of game and fish in collaboration with the secretary of Indian affairs and consistent with federal procedures for recognition and protection of bona fide Indian nation, tribe or pueblo religious ceremonies."

## **Chapter 25 Section 5 Laws 2021**

SECTION 5. A new Section 17-11-5 NMSA 1978 is enacted to read:

"17-11-5. PENALTIES.--

A. A person who violates the Wildlife Conservation and Public Safety Act is guilty of a misdemeanor. Each individual trap, snare or application of wildlife poison shall constitute a single violation of that act.

B. Any penalties under this section shall be cumulative to any other available penalties provided by law.

C. In addition to other penalties, upon conviction, the court may consider appropriate restitution to a state agency that incurs costs in enforcing the Wildlife Conservation and Public Safety Act."

## **Chapter 25 Section 6 Laws 2021**

SECTION 6. EFFECTIVE DATE.--The effective date of the provisions of this act is April 1, 2022.

# **LAWS 2021, CHAPTER 26**

**Senate Bill 34**  
**Approved April 5, 2021**

AN ACT

RELATING TO PROCUREMENT; ENABLING USE OF A DESIGN AND BUILD PROJECT DELIVERY SYSTEM FOR CERTAIN DEPARTMENT OF TRANSPORTATION PROJECTS.

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

## **Chapter 26 Section 1 Laws 2021**

SECTION 1. Section 13-1-119.2 NMSA 1978 (being Laws 2009, Chapter 207, Section 1, as amended by Laws 2016, Chapter 85, Section 1 and by Laws 2016, Chapter 86, Section 1) is amended to read:

"13-1-119.2. DESIGN AND BUILD PROCUREMENT FOR CERTAIN TRANSPORTATION PROJECTS.--Notwithstanding any prohibition on road and highway construction or reconstruction projects in Section 13-1-119.1 NMSA 1978, the department of transportation may use a design and build project delivery system pursuant to Section 13-1-119.1 NMSA 1978 for projects with a maximum allowable construction cost of more than fifty million dollars (\$50,000,000)."

## **Chapter 26 Section 2 Laws 2021**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

# **LAWS 2021, CHAPTER 27**

**Senate Bill 43**  
**Approved April 5, 2021**

AN ACT

RELATING TO PUBLIC SCHOOL CAPITAL OUTLAY; ALLOWING ALLOCATIONS FROM THE PUBLIC SCHOOL CAPITAL OUTLAY FUND TO FULLY FUND THE DEMOLITION OF ABANDONED SCHOOL DISTRICT FACILITIES.

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

## Chapter 27 Section 1 Laws 2021

SECTION 1. Section 22-24-4 NMSA 1978 (being Laws 1975, Chapter 235, Section 4, as amended by Laws 2019, Chapter 179, Section 2 and by Laws 2019, Chapter 180, Section 1) is amended to read:

"22-24-4. PUBLIC SCHOOL CAPITAL OUTLAY FUND CREATED-- USE.--

A. The "public school capital outlay fund" is created. Balances remaining in the fund at the end of each fiscal year shall not revert.

B. Except as provided in Subsections G and I through Q of this section, money in the fund may be used only for capital expenditures deemed necessary by the council for an adequate educational program.

C. The council may authorize the purchase by the authority of portable classrooms to be loaned to school districts to meet a temporary requirement. Payment for these purchases shall be made from the fund. Title to and custody of the portable classrooms shall rest in the authority. The council shall authorize the lending of the portable classrooms to school districts upon request and upon finding that sufficient need exists. Application for use or return of state-owned portable classroom buildings shall be submitted by school districts to the council. Expenses of maintenance of the portable classrooms while in the custody of the authority shall be paid from the fund; expenses of maintenance and insurance of the portable classrooms while in the custody of a school district shall be the responsibility of the school district. The council may authorize the permanent disposition of the portable classrooms by the authority with prior approval of the state board of finance.

D. Applications for assistance from the fund shall be made by school districts to the council in accordance with requirements of the council. Except as provided in Subsection K of this section, the council shall require as a condition of application that a school district have a current five-year facilities plan that shall include a current

preventive maintenance plan to which the school adheres for each public school in the school district.

E. The council shall review all requests for assistance from the fund and shall allocate funds only for those capital outlay projects that meet the criteria of the Public School Capital Outlay Act.

F. Money in the fund shall be disbursed by warrant of the department of finance and administration on vouchers signed by the secretary of finance and administration following certification by the council that an application has been approved or an expenditure has been ordered by a court pursuant to Section 22-24-5.4 NMSA 1978. At the discretion of the council, money for a project shall be distributed as follows:

(1) up to ten percent of the portion of the project cost funded with distributions from the fund or five percent of the total project cost, whichever is greater, may be paid to the school district before work commences with the balance of the grant award made on a cost-reimbursement basis; or

(2) the council may authorize payments directly to the contractor.

G. Balances in the fund may be annually appropriated for the core administrative functions of the authority pursuant to the Public School Capital Outlay Act, and, in addition, balances in the fund may be expended by the authority, upon approval of the council, for project management expenses; provided that:

(1) the total annual expenditures from the fund for the core administrative functions pursuant to this subsection shall not exceed five percent of the average annual grant assistance authorized from the fund during the three previous fiscal years; and

(2) any unexpended or unencumbered balance remaining at the end of a fiscal year from the expenditures authorized in this subsection shall revert to the fund.

H. The fund may be expended by the council for building system repair, renovation or replacement initiatives with projects to be identified by the council pursuant to Section 22-24-4.6 NMSA 1978; provided that money allocated pursuant to this subsection shall be expended within three years of the allocation.

I. The fund may be expended annually by the council for grants to school districts for the purpose of making lease payments for classroom facilities, including facilities leased by charter schools. The grants shall be made upon application by the school districts and pursuant to rules adopted by the council; provided that an application on behalf of a charter school shall be made by the school district, but, if the school district fails to make an application on behalf of a charter school, the charter school may submit its own application. The following criteria shall apply to the grants:

(1) the amount of a grant to a school district shall not exceed:

(a) the actual annual lease payments owed for leasing classroom space for schools, including charter schools, in the school district; or

(b) seven hundred dollars (\$700) multiplied by the MEM using the leased classroom facilities; provided that in fiscal year 2009 and in each subsequent fiscal year, this amount shall be adjusted by the percentage change between the penultimate calendar year and the immediately preceding calendar year of the consumer price index for the United States, all items, as published by the United States department of labor;

(2) a grant received for the lease payments of a charter school may be used by that charter school as a state match necessary to obtain federal grants pursuant to the federal Every Student Succeeds Act;

(3) at the end of each fiscal year, any unexpended or unencumbered balance of the appropriation shall revert to the fund;



(4) no grant shall be made for lease payments due pursuant to a financing agreement under which the facilities may be purchased for a price that is reduced according to the lease payments made unless:

(a) the agreement has been approved pursuant to the provisions of the Public School Lease Purchase Act; and

(b) the facilities are leased by a charter school;

(5) if the lease payments are made pursuant to a financing agreement under which the facilities may be purchased for a price that is reduced according to the lease payments made, neither a grant nor any provision of the Public School Capital Outlay Act creates a legal obligation for the school district or charter school to continue the lease from year to year or to purchase the facilities nor does it create a legal obligation for the state to make subsequent grants pursuant to the provisions of this subsection; and

(6) as used in this subsection:

(a) "MEM" means: 1) the average full-time-equivalent enrollment using leased classroom facilities on the second and third reporting dates of the prior school year; or 2) in the case of an approved charter school that has not commenced classroom instruction, the estimated full-time-equivalent enrollment that will use leased classroom facilities in the first year of instruction, as shown in the approved charter school application; provided that, after the second reporting date of the school year, the MEM shall be adjusted to reflect the full-time-equivalent enrollment on that date; and

(b) "classroom facilities" or "classroom space" includes the space needed, as determined by the minimum required under the statewide adequacy standards, for the direct administration of school activities.

J. In addition to other authorized expenditures from the fund, up to one percent of the average grant assistance authorized from the fund during the three

previous fiscal years may be expended in each fiscal year by the authority to pay the state fire marshal, the construction industries division of the regulation and licensing department and local jurisdictions having authority from the state to permit and inspect projects for expenditures made to permit and inspect projects funded in whole or in part under the Public School Capital Outlay Act. The authority may enter into contracts with the state fire marshal, the construction industries division or the appropriate local authorities to carry out the provisions of this subsection. Such a contract may provide for initial estimated payments from the fund prior to the expenditures if the contract also provides for additional payments from the fund if the actual expenditures exceed the initial payments and for repayments back to the fund if the initial payments exceed the actual expenditures. Money distributed from the fund to the state fire marshal or the construction industries division pursuant to this subsection shall be used to supplement, rather than supplant, appropriations to those entities.

K. Pursuant to guidelines established by the council, allocations from the fund may be made to assist school districts in developing and updating five-year facilities plans required by the Public School Capital Outlay Act; provided that:

(1) no allocation shall be made unless the council determines that the school district is willing and able to pay the portion of the total cost of developing or updating the plan that is not funded with the allocation from the fund. Except as provided in Paragraph (2) of this subsection, the portion of the total cost to be paid with the allocation from the fund shall be determined pursuant to the methodology in Subsection B of Section 22-24-5 NMSA 1978; or

(2) the allocation from the fund may be used to pay the total cost of developing or updating the plan if:

(a) the school district has fewer than an average of six hundred full-time-equivalent students on the second and third reporting dates of the prior school year; or

(b) the school district meets all of the following requirements: 1) the school district has fewer than an average of one thousand full-time-equivalent students on the second and third reporting dates of the prior school year; 2) the school district has at least seventy percent of its students eligible for free or reduced-fee lunch; 3) the state share of the total cost, if calculated pursuant to the methodology in Subsection B of Section 22-24-5 NMSA 1978, would be less than fifty percent; and 4) for all educational purposes, the school district has a residential property tax rate of at least seven dollars (\$7.00) on each one thousand dollars (\$1,000) of taxable value, as measured by the sum of all rates imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds.

L. Upon application by a school district, allocations from the fund may be made by the council for the purpose of demolishing abandoned school district facilities; provided that:

(1) the costs of continuing to insure an abandoned facility outweigh any potential benefit when and if a new facility is needed by the school district;

(2) there is no practical use for the abandoned facility without the expenditure of substantial renovation costs; and

(3) the council may enter into an agreement with the school district to fully fund the demolition of the abandoned school district facility if Paragraphs (1) and (2) of this subsection are satisfied.

M. Up to ten million dollars (\$10,000,000) of the fund may be expended each year for an education technology infrastructure deficiency corrections initiative pursuant to Section 22-24-4.5 NMSA 1978; provided that funding allocated pursuant to this section shall be expended within three years of its allocation.

N. For each fiscal year from 2018 through 2022, twenty-five million dollars (\$25,000,000) of the fund is reserved for appropriation by the legislature to the

instructional material fund or to the transportation distribution of the public school fund. The secretary shall certify the need for the issuance of supplemental severance tax bonds to meet an appropriation from the public school capital outlay fund to the instructional material fund or to the transportation distribution of the public school fund. Any portion of an amount of the public school capital outlay fund that is reserved for appropriation by the legislature for a fiscal year, but that is not appropriated before the first day of that fiscal year, may be expended by the council as provided in this section.

O. Up to ten million dollars (\$10,000,000) of the fund may be expended in each of fiscal years 2019 through 2022 for school security system project grants made in accordance with Section 22-24-4.7 NMSA 1978.

P. The fund may be expended in each of fiscal years 2020 through 2024 for a pre-kindergarten classroom facilities initiative in accordance with Section 22-24-12 NMSA 1978.

Q. The council may fund pre-kindergarten classrooms with a qualifying, awarded standards-based project; provided that pre-kindergarten classroom space shall not be included in the project prioritization calculation adopted by the council pursuant to Section 22-24-5 NMSA 1978. The council shall develop pre-kindergarten classroom standards to use when funding pre-kindergarten space."

## **LAWS 2021, CHAPTER 28**

**Senate Bill 51**  
**Approved April 5, 2021**

AN ACT

RELATING TO CHARTER SCHOOLS; PROVIDING AN ENROLLMENT PREFERENCE FOR STUDENTS WHOSE PARENTS ARE EMPLOYEES OF THE CHARTER SCHOOL.

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

## **Chapter 28 Section 1 Laws 2021**

SECTION 1. Section 22-8B-4.1 NMSA 1978 (being Laws 2000, Chapter 82, Section 3) is amended to read:

"22-8B-4.1. CHARTER SCHOOLS' ENROLLMENT PROCEDURES.--

A. Start-up schools and conversion schools are subject to the following enrollment procedures:

(1) a start-up school may either enroll students on a first-come, first-served basis or through a lottery selection process if the total number of applicants exceeds the number of spaces available at the start-up school; and

(2) a conversion school shall give enrollment preference to students who are enrolled in the public school at the time it is converted into a charter school and to siblings of students admitted to or attending the charter school. The conversion school may either enroll all other students on a first-come, first-served basis or through a lottery selection process if the total number of applicants exceeds the number of spaces available at the conversion school.

B. In subsequent years of its operation, a charter school shall give enrollment preference to:

(1) students who have been admitted to the charter school through an appropriate admission process and remain in attendance through subsequent grades;

(2) children of employees employed by the charter school; and

(3) siblings of students already admitted to or attending the same charter school."

## **Chapter 28 Section 2 Laws 2021**

SECTION 2. APPLICABILITY.--The provisions of this act apply to the 2021-2022 school year and subsequent school years.

## **Chapter 28 Section 3 Laws 2021**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

# **LAWS 2021, CHAPTER 29**

**Senate Bill 64**  
**Approved April 5, 2021**

AN ACT

RELATING TO PUBLIC FINANCE; CLARIFYING THE TYPES OF FEDERALLY INSURED OBLIGATIONS IN WHICH COUNTY AND MUNICIPAL TREASURERS MAY INVEST CERTAIN PUBLIC MONEY; MAKING A TECHNICAL CORRECTION.

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

## **Chapter 29 Section 1 Laws 2021**

SECTION 1. Section 6-10-10 NMSA 1978 (being Laws 1933, Chapter 175, Section 4, as amended) is amended to read:

"6-10-10. DEPOSIT AND INVESTMENT OF FUNDS.--

A. Upon the certification or designation of a bank, savings and loan association or credit union whose deposits are insured by an agency of the United States to receive public money on deposit, the state treasurer and county or municipal treasurers who have on hand any public money by virtue of their offices shall make deposit of that money in banks and savings and loan associations and may make deposit of that money in credit unions whose deposits are insured by an agency of the United States, designated by the authority authorized by law to so designate to receive the deposits of all money thereafter received or collected by the treasurers.

B. County or municipal treasurers may deposit money in one or more accounts with any such bank, savings and loan association or credit union located in their respective counties, subject to the limitation on credit union accounts.

C. The state treasurer may deposit money in one or more accounts with any such bank, savings and loan association or credit union, subject to the limitation on credit union accounts.

D. Duplicate receipts or deposit slips shall be taken for each deposit made pursuant to Subsection A, B or C of this section. When deposits are made by the state treasurer, one copy of the receipt or deposit slip shall be retained by the state treasurer and the other copy shall be filed monthly on the first day of each month with the financial control division of the department. When deposits are made by the treasurer or any other authorized person making the deposits for a board of finance of a public or educational institution, one copy of the receipt or deposit slip shall be retained by the treasurer or authorized person making the deposit and the other copy shall be filed monthly on the first day of each month with that board of finance. When deposits are made by a county or municipal treasurer, one of the duplicate receipts or deposit slips shall be retained by the treasurer making the deposit and the other copy shall be filed monthly on the first day of each month with the secretary of the board of finance of the county or municipality for which that treasurer is acting.

E. As used in this section:

(1) "deposit" means either investment or deposit and includes share, share certificate and share draft;

(2) "investment policy" means a document drafted between the treasurer and the board of finance that describes the parameters for investing government funds and identifies the investment objectives, preferences or tolerances for risk and constraints on the investment portfolio. The investment policy applies to all financial assets, including general funds, special revenues, capital projects funds, enterprise funds, debt issuance proceeds, debt service funds, debt service reserves, permanent funds and agency funds;

(3) "supranational issuer" means an international development institution formed by two or more central governments. "Supranational issuer" includes the international bank for reconstruction and development, the international finance corporation and the inter-American development bank; and

(4) "United States government sponsored enterprises" includes federal home loan banks, the federal home loan mortgage corporation, the federal national mortgage association, the federal farm credit banks funding corporation, the federal agricultural mortgage corporation and the government national mortgage association.

F. County or municipal treasurers, with the advice and consent of their respective boards of finance charged with the supervision and control of the respective funds, may invest all sinking funds or money remaining unexpended from the proceeds of any issue of bonds or other negotiable securities of any county, municipality or school district that is entrusted to their care and custody and all money not immediately necessary for the public uses of the counties, municipalities or school districts not invested or deposited in banks, savings and loan associations or credit unions in:

(1) bonds or negotiable securities of the United States, the state or a county, municipality or school district that has a taxable valuation of real property for the



last preceding year of at least one million dollars (\$1,000,000) and that has not defaulted in the payment of any interest or sinking fund obligation or failed to meet any bonds at maturity at any time within five years last preceding and that have a maturity date that does not exceed ten years from the date of purchase;

(2) securities that are issued and backed by the full faith and credit of the United States government or issued by its agencies or instrumentalities, including securities issued by federal home loan banks, the federal home loan mortgage corporation, the federal national mortgage association, the federal farm credit banks funding corporation, the federal agricultural mortgage corporation or the government national mortgage association and that have a maturity date that does not exceed ten years from the date of purchase; or

(3) federally insured obligations, including brokered certificates of deposit, certificate of deposit account placement services and federally insured cash accounts.

G. It shall be the duty of the treasurer to bring amendments to the investment policy to the board of finance and obtain consent before such amendments take effect. The investment policy shall be reviewed at least every two years. The treasurer of a class A county or the treasurer of a municipality having a population of more than sixty-five thousand according to the most recent federal decennial census and located within a class A county, with the advice and consent of the boards of finance, charged with the supervision and control of the funds as can be reflected by an investment policy that is amended by the treasurer and approved by the board of finance, may invest all sinking funds or money remaining unexpended from the proceeds of any issue of bonds or other negotiable securities of the county or municipality that is entrusted to the treasurer's care and custody and all money not immediately necessary for the public uses of the county or municipality not invested or deposited in banks, savings and loan associations or credit unions in:

(1) shares of a diversified investment company registered pursuant to the federal Investment Company Act of 1940 that invests in fixed-income securities or

debt instruments that passively match or track the components of a broad-market, fixed-income-securities market index; provided that the investment company or manager has total assets under management of at least one hundred million dollars (\$100,000,000) and provided that the board of finance of the county or municipality may allow reasonable administrative and investment expenses to be paid directly from the income or assets of these investments;

(2) shares of pooled investment funds managed by the state investment officer, as provided in Subsection I of Section 6-8-7 NMSA 1978; provided that the board of finance of the county or municipality may allow reasonable administrative and investment expenses to be paid directly from the income or assets of these investments;

(3) securities that are issued by a supranational issuer and that:

(a) are eligible for purchase and sale within the United States;

(b) are denominated in United States dollars;

(c) have a maturity date that does not exceed five years from the date of purchase; and

(d) are rated "AA" or its equivalent or better by a nationally recognized statistical rating organization;

(4) commercial paper rated "A1" or "P1", also known as "prime" quality, by a nationally recognized statistical rating organization, issued by corporations organized and operating within the United States and having a maturity at purchase of no longer than one hundred eighty days; or

(5) shares of an open-ended diversified investment company that:

(a) is registered with the United States securities and exchange commission;

(b) complies with the diversification, quality and maturity requirements of Rule 2a-7, or any successor rule, of the United States securities and exchange commission applicable to money market mutual funds; and

(c) assesses no fees pursuant to Rule 12b-1, or any successor rule, of the United States securities and exchange commission, no sales load on the purchase of shares and no contingent deferred sales charge or other similar charges, however designated, provided that the county or municipality shall not, at any time, own more than five percent of a money market mutual fund's assets.

H. A local public body, with the advice and consent of the body charged with the supervision and control of the local public body's respective funds, may invest all sinking funds or money remaining unexpended from the proceeds of any issue of bonds or other negotiable securities of the investor that is entrusted to the local public body's care and custody and all money not immediately necessary for the public uses of the investor and not otherwise invested or deposited in banks, savings and loan associations or credit unions in contracts with banks, savings and loan associations or credit unions for the present purchase and resale at a specified time in the future of specific securities at specified prices at a price differential representing the interest income to be earned by the investor. The contract shall be fully secured by obligations of the United States or the securities of its agencies, instrumentalities or United States government sponsored enterprises having a market value of at least one hundred two percent of the contract. The collateral required for investment in the contracts provided for in this subsection shall be shown on the books of the financial institution as being the property of the investor and the designation shall be contemporaneous with the investment. As used in this subsection, "local public body" includes all political subdivisions of the state and agencies, instrumentalities and institutions thereof; provided that home rule municipalities that prior to July 1, 1994 had enacted ordinances authorizing the investment of repurchase agreements may continue investment in repurchase agreements pursuant to those ordinances.

I. The state treasurer, with the advice and consent of the state board of finance, may invest money held in demand deposits and not immediately needed for the operation of state government and money held in the local government investment pool, except as provided in Section 6-10-10.1 NMSA 1978. The investments may be made in securities that are issued and backed by the full faith and credit of the United States government or issued by its agencies or instrumentalities, including securities issued by all United States government sponsored enterprises.

J. The state treasurer, with the advice and consent of the state board of finance, may also invest in contracts for the present purchase and resale at a specified time in the future, not to exceed one year or, in the case of bond proceeds, not to exceed three years, of specific securities at specified prices at a price differential representing the interest income to be earned by the state. Such contract shall not be invested in unless the contract is fully secured by obligations of the United States, its agencies, instrumentalities or United States government sponsored enterprises or by other securities backed by the United States, its agencies, instrumentalities or United States government sponsored enterprises having a market value of at least one hundred two percent of the amount of the contract. The securities required as collateral under this subsection shall be delivered to a third-party custodian bank pursuant to a contract with the state and the counterparty or to the fiscal agent of New Mexico or its designee. Delivery shall be made simultaneously with the transfer of funds or as soon as practicable, but no later than the same day that the funds are transferred.

K. The state treasurer, with the advice and consent of the state board of finance, may also invest in contracts for the temporary exchange of state-owned securities for the use of broker-dealers, banks or other recognized institutional investors in securities, for periods not to exceed one year for a specified fee rate. Such contract shall not be invested in unless the contract is fully secured by exchange of an irrevocable letter of credit running to the state, cash or equivalent collateral of at least one hundred two percent of the market value of the securities plus accrued interest temporarily exchanged. The collateral required by this subsection shall be delivered to the state of New Mexico or its designee simultaneously with the transfer of funds or as

soon as practicable, but no later than the same day that the state-owned securities are transferred.

L. Neither of the contracts in Subsection J or K of this section shall be invested in unless the contracting bank, brokerage firm or recognized institutional investor has a net worth in excess of five hundred million dollars (\$500,000,000).

M. The state treasurer, with the advice and consent of the state board of finance, may also invest in any of the following investments in an amount not to exceed forty percent of any fund that the state treasurer invests:

(1) commercial paper rated "prime" quality by a national rating service, issued by corporations organized and operating within the United States;

(2) medium-term notes and corporate notes with a maturity not exceeding five years that are rated "A" or its equivalent or better by a nationally recognized rating service and that are issued by a corporation organized and operating in the United States; or

(3) an asset-backed obligation with a maturity not exceeding five years that is rated "AAA" or its equivalent by a nationally recognized rating service.

N. The state treasurer, with the advice and consent of the state board of finance, may also invest in:

(1) shares of an open-ended diversified investment company that:

(a) is registered with the United States securities and exchange commission;

(b) complies with the diversification, quality and maturity requirements of Rule 2a-7, or any successor rule, of the United States securities and exchange commission applicable to money market mutual funds; and

(c) assesses no fees pursuant to Rule 12b-1, or any successor rule, of the United States securities and exchange commission, no sales load on the purchase of shares and no contingent deferred sales charge or other similar charges, however designated, provided that the state shall not, at any time, own more than five percent of a money market mutual fund's assets;

(2) individual, common or collective trust funds of banks or trust companies that invest in United States fixed-income securities or debt instruments authorized pursuant to Subsections I, J and M of this section, provided that the investment manager has assets under management of at least one billion dollars (\$1,000,000,000) and the investments made by the state treasurer pursuant to this paragraph are less than five percent of the assets of the individual, common or collective trust fund;

(3) the local government investment pool managed by the office of the state treasurer. Investments made pursuant to this paragraph shall, in aggregate, be no more than thirty-five percent of the total assets of the local government investment pool;

(4) securities issued by the state of New Mexico, its agencies, institutions, counties, municipalities, school districts, community college districts or other subdivisions of the state, or as otherwise provided by law;

(5) securities issued by states other than New Mexico or governmental entities in states other than New Mexico; or

(6) securities that are issued by a supranational issuer and that:

(a) are eligible for purchase and sale within the United States;

(b) are denominated in United States dollars;

(c) have a maturity date that does not exceed five years from the date of purchase; and

(d) are rated "AA" or its equivalent or better by a nationally recognized statistical rating organization.

O. Public funds to be invested in negotiable securities or loans to financial institutions fully secured by negotiable securities at current market value shall not be paid out unless there is a contemporaneous transfer of the securities at the earliest time industry practice permits, but in all cases, settlement shall be on a same-day basis either by physical delivery or, in the case of uncertificated securities, by appropriate book entry on the books of the issuer, to the purchaser or to a reputable safekeeping financial institution acting as agent or trustee for the purchaser, which agent or trustee shall furnish timely confirmation to the purchaser."

## **LAWS 2021, CHAPTER 30**

**Senate Bill 70**  
**Approved April 5, 2021**

AN ACT

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

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

### **Chapter 30 Section 1 Laws 2021**

#### SECTION 1. APPROPRIATIONS.--

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

(1) two million five hundred thousand dollars (\$2,500,000) to the drinking water state revolving loan fund for expenditure in fiscal year 2022 and subsequent fiscal years to provide state matching funds for federal Safe Drinking Water Act of 1974 projects and to carry out the purposes of the Drinking Water State Revolving Loan Fund Act;

(2) two million dollars (\$2,000,000) to the local government planning fund administered by the New Mexico finance authority for expenditure in fiscal year 2022 and subsequent fiscal years to make grants to qualified entities; to evaluate and estimate the costs of implementing the most feasible alternatives for infrastructure, water and wastewater public project needs; or to develop water conservation plans, long-term master plans, economic development plans or energy audits; and to pay the administrative costs of the local government planning program;

(3) one million eight hundred thousand dollars (\$1,800,000) to the wastewater facility construction loan fund pursuant to Section 6-21-6.1 NMSA 1978 for expenditure in fiscal year 2022 and subsequent fiscal years to provide state matching funds for federal Clean Water Act of 1977 projects and to carry out the purposes of the Wastewater Facility Construction Loan Act; and

(4) five million dollars (\$5,000,000) to the cultural affairs facilities infrastructure fund for expenditure in fiscal year 2022 and subsequent fiscal years to carry out the purposes of the fund.

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

## **LAWS 2021, CHAPTER 31**

**SJC/SJC/Senate Bill 71, aa**  
**Approved April 5, 2021**



## AN ACT

RELATING TO CONSUMER PROTECTION; ENACTING THE PATIENTS' DEBT COLLECTION PROTECTION ACT; PREVENTING COLLECTION FROM INDIGENT PATIENTS; REQUIRING HEALTH CARE FACILITIES TO SCREEN PATIENTS FOR ASSISTANCE ELIGIBILITY; REQUIRING HEALTH CARE FACILITIES AND THIRD-PARTY HEALTH CARE PROVIDERS TO REPORT HOW CERTAIN PUBLIC FUNDS ARE SPENT; LIMITING ENFORCEABILITY OF CERTAIN JUDGMENTS; ADDING TO THE DEFINITION OF "COLLECTION AGENCY" IN THE COLLECTION AGENCY REGULATORY ACT; REMOVING ATTORNEY FEES AND COSTS FOR CERTAIN SUITS BY COLLECTION AGENCIES; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

### **Chapter 31 Section 1 Laws 2021**

SECTION 1. A new section of Chapter 57 NMSA 1978 is enacted to read:

"SHORT TITLE.--Sections 1 through 10 of this act may be cited as the "Patients' Debt Collection Protection Act"."

### **Chapter 31 Section 2 Laws 2021**

SECTION 2. A new section of Chapter 57 NMSA 1978 is enacted to read:

"DEFINITIONS.--As used in the Patients' Debt Collection Protection Act:

A. "collection action" means any of the following:

(1) selling a person's medical debt to another party, including a medical debt collector, but not including medical debt as part of the assets and liabilities when selling a health care facility or third-party health care provider; or

(2) actions that require a legal or judicial process, including:

(a) placing a lien on a person's property;

(b) attaching or seizing a person's bank account or any other personal property;

(c) commencing a civil action against a person; or

(d) garnishing a person's wages;

B. "consumer" means a natural person;

C. "department" means the human services department;

D. "health care facility" means:

(1) a health facility required to be licensed by the department of health, except for:

(a) an adult day care facility;

(b) a boarding home not under the control of an institution of higher learning;

(c) a child care center; and

(d) a shelter care home; or

(2) a health facility that is an urgent care center or freestanding emergency room that is required to be licensed by the regulation and licensing department;

E. "health care services" means services for the diagnosis, prevention, treatment, cure or relief of a physical, dental, behavioral or mental health condition, substance use disorder, illness, injury or disease, which services include procedures, products, devices or medications;

F. "household income" means income calculated by using the methods used to calculate medicaid eligibility;

G. "indigent patient" means a patient with a household income that does not exceed two hundred percent of the federal poverty level;

H. "medical creditor" means a person that provides health care services and to whom the consumer owes money for those services or the person that provided health care services and to whom the consumer previously owed money if the medical debt has been purchased by one or more medical debt buyers;

I. "medical debt" means a debt arising from the receipt of health care services;

J. "medical debt buyer" means a person that is engaged in the business of purchasing medical debts for collection purposes, whether that person collects the debt or hires a third party for collection or an attorney for litigation in order to collect such debt;

K. "medical debt collector" means a person that regularly collects or attempts to collect, directly or indirectly, medical debts originally owed or due or asserted to be owed or due to another person. A medical debt buyer is considered to be a medical debt collector for all purposes of the Patients' Debt Collection Protection Act;

L. "patient" means the person who received health care services or a parent or legal guardian of a minor or an adult under guardianship who received health care services;

M. "superintendent" means the superintendent of insurance; and

N. "third-party health care provider" means a licensed health care professional or an entity with revenues of at least twenty million dollars (\$20,000,000) annually, when billing patients independently for health care services provided in a health care facility."

## **Chapter 31 Section 3 Laws 2021**

SECTION 3. A new section of Chapter 57 NMSA 1978 is enacted to read:

### **"REQUIREMENT TO PROVIDE SCREENING FOR INSURANCE AND PROGRAM ELIGIBILITY.--**

A. In addition to any other actions required by applicable state or federal law or local government ordinance, health care facilities shall take the following steps before seeking payment for emergency or medically necessary care:

(1) offer to and, if requested, verify whether a patient has any health insurance;

(2) if the patient is uninsured, offer information about, offer to screen the patient for and, if requested, screen the patient for:

(a) all available public insurance;

(b) any other public programs that may assist with health care costs; and

(c) any financial assistance offered by the health care facility;

(3) offer to and, if requested, provide assistance with the application process for programs identified during the screening; and

(4) if a third-party health care provider will bill the patient, send the information gathered during the steps required pursuant to this subsection to the third-party health care provider.

B. In addition to any other actions required by applicable state or federal law or local government ordinance, a third-party health care provider shall not seek payment for emergency or medically necessary care until the third-party health care provider receives the information required pursuant to Paragraph (4) of Subsection A of this section.

C. The superintendent shall promulgate rules to establish minimum standards governing the requirements of this section and shall provide health care facilities and third-party health care providers with guidance on billing and screening best practices, based on health care facility type and size, that includes policies to prevent the disclosure of patients' personal information to third parties."

## **Chapter 31 Section 4 Laws 2021**

SECTION 4. A new section of Chapter 57 NMSA 1978 is enacted to read:

"INDIGENT PATIENTS--PATIENTS' DEBT COLLECTION PROTECTIONS.--

A. For patients who are determined to be indigent patients, charges for health care services and medical debt shall not be pursued through collection actions. All collection actions through which charges for health care services and medical debt are pursued shall be terminated upon the determination that a patient is an indigent patient. Health care facilities, third-party health care providers and medical creditors

shall not hire or otherwise engage third parties to perform collection actions against or otherwise recover debts from indigent patients.

B. The superintendent shall promulgate rules to establish the process by which a patient is determined to be an indigent patient for purposes of this section. The rules shall take into account both permanent and temporary sources of income."

## **Chapter 31 Section 5 Laws 2021**

SECTION 5. A new section of Chapter 57 NMSA 1978 is enacted to read:

"DEPARTMENT GUIDANCE ON FUNDING SOURCES, BILLING AND SCREENING.--The department shall provide health care facilities and third-party health care providers with guidance on accessing available sources of funding for care that maximizes the use of funds in the following order of priority:

- A. federal funds;
- B. state funds; and
- C. other available funds."

## **Chapter 31 Section 6 Laws 2021**

SECTION 6. A new section of Chapter 57 NMSA 1978 is enacted to read:

"BILLING INFORMATION.--

A. All bills sent from a health care facility, third-party health care provider or medical creditor to a patient shall include a complete and plain-language description of the date, amount and nature of all charges; if the patient is verified as having health insurance; if the health care facility screened the patient for programs that assist with

health care costs; and if the health care facility or third-party health care provider has billed or will bill insurance or public programs that may assist with health care costs for the services provided. Prior to initiating communication with a consumer or a collection action over medical debt, a medical debt collector shall have all billing information required in this subsection as allowed under the provisions of the federal Health Insurance Portability and Accountability Act of 1996.

B. In communications with a consumer about medical debt, including communication related to collection actions, a health care facility, third-party health care provider, medical creditor or medical debt collector shall inform the consumer of the availability of the information required pursuant to Subsection A of this section and offer to provide that information to the consumer; provided that the information required pursuant to this section need only be provided to a requester once every thirty days."

## **Chapter 31 Section 7 Laws 2021**

SECTION 7. A new section of Chapter 57 NMSA 1978 is enacted to read:

"RECEIPTS FOR PAYMENTS.--

A. Within thirty business days of receipt of a payment on a medical debt, the health care facility, third-party health care provider, medical creditor, medical debt collector or their agents receiving the payment shall send a receipt to the person who made the payment. The receipt may take the form of a billing statement. All receipts shall show:

- (1) the amount paid;
- (2) the date payment was received;
- (3) the new balance after application of the payment;

- (4) the interest rate and interest accrued since the consumer's last payment;
- (5) the consumer's account number;
- (6) the name of the current owner of the debt and, if different, the name of the medical creditor; and
- (7) whether the payment is accepted as payment in full of the debt.

B. All health care facilities, third-party health care providers, medical creditors and medical debt collectors shall apply payments as of the date payment was received or, if received after business hours, the next business day, and use that date when assessing penalties or interest accumulation."

## **Chapter 31 Section 8 Laws 2021**

SECTION 8. A new section of Chapter 57 NMSA 1978 is enacted to read:

"INDIGENT CARE REPORTING REQUIREMENTS.--

A. Health care facilities and third-party health care providers shall annually report to the department how the following funds are used:

- (1) indigent care funds and safety net care pool funds pursuant to the Indigent Hospital and County Health Care Act; and
- (2) funds raised to pay the cost of operating and maintaining county hospitals, pay contracting hospitals in accordance with health care facilities contracts or pay a county's transfer to the county-supported medicaid fund pursuant to the Hospital Funding Act.



B. A health care facility's or third-party health care provider's report to the department shall include:

(1) the number of indigent patients whose health care costs were paid directly from the funds described in Subsection A of this section and the total amount of funds expended for these health care costs; and

(2) as applicable, the health care facility's estimated annual amount and percentage of the health care facility's bad debt expense attributable to patients eligible under the health care facility's financial assistance policy and an explanation of the methodology used by the health care facility to estimate this amount and percentage.

C. A health care facility's or third-party health care provider's report shall be available to the public via a link from the homepage of the health care facility's or third-party health care provider's website."

## **Chapter 31 Section 9 Laws 2021**

SECTION 9. A new section of Chapter 57 NMSA 1978 is enacted to read:

"WAIVER OF RIGHTS.--

A. A consumer shall not be required to exhaust any administrative remedies provided by the provisions of the Patients' Debt Collection Protection Act or other applicable law before seeking legal or equitable relief.

B. A financial assistance policy or agreement between a patient and a health care facility, third-party health care provider, medical creditor or medical debt collector shall not contain any provision that, prior to a dispute arising, waives or has the practical effect of waiving the rights of a patient to resolve that dispute by obtaining:

- (1) injunctive, declaratory or other equitable relief;
- (2) multiple or minimum damages as specified by statute;
- (3) attorney fees and costs as specified by statute or as available at common law; or
- (4) a hearing at which that party can present evidence in person.

C. A provision in a financial assistance policy or other written agreement that violates the provisions of Subsection B of this section is void and unenforceable. A court may refuse to enforce other provisions of the financial assistance policy or other written agreement as equity may require.

D. A waiver by a patient or other consumer of any protection provided by or any right of the patient or other consumer pursuant to the Patients' Debt Collection Protection Act is void and shall not be enforced by any court or any other person."

## **Chapter 31 Section 10 Laws 2021**

SECTION 10. A new section of Chapter 57 NMSA 1978 is enacted to read:

"ENFORCEMENT.--

A. The attorney general shall enforce the provisions of the Patients' Debt Collection Protection Act and shall adopt rules in accordance with that act to provide for the protection of patients and their families and to assist market participants in interpreting that act.

B. The attorney general shall establish a complaint process whereby an aggrieved patient or a member of the public may file a complaint against a health care facility, third-party health care provider, medical creditor or medical debt collector that

violates a provision of the Patients' Debt Collection Protection Act. All complaints shall be considered public records pursuant to the Inspection of Public Records Act, with the exception of the complainant's name, address or protected personal identifier information defined in the Inspection of Public Records Act."

## **Chapter 31 Section 11 Laws 2021**

SECTION 11. Section 37-1-2 NMSA 1978 (being Laws 1891, Chapter 53, Section 2, as amended) is amended to read:

"37-1-2. JUDGMENTS.--Actions founded upon a judgment of a court of the state may be brought within fourteen years from the date of the judgment and not afterward. Actions founded upon a judgment of a court of record of another state or territory of the United States, or of the federal courts, may be brought within the applicable period of limitation within that jurisdiction, not to exceed fourteen years from the date of the judgment, and not afterward. A judgment obtained through a common law action on a prior judgment or through any other means of revival of a prior judgment shall not be enforceable after fourteen years from the date of the original judgment upon which it is founded."

## **Chapter 31 Section 12 Laws 2021**

SECTION 12. Section 61-18A-2 NMSA 1978 (being Laws 1987, Chapter 252, Section 2, as amended) is amended to read:

"61-18A-2. DEFINITIONS.--As used in the Collection Agency Regulatory Act:

A. "division" means the financial institutions division of the regulation and licensing department;

B. "director" means the director of the division or a duly authorized agent designated by the director;

C. "collection agency" means a person engaging in business for the purpose of collecting or attempting to collect, directly or indirectly, debts owed or due or asserted to be owed or due another, where such person is so engaged by two or more creditors, or a person engaging in the business the principal purpose of which is the collection of debts. The term also includes a creditor who, in the process of collecting the creditor's own debts, uses any name other than the creditor's own that would indicate that a third person is collecting or attempting to collect the debts. The term does not include:

(1) an officer or employee of a creditor while, in the name of the creditor, collecting debts for such creditor;

(2) a person while collecting debts for another person, both of whom are related by common ownership or affiliated by corporate control, if the person collects debts only for persons to whom it is so related or affiliated and if the principal business of such person is not the collection of debts;

(3) an officer or employee of the United States, a state or a political subdivision thereof to the extent that collecting or attempting to collect a debt is in the performance of official duties;

(4) a person while serving or attempting to serve legal process on any other person in connection with the judicial enforcement of a debt;

(5) a nonprofit organization that, at the request of debtors, performs bona fide consumer credit counseling and assists debtors in the liquidation of their debts by receiving payments from such debtors and distributing such amounts to creditors;

(6) an attorney-at-law collecting a debt as an attorney on behalf of and in the name of a client; or

(7) a person collecting or attempting to collect a debt owed or due or asserted to be owed or due to another to the extent such activity:

- (a) is incidental to a bona fide fiduciary obligation or a bona fide escrow arrangement;
- (b) concerns a debt that was originated by such person;
- (c) concerns a debt that was not in default at the time it was obtained by such person; or
- (d) concerns a debt obtained by such person as a secured party in a commercial credit transaction involving the creditor;

D. "communication" means the conveying of information regarding a debt directly or indirectly to a person through any medium;

E. "creditor" means a person who offers or extends credit creating a debt or to whom a debt is owed, but the term does not include a person to the extent that the person receives an assignment or transfer of a debt in default solely for the purpose of facilitating collection of such debt for another;

F. "debt" means an obligation or alleged obligation of a debtor to pay money arising out of a transaction in which the money, property, insurance or services that are the subject of the transaction are primarily for personal, family or household purposes, whether or not such obligation has been reduced to judgment;

G. "debt collector" means a collection agency, a reposessor, a manager, a solicitor and an attorney-at-law collecting a debt as an attorney on behalf of and in the name of a client;

H. "debtor" means a natural person obligated or allegedly obligated to pay a debt;

I. "location information" means a debtor's place of abode and the telephone number at such place or the debtor's place of employment;

J. "manager" means a natural person who qualifies under the Collection Agency Regulatory Act to be in full-time charge of a licensed collection agency and to whom a manager's license has been issued by the director;

K. "nationwide multistate licensing system and registry" means a licensing system developed and maintained by the conference of state bank supervisors and the American association of residential mortgage regulators pursuant to the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 to manage mortgage licenses and other financial services licenses, or a successor registry;

L. "person" means an individual, corporation, partnership, association, joint-stock company, trust where the interests of the beneficiaries are evidenced by a security, unincorporated organization, government or political subdivision of a government;

M. "repossessor" means a person engaged solely in the business of repossessing personal property for others for a fee. The term does not include a duly licensed collection agency; and

N. "solicitor" means a natural person who, through lawful means, communicates with debtors or solicits the payment of debts for a collection agency licensee by the use of telephone, personal contact, letters or other methods of collection conducted from and within the licensee's office."

## **Chapter 31 Section 13 Laws 2021**

SECTION 13. Section 61-18A-26 NMSA 1978 (being Laws 1987, Chapter 252, Section 26) is amended to read:

"61-18A-26. ASSIGNMENTS--RIGHT TO SUE.--Nothing in the Collection Agency Regulatory Act shall be construed to prevent collection agencies from taking assignments of claims in their own name as real parties in interest for the purpose of

billing and collection and bringing suit in their own names; provided that no suit allowed by this section may be instituted on behalf of a collection agency in a court unless the collection agency appears by a duly authorized and licensed attorney-at-law."

## **Chapter 31 Section 14 Laws 2021**

SECTION 14. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

# **LAWS 2021, CHAPTER 32**

**Senate Bill 73**  
**Approved April 5, 2021**

AN ACT

RELATING TO TRANSPORTATION; PROVIDING THAT FEES IMPOSED BY THE FEDERAL UNIFIED CARRIER REGISTRATION ACT OF 2005 SHALL BE DEPOSITED IN THE MOTOR TRANSPORTATION FEE FUND; MAKING AN APPROPRIATION.

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

## **Chapter 32 Section 1 Laws 2021**

SECTION 1. Section 65-2A-16 NMSA 1978 (being Laws 2003, Chapter 359, Section 16, as amended by Laws 2013, Chapter 73, Section 15 and by Laws 2013, Chapter 77, Section 15) is amended to read:

"65-2A-16. INTERSTATE MOTOR CARRIERS.--

A. Foreign and domestic motor carriers, motor private carriers, leasing companies, brokers and freight forwarders shall not operate in interstate commerce in this state without first registering with a base state and paying all fees as required under the federal Unified Carrier Registration Act of 2005. The commission is authorized to register applicants and collect all fees without notice or a public hearing.

B. The commission is authorized to follow rules and collect fee assessments set by the federal secretary of transportation from foreign and domestic motor carriers, motor private carriers, leasing companies, brokers and freight forwarders and do all things necessary to enable New Mexico to participate in the federal unified carrier registration system pursuant to the federal Unified Carrier Registration Act of 2005, including the collection of an equal amount of revenue as was collected by the commission in the last registration year under Section 4005 of the federal Intermodal Surface Transportation Efficiency Act of 1991 and the collection of an equal amount of revenue annually from all other sources allowed under the federal Unified Carrier Registration Act of 2005 in the last year that such collections were not prohibited by federal law.

C. The commission is the state agency in New Mexico responsible for operation of the federal Unified Carrier Registration Act of 2005, including participating in the development, implementation and administration of the unified carrier registration agreement. The commission is authorized to follow rules governing the unified carrier registration agreement issued under the unified carrier registration plan by its board of directors.

D. Revenue remitted to the state from fees imposed by the federal Unified Carrier Registration Act of 2005 shall be remitted to the state treasurer, who shall deposit the revenue in the motor transportation fee fund.

E. Compliance by an interstate motor carrier with the provisions of the federal Unified Carrier Registration Act of 2005 shall not authorize a carrier to provide intrastate transportation services in New Mexico. An interstate motor carrier wishing to provide compensated transportation in intrastate commerce shall apply for the appropriate



intrastate operating authority from the commission. A taxicab service or shuttle service traveling to or from a federally licensed airport terminal facility located in the state of New Mexico is engaged in nonexempt intrastate business within the state regardless of a prior exemption if its service provides, with regard to any service run, for both:

- (1) initiation of the transportation of one or more passengers within this state; and
- (2) delivery to a departure point within this state of one or more passengers whose transportation on that service run was initiated at a point within this state."

## **LAWS 2021, CHAPTER 33**

**Senate Bill 77**  
**Approved April 5, 2021**

AN ACT

RELATING TO HIGHER EDUCATION; CREATING THE REGIONAL TWO PLUS TWO PILOT PROJECT TO ESTABLISH A SEAMLESS TRANSITION FROM COMMUNITY COLLEGE TO UNIVERSITY AND MEASURE STUDENT AND INSTITUTIONAL OUTCOMES.

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

### **Chapter 33 Section 1 Laws 2021**

SECTION 1. REGIONAL TWO PLUS TWO PILOT PROJECT--ELIGIBILITY--  
EVALUATION AND REPORTING.--

A. "Two plus two" is created as a six-year pilot project in which public post-secondary educational institutions in the southeastern region of the state join to establish a seamless transition from community college to university to:

- (1) improve graduation rates at both educational systems;
- (2) reduce student credit hour accumulation;
- (3) reduce student debt;
- (4) reduce student remediation; and
- (5) increase collaboration and efficiency by and among the southeastern region's post-secondary educational institutions.

B. The purpose of two plus two is to show that the alignment of curricula, course numbering and course credits between community colleges and state universities:

- (1) improves student success and outcomes;
- (2) improves the performance, efficiency and effectiveness of both community colleges and state universities; and
- (3) lowers cost and provides greater benefits to students, institutions and taxpayers.

C. The following public post-secondary educational institutions may participate in two plus two:

- (1) eastern New Mexico university;

(2) the Roswell branch of eastern New Mexico university and eastern New Mexico university Ruidoso branch community college;

(3) New Mexico junior college;

(4) New Mexico military institute;

(5) Clovis community college;

(6) the Carlsbad branch of New Mexico state university or the branch's successor institution; and

(7) any other public post-secondary educational institution that requests to join the pilot project.

D. Three four-year cohorts of students shall be tracked in the pilot project, beginning with those academic students in the freshman class of 2022 at the participating community colleges who declare their intention and receive a bachelor's degree at eastern New Mexico university and ending with those academic students in the freshman class of 2024.

E. The participants in two plus two shall:

(1) designate an institution to serve as lead administrator, if needed;

(2) designate a person at each institution to serve as that institution's lead administrator;

(3) determine what and how data will be collected, analyzed and evaluated to determine whether the purpose of two plus two was borne out and whether articulation changes lead to better outcomes for students and institutions; and

(4) any other matters necessary for the conduct and evaluation of two plus two.

F. The participants shall submit interim and final reports annually to the secretary of higher education and the legislature on the efficacy of two plus two. Reports shall also be filed with the legislative library at the legislative council service.

## **LAWS 2021, CHAPTER 34**

**STBTC/Senate Bill 84, aa**  
**Approved April 5, 2021**

### AN ACT

RELATING TO UTILITIES; ENACTING THE COMMUNITY SOLAR ACT; PRESCRIBING REQUIREMENTS FOR COMMUNITY SOLAR FACILITIES, SUBSCRIBER ORGANIZATIONS AND SUBSCRIPTIONS; PRESCRIBING REQUIREMENTS FOR ADMINISTRATION OF A COMMUNITY SOLAR PROGRAM; PROVIDING THAT RENEWABLE ENERGY CERTIFICATES ASSOCIATED WITH A COMMUNITY SOLAR FACILITY ARE THE PROPERTY OF THE QUALIFYING UTILITY; PROVIDING EXCEPTIONS FOR NATIVE COMMUNITY SOLAR PROJECTS; DIRECTING THE PUBLIC REGULATION COMMISSION TO ADOPT RULES TO IMPLEMENT A COMMUNITY SOLAR PROGRAM; ALLOWING THE COMMISSION TO ESTABLISH AND COLLECT FROM SUBSCRIBER ORGANIZATIONS REASONABLE APPLICATION FEES.

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

### **Chapter 34 Section 1 Laws 2021**

SECTION 1. SHORT TITLE.--Sections 1 through 9 of this act may be cited as the "Community Solar Act."

## Chapter 34 Section 2 Laws 2021

### SECTION 2. DEFINITIONS.--As used in the Community Solar Act:

- A. "commission" means the public regulation commission;
- B. "community solar bill credit" means the credit value of the electricity generated by a community solar facility and allocated to a subscriber to offset the subscriber's electricity bill on the qualifying utility's monthly billing cycle as required by the Community Solar Act;
- C. "community solar bill credit rate" means the dollar-per-kilowatt-hour rate determined by the commission that is used to calculate a subscriber's community solar bill credit;
- D. "community solar facility" means a facility that generates electricity by means of a solar photovoltaic device, and subscribers to the facility receive a bill credit for the electricity generated in proportion to the subscriber's share of the facility's kilowatt-hour output;
- E. "community solar program" or "program" means the program created through the adoption of rules by the commission that allows for the development of community solar facilities and provides customers of a qualifying utility with the option of accessing solar energy produced by a community solar facility in accordance with the Community Solar Act;
- F. "Indian nation, tribe or pueblo" means a federally recognized Indian nation, tribe or pueblo located wholly or partially in New Mexico;
- G. "low-income customer" means a residential customer of a qualifying utility with an annual household income at or below eighty percent of area median income, as published by the United States department of housing and urban development, or that is

enrolled in a low-income program facilitated by the state or a low-income energy program led by the qualifying utility or as determined by the commission;

H. "low-income service organization" means an organization that provides services, assistance or housing to low-income customers and may include a local or central tribal government, a chapter house or a tribally designated housing entity;

I. "nameplate capacity" means the maximum rated output of electric power production equipment that is commonly indicated on a nameplate physically attached to the generator and expressed in megawatts alternating current;

J. "native community solar project" means a community solar facility that is sited in New Mexico on the land of an Indian nation, tribe or pueblo and that is owned or operated by a subscriber organization that is an Indian nation, tribe or pueblo or a tribal entity or in partnership with a third-party entity;

K. "qualifying utility" means an investor-owned electric public utility certified by the commission to provide retail electric service in New Mexico pursuant to the Public Utility Act or a rural electric distribution cooperative that has opted in to the community solar program;

L. "subscriber" means a retail customer of a qualifying utility that owns a subscription to a community solar facility and that is by rate class a residential retail customer or a small commercial retail customer or, regardless of rate class, is a nonprofit organization, a religious organization, an Indian nation, tribe or pueblo or tribal entity, a municipality or a county in the state, a charter, private or public school as defined in Section 22-1-2 NMSA 1978, a community college as defined in Section 21-13-2 NMSA 1978 or a public housing authority;

M. "subscriber organization" means an entity that owns or operates a community solar facility and may include a qualifying utility, a municipality, a county, a for-profit or nonprofit entity or organization, an Indian nation, tribe, or pueblo, a local

tribal governance structure or other tribal entity authorized to transact business in New Mexico;

N. "subscription" means a contract for a community solar subscription entered into between a subscriber and a subscriber organization for a share of the nameplate capacity from a community solar facility;

O. "total aggregate retail rate" means the total amount of a qualifying utility's demand, energy and other charges converted to a kilowatt-hour rate, including fuel and power cost adjustments, the value of renewable energy attributes and other charges of a qualifying utility's effective rate schedule applicable to a given customer rate class, but does not include charges described on a qualifying utility's rate schedule as minimum monthly charges, including customer or service availability charges, energy efficiency program riders or other charges not related to a qualifying utility's power production, transmission or distribution functions, as approved by the commission, franchise fees and tax charges on utility bills;

P. "tribal entity" means an enterprise, a nonprofit entity or organization or a political subdivision formed under the inherent sovereignty of an Indian nation, tribe or pueblo; and

Q. "unsubscribed electricity" means electricity, measured in kilowatt-hours, generated by a community solar facility that is not allocated to a subscriber.

## **Chapter 34 Section 3 Laws 2021**

### **SECTION 3. COMMUNITY SOLAR FACILITY REQUIREMENTS.--**

- A. A community solar facility shall:
- (1) have a nameplate capacity rating of five megawatts alternating current or less;

(2) be located in the service territory of the qualifying utility and be interconnected to the electric distribution system of that qualifying utility;

(3) have at least ten subscribers;

(4) have the option to be co-located with other energy resources, but shall not be co-located with other community solar facilities;

(5) not allow a single subscriber to be allocated more than forty percent of the generating capacity of the facility; and

(6) make at least forty percent of the total generating capacity of a community solar facility available in subscriptions of twenty-five kilowatts or less.

B. The provisions of this section shall not apply to a native community solar project; provided that a native community solar project shall be located in the service territory of a qualifying utility and be interconnected to the electric distribution system of that qualifying utility.

## **Chapter 34 Section 4 Laws 2021**

### **SECTION 4. OWNERSHIP OF COMMUNITY SOLAR FACILITIES.--**

A. A community solar facility shall be owned or operated by a subscriber organization.

B. Third-party entities or subscriber organizations developing projects on the land of an Indian nation, tribe, or pueblo are subject to tribal jurisdiction.

C. Notwithstanding any 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 provisions of the Public Utility Act solely because the person owns, controls or operates all or any part of a community solar facility.

## **Chapter 34 Section 5 Laws 2021**

### SECTION 5. SUBSCRIPTION REQUIREMENTS.--

- A. A subscription shall be:
- (1) sized to supply no more than one hundred percent of the subscriber's average annual electricity consumption; and
  - (2) transferable and portable within the qualifying utility service territory.
- B. The provisions of this section shall not apply to a native community solar project; provided that subscriptions to a native community solar project shall be transferable and portable within the qualifying utility service territory.

## **Chapter 34 Section 6 Laws 2021**

### SECTION 6. COMMUNITY SOLAR PROGRAM ADMINISTRATION.--

- A. A qualifying utility shall:
- (1) acquire the entire output of a community solar facility connected to its distribution system;
  - (2) apply community solar bill credits to subscriber bills within one billing cycle following the cycle during which the energy was generated by the community solar facility;

(3) provide community solar bill credits to a community solar facility's subscribers for not less than twenty-five years from the date the community solar facility is first interconnected;

(4) carry over any amount of a community solar bill credit that exceeds the subscriber's monthly bill and apply it to the subscriber's next monthly bill unless and until the subscriber cancels service with the qualifying utility; and

(5) on a monthly basis and in a standardized electronic format, provide to the subscriber organization a report indicating the total value of community solar bill credits generated by the community solar facility in the prior month as well as the amount of the community solar bill credits applied to each subscriber.

B. A subscriber organization shall, on a monthly basis and in a standardized electronic format, provide to the qualifying utility a list indicating the kilowatt-hours of generation attributable to each subscriber. Subscriber lists may be updated monthly to reflect canceling subscribers and to add new subscribers.

C. If a community solar facility is not fully subscribed in a given month, the unsubscribed energy may be rolled forward on the community solar facility account for up to one year from its month of generation and allocated by the subscriber organization to subscribers at any time during that period. At the end of that period, any undistributed bill credit shall be removed, and the unsubscribed energy shall be purchased by the qualifying utility at its applicable avoided cost of energy rate as approved by the commission.

D. The environmental attributes, including renewable energy certificates, associated with a community solar facility shall be owned by the qualifying utility to whose electric distribution system the community solar facility is interconnected; provided that environmental attributes associated with a native community solar project shall be owned by the owner of the native community solar project.

E. Nothing in the Community Solar Act shall preclude an Indian nation, tribe or pueblo from using financial mechanisms other than subscription models, including virtual and aggregate net-metering, for native community solar projects.

## **Chapter 34 Section 7 Laws 2021**

### **SECTION 7. PUBLIC REGULATION COMMISSION--ENFORCEMENT AND RULEMAKING.--**

A. The commission shall administer and enforce the rules and provisions of the Community Solar Act, including regulation of subscriber organizations in accordance with the Community Solar Act and oversight and review of the consumer protections established for the community solar program.

B. The commission shall adopt rules to establish a community solar program by no later than April 1, 2022. The rules shall:

(1) provide an initial statewide capacity program cap of two hundred megawatts alternating current proportionally allocated to investor-owned utilities until November 1, 2024. The statewide capacity program cap shall exclude native community solar projects and rural electric distribution cooperatives;

(2) establish an annual statewide capacity program cap to be in effect after November 1, 2024;

(3) require thirty percent of electricity produced from each community solar facility to be reserved for low-income customers and low-income service organizations. The commission shall issue guidelines to ensure the carve-out is achieved each year and develop a list of low-income service organizations and programs that may pre-qualify low-income customers;

(4) establish a process for the selection of community solar facility projects and allocation of the statewide capacity program cap, consistent with Section 13-1-21 NMSA 1978 regarding resident business and resident veteran business preferences;

(5) require a qualifying utility to file the tariffs, agreement or forms necessary for implementation of the community solar program;

(6) establish reasonable, uniform, efficient and non-discriminatory standards, fees and processes for the interconnection of community solar facilities that are consistent with the commission's existing interconnection rules and interconnection manual that allows a qualifying utility to recover reasonable costs for administering the community solar program and interconnection costs for each community solar facility, such that a qualifying utility and its non-subscribing customers do not subsidize the costs attributable to the subscriber organization pursuant to this paragraph;

(7) provide consumer protections for subscribers, including a uniform disclosure form that identifies the information that shall be provided by a subscriber organization to a potential subscriber, in both English and Spanish, and when appropriate, native or indigenous languages, to ensure fair disclosure of future costs and benefits of subscriptions, key contract terms, security interests and other relevant but reasonable information pertaining to the subscription, as well as grievance and enforcement procedures;

(8) provide a community solar bill credit rate mechanism for subscribers derived from the qualifying utility's total aggregate retail rate on a per-customer-class basis, less the commission-approved distribution cost components, and identify all proposed rules, fees and charges; provided that non-subscribers shall not subsidize costs attributable to subscribers; and provided further that if the commission determines that it is in the public interest for non-subscribers to subsidize subscribers, non-subscribers shall not be charged more than three percent of the non-subscribers' aggregate retail rate on an annual basis to subsidize subscribers;

(9) reasonably allow for the creation, financing and accessibility of community solar facilities; and

(10) provide requirements for the siting and co-location of community solar facilities with other energy resources; provided that community solar facilities shall not be co-located with other community solar facilities.

C. The commission may through rule establish a reasonable application fee for subscriber organizations that is designed to cover a portion of the administrative costs of the commission in carrying out the community solar program. Application fees collected by the commission shall be remitted to the state treasurer no later than the day after their receipt.

D. The commission shall solicit input from relevant state agencies, public utilities, low-income stakeholders, disproportionately impacted communities, potential owners or operators of community solar facilities, Indian nations, tribes and pueblos and other interested parties in its rulemaking process.

E. By no later than November 1, 2024, the commission shall provide to the appropriate interim legislative committee a report on the status of the community solar program, including the development of community solar facilities, the participation of investor-owned utilities and rural electric distribution cooperatives, low-income participation, the adequacy of facility size, proposals for alternative rate structures and bill credit mechanisms, cross-subsidization issues, local developer project selection and expansion of the local solar industry, community solar facilities' effect on utility compliance with the renewable portfolio standard and an evaluation of the effectiveness of the commission's rules to implement the Community Solar Act and any recommended changes.

## **Chapter 34 Section 8 Laws 2021**

SECTION 8. RURAL ELECTRIC DISTRIBUTION COOPERATIVES.--A rural electric distribution cooperative may opt in to the community solar program and provide interconnection and retail electric services to community solar developments on a per-project or system-wide basis within its service territory. The decision of a rural electric distribution cooperative to opt in to the community solar program shall be in the sole discretion of the cooperative's governing board.

## **Chapter 34 Section 9 Laws 2021**

SECTION 9. Section 62-15-35 NMSA 1978 (being Laws 2007, Chapter 4, Section 2, as amended by Laws 2015, Chapter 64, Section 1 and by Laws 2015, Chapter 71, Section 1) is amended to read:

"62-15-35. RENEWABLE ENERGY CERTIFICATES--COMMISSION DUTIES.--  
The public regulation commission shall establish:

A. a system of renewable energy certificates that can be used by a distribution cooperative to establish compliance with the renewable portfolio standard and that may include certificates that are monitored, accounted for or transferred by or through a regional system or trading program for any region in which a rural electric cooperative is located. The kilowatt-hour value of renewable energy certificates may be varied by renewable energy resource or technology; provided that:

(1) each renewable energy certificate shall have a minimum value of one kilowatt-hour for purposes of compliance with the renewable portfolio standard;

(2) three thousand four hundred twelve British thermal units of useful thermal energy is equivalent to one kilowatt hour for purposes of compliance with the renewable portfolio standard; and

(3) the following equation shall be used to calculate the annual renewable energy certificate value for a geothermal heat pump system: (coefficient of performance of heat pump unit – 1) X (ton rating of heat pump unit/.9) = number of megawatt-hours of renewable energy certificates; and

B. requirements and procedures concerning renewable energy certificates that include the provisions that:

(1) renewable energy certificates:

(a) are owned by the generator of the renewable energy unless:  
1) the renewable energy certificates are transferred to the purchaser of the energy through specific agreement with the generator; 2) the generator is a qualifying facility, as defined by the federal Public Utility Regulatory Policies Act of 1978, in which case the renewable energy certificates are owned by the distribution cooperative purchaser of the renewable energy unless retained by the generator through specific agreement with the distribution cooperative purchaser of the energy; 3) a contract for the purchase of renewable energy is in effect prior to January 1, 2004, in which case the renewable energy certificates are owned by the purchaser of the energy for the term of such contract; or 4) the generator is a community solar facility, excluding a native community solar project, as those terms are defined in the Community Solar Act, in which case the renewable energy certificates are owned by the distribution cooperative to whose electric distribution system the community solar facility is interconnected;

(b) may be traded, sold or otherwise transferred by their owner to any other party; provided that the transfers and use of the certificate by a distribution cooperative for compliance with the renewable energy portfolio standard shall require the electric or useful thermal energy represented by the certificate to be contracted for delivery or consumed, or generated by an end-use customer of the distribution cooperative in New Mexico unless the commission determines that the distribution cooperative is participating in a national or regional market for exchanging renewable energy certificates;

(c) that are used for the purpose of meeting the renewable portfolio standard shall be registered, beginning January 1, 2008, with a renewable energy generation information system that is designed to create and track ownership of renewable energy certificates and that, through the use of independently audited generation data, verifies the generation and delivery of electricity or useful thermal energy associated with each renewable energy certificate and protects against multiple counting of the same renewable energy certificate;

(d) that are used once by a distribution cooperative to satisfy the renewable portfolio standard and are retired or that are traded, sold or otherwise transferred by the distribution cooperative shall not be further used by the distribution cooperative; and

(e) that are not used by a distribution cooperative to satisfy the renewable portfolio standard or that are not traded, sold or otherwise transferred by the distribution cooperative may be carried forward for up to four years from the date of issuance and, if not used by that time, shall be retired by the distribution cooperative; and

(2) a distribution cooperative shall be responsible for demonstrating that a renewable energy certificate used for compliance with the renewable portfolio standard is derived from eligible renewable energy resources and has not been retired, traded, sold or otherwise transferred to another party."

## **Chapter 34 Section 10 Laws 2021**

SECTION 10. Section 62-16-5 NMSA 1978 (being Laws 2004, Chapter 65, Section 5, as amended) is amended to read:

"62-16-5. RENEWABLE ENERGY CERTIFICATES--COMMISSION DUTIES.--

A. The commission shall establish:



(1) a system of renewable energy certificates that can be used by a public utility to establish compliance with the renewable portfolio standard and that may include certificates that are monitored, accounted for or transferred by or through a regional system or trading program for any region in which a public utility is located; and

(2) requirements and procedures concerning requirements for renewable energy certificates pursuant to Subsections B and C of this section.

B. Renewable energy certificates:

(1) are owned by the generator of the renewable energy unless:

(a) the renewable energy certificates are transferred to the purchaser of the electricity through specific agreement with the generator;

(b) the generator is a qualifying facility, as defined by the federal Public Utility Regulatory Policies Act of 1978, in which case the renewable energy certificates are owned by the public utility purchaser of the renewable energy;

(c) a contract for the purchase of renewable energy is in effect prior to July 1, 2019, in which case the renewable energy certificates are owned by the purchaser of the electricity for the term of such contract, unless otherwise agreed to in a contract approved by the commission; or

(d) the generator is a community solar facility, excluding a native community solar project, as those terms are defined in the Community Solar Act, in which case the renewable energy certificates are owned by the public utility to whose electric distribution system the community solar facility is interconnected;

(2) may be traded, sold or otherwise transferred by their owner, unless the certificates are from a rate-based public utility plant, in which case the entirety of the renewable energy certificates from that plant shall be retired by the utility on behalf of itself or its customers. Any contract to purchase renewable energy entered into by a

public utility on or after July 1, 2019 shall include conveyance to the purchasing utility of all renewable energy certificates, and the entirety of those certificates shall be retired by that utility on behalf of itself or its customers or subsequently transferred to a retail customer for retirement under a voluntary program for purchasing renewable energy approved by the commission. A utility shall not claim that it is providing renewable energy from generation resources for which it has traded, sold or transferred the associated renewable energy certificates. The commission shall not disallow the recovery of the cost associated with any expired renewable energy certificate. The public utility shall annually file a report with the commission discussing:

(a) its use, sale, trading or transfer of renewable energy certificates; and

(b) whether and how its public claims of renewable energy generation account for renewable energy certificates that it has traded, sold or transferred;

(3) that are used for the purpose of meeting the renewable portfolio standard shall be registered with a renewable energy generation information system that is designed to create and track ownership of renewable energy certificates and that, through the use of independently audited generation data, verifies the generation and delivery of electricity associated with each renewable energy certificate and protects against multiple counting of the same renewable energy certificate; and

(4) may be carried forward for up to four years from the date of issuance to establish compliance with the renewable portfolio standard, after which they shall be deemed retired by the public utility.

C. A public utility shall be responsible for demonstrating that a renewable energy certificate used for compliance with the renewable portfolio standard is derived from eligible renewable energy resources."

# **LAWS 2021, CHAPTER 35**

**Senate Bill 88, aa, w/ec**  
**Approved April 5, 2021**

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 35 Section 1 Laws 2021**

SECTION 1. AUTHORIZATION OF PROJECTS.--Pursuant to Section 6-21-6 NMSA 1978, the legislature authorizes the New Mexico finance authority to make loans from the public project revolving fund for public projects as defined in Section 6-21-3 NMSA 1978. Pursuant to Section 6-21-6 NMSA 1978, loans of one million dollars (\$1,000,000) or less do not require specific authorization and need not be identified in this act. Authorization is given to the New Mexico finance authority to make loans to the following qualified entities on terms and conditions established by the authority:

1. Aggie Development, incorporated, in Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;
2. the city of Alamogordo in Otero county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, special assessment district and solid waste projects;

3. the Albuquerque-Bernalillo county water utility authority in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;
4. the city of Albuquerque in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, special assessment district, rail spur and solid waste projects;
5. the Alto Lakes water and sanitation district in Lincoln county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;
6. the Angel Fire public improvement district in Colfax county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;
7. the village of Angel Fire in Colfax county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, special assessment district and solid waste projects;
8. the Anthony water and sanitation district in Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;
9. the Artesia public school district in Eddy and Chaves counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facility acquisition and solid waste projects;
10. the city of Aztec in San Juan county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

11. the city of Belen in Valencia county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

12. the Bernalillo county metropolitan court in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

13. the Bernalillo public school district in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

14. the town of Bernalillo in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, special assessment district and solid waste projects;

15. the city of Bloomfield in San Juan county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

16. the Capitan municipal school district in Lincoln county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

17. the Carlsbad municipal school district in Eddy county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

18. the Carrizozo municipal school district in Lincoln county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

19. the Chama Valley independent school district in Rio Arriba county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;
20. Cibola county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;
21. the Cimarron municipal school district in Colfax county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;
22. the Clayton municipal school district in Union county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;
23. the town of Clayton in Union county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;
24. the village of Cloudcroft in Otero county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;
25. the Clovis municipal school district in Curry county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;
26. the city of Clovis in Curry county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

27. the village of Corrales in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

28. the city of Deming in Luna county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

29. the Des Moines municipal school district in Colfax and Union counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

30. the Dexter consolidated school district in Chaves county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

31. Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

32. the Dora consolidated school district in Roosevelt county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

33. the Dulce independent school district in Rio Arriba county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

34. the village of Eagle Nest in Colfax county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

35. the East Rio Arriba soil and water conservation district in Rio Arriba county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

36. the eastern Sandoval county arroyo flood control authority in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

37. the town of Edgewood in Santa Fe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

38. the Eldorado area water and sanitation district in Santa Fe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

39. the Elephant Butte irrigation district in Dona Ana and Sierra counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

40. the city of Elephant Butte in Sierra county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

41. the Espanola public school district in Rio Arriba and Santa Fe counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

42. the city of Espanola in Rio Arriba and Santa Fe counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;



43. the Estancia valley classical academy in Torrance county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

44. the Estancia municipal school district in Torrance county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

45. the town of Estancia in Torrance county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

46. the Eunice public school district in Lea county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

47. the city of Eunice in Lea county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

48. the Farmington municipal school district in San Juan county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

49. the Fort Sumner municipal school district in De Baca county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

50. the village of Fort Sumner in De Baca county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

51. the city of Gallup in McKinley county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

52. the general services department of the state of New Mexico for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

53. the Grady municipal school district in Curry and Quay counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

54. the village of Grady in Curry county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

55. the Grants-Cibola county school district in Cibola county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

56. Guadalupe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

57. the Hagerman municipal school district in Chaves county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

58. the Hatch Valley public school district in Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

59. the Hobbs municipal school district in Lea county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

60. the Hondo Valley public school district in Lincoln county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

61. the House municipal school district in Quay county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

62. the village of House in Quay county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

63. the Indian Pueblo cultural center in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

64. the Indian Pueblos federal development corporation in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

65. Indian Pueblos marketing, incorporated, in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

66. Innovate ABQ, incorporated, in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

67. IPFDC 2, limited liability company, in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

68. IPFDC 3, limited liability company, in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

69. IPMI 4, limited liability company, in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

70. IPMI 5, limited liability company, in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

71. IPMI 6, limited liability company, in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

72. IPMI hotel group, limited liability company, in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

73. the city of Jal in Lea county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

74. the Jemez Valley public school district in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

75. the Jicarilla Apache Nation in Rio Arriba county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

76. the Lake Arthur municipal school district in Chaves county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

77. the Las Cruces public school district in Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

78. the city of Las Cruces in Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, special assessment district and solid waste projects;

79. the city of Las Vegas in San Miguel county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

80. the Las Vegas city public school district in San Miguel county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

81. Lincoln county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, special assessment district, public improvement district and solid waste projects;

82. the Lordsburg municipal school district in Hidalgo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

83. the Los Alamos public school district in Los Alamos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

84. the Los Lunas public school district in Valencia county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

85. the village of Los Lunas in Valencia county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

86. the Loving municipal school district in Eddy county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

87. the city of Lovington in Lea county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

88. the governing board of Luna community college in San Miguel county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

89. Luna county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

90. the Magdalena municipal school district in Socorro county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

91. the Maxwell municipal school district in Colfax county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

92. the village of Maxwell in Colfax county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

93. the Media Arts Collaborative charter school in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

94. the Melrose public school district in Curry, Roosevelt and Quay counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

95. the Mesa Vista consolidated school district in Rio Arriba and Taos counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

96. the governing board of Mesalands community college in Quay county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

97. the village of Milan in Cibola county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

98. the Mirador public improvement district in Los Alamos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

99. Mora county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, special assessment district, public improvement district and solid waste projects;

100. the Mora independent school district in Mora county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

101. the Moriarty-Edgewood school district in Tarrant county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

102. the Mosquero municipal school district in Harding county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

103. the town of Mountainair in Tarrant county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

104. the board of regents of the New Mexico institute of mining and technology in Socorro county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

105. the spaceport authority in Dona Ana and Sierra counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

106. the board of regents of New Mexico state university for the arrowhead center in Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;



107. the board of regents of New Mexico state university in Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

108. the board of regents of New Mexico state university for the Grants campus in Cibola county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

109. the north central regional transit district in Los Alamos, Rio Arriba, Santa Fe and Taos counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, railroad infrastructure and solid waste projects;

110. the northwest New Mexico regional solid waste authority in Cibola and McKinley counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

111. Otero county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

112. the Penasco independent school district in Rio Arriba and Taos counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

113. the Portales municipal school district in Roosevelt county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

114. the city of Portales in Roosevelt county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

115. the Pueblo of Acoma in Cibola county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

116. the Questa independent school district in Taos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

117. the village of Questa in Taos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

118. the Raton public school district in Colfax county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

119. the city of Raton in Colfax county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

120. the town of Red River in Taos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

121. the city of Rio Rancho in Sandoval and Bernalillo counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, special assessment district and solid waste projects;

122. the Roosevelt county special hospital district in Roosevelt county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

123. the city of Roswell in Chaves county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

124. the Roy municipal school district in Harding county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

125. the San Jon municipal school district in Quay county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

126. the governing board of San Juan college in San Juan county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

127. San Juan county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

128. the San Juan soil and water conservation district in San Juan county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

129. San Miguel county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

130. the governing board of Santa Fe community college in Santa Fe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

131. the Santa Rosa consolidated school district in Guadalupe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

132. Sierra county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

133. the Socorro consolidated school district in Socorro county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

134. Socorro county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

135. the city of Socorro in Socorro county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

136. the south central solid waste authority in Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

137. the southern Sandoval county arroyo flood control authority in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

138. the southwest solid waste authority in Grant county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

139. the Springer municipal school district in Colfax and Union counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

140. the state game commission for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

141. the state parks division of the energy, minerals and natural resources department for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

142. the Taos municipal school district in Taos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

143. the village of Taos Ski Valley in Taos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

144. Taos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

145. Taos Pueblo utility service in Taos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

146. the Texico municipal school district in Curry and Roosevelt counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

147. the Tierra y Montes soil and water conservation district in San Miguel county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

148. the Timberon water and sanitation district in Otero county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

149. the Truth or Consequences municipal school district in Sierra county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

150. the Tucumcari public school district in Quay county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

151. the city of Tucumcari in Quay county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

152. the Tularosa municipal school district in Otero county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

153. the 21st Century public academy in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

154. Union county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

155. the Vaughn municipal school district in Guadalupe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

156. the town of Vaughn in Guadalupe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

157. the Wagon Mound public school district in Mora county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

158. the board of regents of western New Mexico university in Grant county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facility acquisition and solid waste projects;

159. the village of Williamsburg in Sierra county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects; and

160. the Zuni public school district in McKinley county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects.

## **Chapter 35 Section 2 Laws 2021**

SECTION 2. VOIDING OF AUTHORIZATION.--If a qualified entity listed in Section 1 of this act has not certified to the New Mexico finance authority by the end of fiscal year 2024 its desire to continue to pursue a loan from the public project revolving fund for a public project listed in that section, the legislative authorization granted to the New Mexico finance authority by Section 1 of this act to make a loan from the public project revolving fund to that qualified entity for that public project is void.

## **Chapter 35 Section 3 Laws 2021**

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

# **LAWS 2021, CHAPTER 36**

**Senate Bill 315, aa**  
**Approved April 5, 2021**

AN ACT

RELATING TO PUBLIC EMPLOYEE RETIREMENT; INCLUDING CERTAIN STATE POLICE DIVISION OFFICERS UNDER THE STATE POLICE MEMBER, CORRECTIONAL OFFICER MEMBER AND PROBATION AND PAROLE OFFICER MEMBER COVERAGE PLAN 1; PROVIDING FOR AN ELECTION PERTAINING TO THE ADOPTION OF THE STATE POLICE MEMBER, CORRECTIONAL OFFICER MEMBER AND PROBATION AND PAROLE OFFICER MEMBER COVERAGE PLAN 1; PROVIDING FOR THE ADJUSTMENT OF CERTAIN SERVICE CREDIT EARNED PRIOR TO THE ADOPTION OF THE STATE POLICE MEMBER, CORRECTIONAL OFFICER MEMBER AND PROBATION AND PAROLE OFFICER MEMBER COVERAGE PLAN 1.

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

## **Chapter 36 Section 1 Laws 2021**

SECTION 1. Section 10-11-2 NMSA 1978 (being Laws 1987, Chapter 253, Section 2, as amended) is amended to read:

"10-11-2. DEFINITIONS.--As used in the Public Employees Retirement Act:

A. "accumulated member contributions" means the amounts deducted from the salary of a member and credited to the member's individual account, together with interest, if any, credited to that account;



B. "affiliated public employer" means the state and any public employer affiliated with the association as provided in the Public Employees Retirement Act, but does not include an employer pursuant to the Magistrate Retirement Act, the Judicial Retirement Act or the Educational Retirement Act;

C. "association" means the public employees retirement association established under the Public Employees Retirement Act;

D. "coverage plan funded ratio" means the ratio of the actuarial value of the assets of a coverage plan to the actuarial accrued liability of the association for payments from the coverage plan, as determined by the association's actuaries;

E. "disability retired member" means a retired member who is receiving a pension pursuant to the disability retirement provisions of the Public Employees Retirement Act;

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

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

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

I. "federal social security program" means that program or those programs created and administered pursuant to the act of congress approved August 14, 1935, Chapter 531, 49 Stat. 620, as that act may be amended;

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

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

L. "former member" means a person who was previously employed by an affiliated public employer, who has terminated that employment and who has received a refund of member contributions;

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

N. "member" means a currently employed, contributing employee of an affiliated public employer, or a person who has been but is not currently employed by an affiliated public employer, who has not retired and who has not received a refund of member contributions; "member" also includes the following:

(1) "adult correctional officer member" means a member who is employed as an adult correctional officer or an adult correctional officer specialist by a state correctional facility of the corrections department or its successor agency;

(2) "adult probation and parole officer member" means a member who is employed as a probation and parole officer by the corrections department or its successor agency;

(3) "juvenile correctional officer member" means a member who is employed as a juvenile correctional officer by the children, youth and families department or its successor agency;

(4) "juvenile probation and parole officer member" means a member who is employed as a probation and parole officer by the children, youth and families department or its successor agency;

(5) "municipal detention officer member" means a member who is employed by an affiliated public employer other than the state and who has inmate custodial responsibilities at a facility used for the confinement of persons charged with or convicted of a violation of a law or ordinance;

(6) "municipal fire member" means any member who is employed as a full-time nonvolunteer firefighter by an affiliated public employer and who has taken the oath prescribed for firefighters;

(7) "municipal police member" means any member who is employed as a police officer by an affiliated public employer, other than the state, and who has taken the oath prescribed for police officers; and

(8) "state police member" means a member who is an officer of the New Mexico state police division and who has taken the oath prescribed for such officers and shall include a member who is an officer of the New Mexico state police division and who was certified and commissioned in the former motor transportation division or the former special investigations division of the department of public safety;

O. "membership" means membership in the association;

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

Q. "public employer" means the state, any municipality, city, county, metropolitan arroyo flood control authority, economic development district, regional housing authority, soil and water conservation district, entity created pursuant to a joint powers agreement, council of government, conservancy district, irrigation district, water and sanitation district, water district and metropolitan water board, including the boards, departments, bureaus and agencies of a public employer, so long as these entities fall within the meaning of governmental plan as that term is used in Section 414(d) of the Internal Revenue Code of 1986, as amended;

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

and accumulated member contributions if the retired member dies before receiving in pension payments the amount of the accumulated member contributions;

S. "retire" means to:

(1) terminate employment with all employers covered by any state system or the educational retirement system; and

(2) receive a pension from a state system or the educational retirement system;

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

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

V. "salary" means the base salary or wages paid a member, including longevity pay, for personal services rendered an affiliated public employer. "Salary" shall not include overtime pay, allowances for housing, clothing, equipment or travel, payments for unused sick leave, unless the unused sick leave payment is made through continuation of the member on the regular payroll for the period represented by that payment, and any other form of remuneration not specifically designated by law as included in salary for Public Employees Retirement Act purposes. Salary in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code of 1986, as amended, shall be disregarded. The limitation on compensation for eligible employees shall not be less than the amount that was allowed to be taken into account under the state retirement system acts in effect on July 1, 1993. For purposes of this subsection, "eligible employee" means an individual who was a member of a state system before the first plan year beginning after December 31, 1995;

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

X. "state retirement system acts" means collectively the Public Employees Retirement Act, the Magistrate Retirement Act, the Judicial Retirement Act and the Volunteer Firefighters Retirement Act; and

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

## **Chapter 36 Section 2 Laws 2021**

SECTION 2. TEMPORARY PROVISION--STATE POLICE MEMBER, CORRECTIONAL OFFICER MEMBER AND PROBATION AND PAROLE OFFICER MEMBER COVERAGE PLAN 1--STATE POLICE MEMBERS--ELECTION.--On or before December 30, 2021, the retirement board provided for in the Public Employees Retirement Act shall conduct an election to submit to state police members currently contributing under state general member coverage plan 3 the question of adopting state police member, correctional officer member and probation and parole officer member coverage plan 1 and counting any credited service served since July 1, 2015 under state general member coverage plan 3 as credited service under state police member, correctional officer member and probation and parole officer member coverage plan 1. The election shall be conducted in accordance with procedures adopted by the retirement board, and the retirement board shall certify the results of the election to the secretary of state on or before January 1, 2022.

## **Chapter 36 Section 3 Laws 2021**

SECTION 3. TEMPORARY PROVISION--STATE POLICE MEMBERS--ADJUSTMENT OF CREDITED SERVICE.--Provided that the state police members

currently contributing under state general member coverage plan 3 adopt the question provided in Section 2 of this 2021 act, the public employees retirement association shall count credited service served under state general member coverage plan 3 between July 1, 2015 and the date the election is certified as credited service under state police member, correctional officer member and probation and parole officer member coverage plan 1.

## **Chapter 36 Section 4 Laws 2021**

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

# **LAWS 2021, CHAPTER 37**

**House Bill 29, aa**  
**Approved April 5, 2021**

AN ACT

RELATING TO RACE; PROHIBITING THE IMPOSITION OF DISCIPLINE, DISCRIMINATION OR DISPARATE TREATMENT IN SCHOOLS BASED ON THE HAIR OR CULTURAL OR RELIGIOUS HEADRESSES OF A STUDENT; DEFINING TERMS IN THE PUBLIC SCHOOL CODE AND THE HUMAN RIGHTS ACT.

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

## **Chapter 37 Section 1 Laws 2021**

SECTION 1. Section 22-5-4.3 NMSA 1978 (being Laws 1986, Chapter 33, Section 9, as amended) is amended to read:

"22-5-4.3. SCHOOL DISCIPLINE POLICIES--STUDENTS MAY SELF-ADMINISTER CERTAIN MEDICATIONS.--

A. Local school boards shall establish student discipline policies and shall file them with the department. The local school board shall involve parents, school personnel and students in the development of these policies, and public hearings shall be held during the formulation of these policies in the high school attendance areas within each school district or on a district-wide basis for those school districts that have no high school. No local school board shall allow for the imposition of discipline, discrimination or disparate treatment against a student based on the student's race, religion or culture or because of the student's use of protective hairstyles or cultural or religious headdresses.

B. Each school district discipline policy shall establish rules of conduct governing areas of student and school activity, detail specific prohibited acts and activities and enumerate possible disciplinary sanctions, which sanctions may include in-school suspension, school service, suspension or expulsion. Corporal punishment shall be prohibited by each local school board and each governing body of a charter school.

C. An individual school within a school district may establish a school discipline policy, provided that parents, school personnel and students are involved in its development and a public hearing is held in the school prior to its adoption. If an individual school adopts a discipline policy in addition to the local school board's school district discipline policy, it shall submit its policy to the local school board for approval.

D. No school employee who in good faith reports any known or suspected violation of the school discipline policy or in good faith attempts to enforce the policy shall be held liable for any civil damages as a result of such report or of the employee's efforts to enforce any part of the policy.

E. All public school and school district discipline policies shall allow students to carry and self-administer asthma medication and emergency anaphylaxis medication

that has been legally prescribed to the student by a licensed health care provider under the following conditions:

(1) the health care provider has instructed the student in the correct and responsible use of the medication;

(2) the student has demonstrated to the health care provider and the school nurse or other school official the skill level necessary to use the medication and any device that is necessary to administer the medication as prescribed;

(3) the health care provider formulates a written treatment plan for managing asthma or anaphylaxis episodes of the student and for medication use by the student during school hours or school-sponsored activities, including transit to or from school or school-sponsored activities; and

(4) the student's parent has completed and submitted to the school any written documentation required by the school or the school district, including the treatment plan required in Paragraph (3) of this subsection and other documents related to liability.

F. The parent of a student who is allowed to carry and self-administer asthma medication and emergency anaphylaxis medication may provide the school with backup medication that shall be kept in a location to which the student has immediate access in the event of an asthma or anaphylaxis emergency.

G. Authorized school personnel who in good faith provide a person with backup medication as provided in this section shall not be held liable for civil damages as a result of providing the medication.

H. As used in this section:

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



(2) "protective hairstyles" includes such hairstyles as braids, locs, twists, tight coils or curls, cornrows, bantu knots, afros, weaves, wigs or head wraps; and

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

## **Chapter 37 Section 2 Laws 2021**

SECTION 2. Section 22-8B-4 NMSA 1978 (being Laws 1999, Chapter 281, Section 4, as amended) is amended to read:

"22-8B-4. CHARTER SCHOOLS' RIGHTS AND RESPONSIBILITIES--  
OPERATION.--

A. A charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, physical or mental handicap, serious medical condition, race, creed, color, sex, gender identity, sexual orientation, spousal affiliation, national origin, religion, ancestry or need for special education services and shall not allow for the imposition of discipline, discrimination or disparate treatment against a student based on the student's race, religion or culture or because of the student's use of protective hairstyles or cultural or religious headdresses.

B. A charter school shall be governed by a governing body in the manner set forth in the charter contract; provided that a governing body shall have at least five members; and provided further that no member of a governing body for a charter school that is initially approved on or after July 1, 2005 or whose charter is renewed on or after July 1, 2005 shall serve on the governing body of another charter school. No member of a local school board shall be a member of a governing body for a charter school or employed in any capacity by a locally chartered charter school located within the local

school board's school district during the term of office for which the member was elected or appointed.

C. A charter school shall be responsible for:

(1) its own operation, including preparation of a budget, subject to audits pursuant to the Audit Act; and

(2) contracting for services and personnel matters.

D. A charter school may contract with a school district, a university or college, the state, another political subdivision of the state, the federal government or one of its agencies, a tribal government or any other third party for the use of a facility, its operation and maintenance and the provision of any service or activity that the charter school is required to perform in order to carry out the educational program described in its charter contract. Facilities used by a charter school shall meet the standards required pursuant to Section 22-8B-4.2 NMSA 1978.

E. A conversion school chartered before July 1, 2007 may choose to continue using the school district facilities and equipment it had been using prior to conversion, subject to the provisions of Subsection F of this section.

F. The school district in which a charter school is geographically located shall provide a charter school with available facilities for the school's operations unless the facilities are currently used for other educational purposes. An agreement for the use of school district facilities by a charter school may provide for reasonable lease payments; provided that the payments do not exceed the sum of the lease reimbursement rate provided in Subparagraph (b) of Paragraph (1) of Subsection I of Section 22-24-4 NMSA 1978 plus any reimbursement for actual direct costs incurred by the school district in providing the facilities; and provided further that any lease payments received by a school district may be retained by the school district and shall not be considered to be cash balances in any calculation pursuant to Section 22-8-41 NMSA 1978. The available facilities provided by a school district to a charter school shall meet all

occupancy standards as specified by the public school capital outlay council. As used in this subsection, "other educational purposes" includes health clinics, daycare centers, teacher training centers, school district administration functions and other ancillary services related to a school district's functions and operations.

G. A locally chartered charter school may pay the costs of operation and maintenance of its facilities or may contract with the school district to provide facility operation and maintenance services.

H. Locally chartered charter school facilities are eligible for state and local capital outlay funds and shall be included in the school district's five-year facilities plan.

I. A locally chartered charter school shall negotiate with a school district to provide transportation to students eligible for transportation under the provisions of the Public School Code. The school district, in conjunction with the charter school, may establish a limit for student transportation to and from the charter school site not to extend beyond the school district boundary.

J. A charter school shall be a nonsectarian, nonreligious and non-home-based public school.

K. Except as otherwise provided in the Public School Code, a charter school shall not charge tuition or have admission requirements.

L. With the approval of the chartering authority, a single charter school may maintain separate facilities at two or more locations within the same school district; but, for purposes of calculating program units pursuant to the Public School Finance Act, the separate facilities shall be treated together as one school.

M. A charter school shall be subject to the provisions of Section 22-2-8 NMSA 1978 and the Assessment and Accountability Act.

N. Within constitutional and statutory limits, a charter school may acquire and dispose of property; provided that, upon termination of the charter, all assets of the locally chartered charter school shall revert to the local school board and all assets of the state-chartered charter school shall revert to the state, except that, if all or any portion of a state-chartered charter school facility is financed with the proceeds of general obligation bonds issued by a local school board, the facility shall revert to the local school board.

O. The governing body of a charter school may accept or reject any charitable gift, grant, devise or bequest; provided that no such gift, grant, devise or bequest shall be accepted if subject to any condition contrary to law or to the terms of the charter. The particular gift, grant, devise or bequest shall be considered an asset of the charter school to which it is given.

P. The governing body may contract and sue and be sued. A local school board shall not be liable for any acts or omissions of the charter school.

Q. A charter school shall comply with all state and federal health and safety requirements applicable to public schools, including those health and safety codes relating to educational building occupancy.

R. A charter school is a public school that may contract with a school district or other party for provision of financial management, food services, transportation, facilities, education-related services or other services. The governing body shall not contract with a for-profit entity for the management of the charter school.

S. To enable state-chartered charter schools to submit required data to the department, an accountability data system shall be maintained by the department.

T. A charter school shall comply with all applicable state and federal laws and rules related to providing special education services. Charter school students with disabilities and their parents retain all rights under the federal Individuals with Disabilities Education Act and its implementing state and federal rules. Each charter

school is responsible for identifying, evaluating and offering a free appropriate public education to all eligible children who are accepted for enrollment in that charter school. The state-chartered charter school, as a local educational agency, shall assume responsibility for determining students' needs for special education and related services. The division may promulgate rules to implement the requirements of this subsection.

U. As used in this section:

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

(2) "protective hairstyles" includes such hairstyles as braids, locs, twists, tight coils or curls, cornrows, bantu knots, afros, weaves, wigs or head wraps; and

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

## **Chapter 37 Section 3 Laws 2021**

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

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

A. "person" means one or more individuals, a partnership, association, organization, corporation, joint venture, legal representative, trustees, receivers or the state and all of its political subdivisions;

B. "employer" means any person employing four or more persons and any person acting for an employer;

- C. "commission" means the human rights commission;
- D. "director" or "bureau" means the human rights bureau of the labor relations division of the workforce solutions department;
- E. "employee" means any person in the employ of an employer or an applicant for employment;
- F. "labor organization" means any organization that exists for the purpose in whole or in part of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment or of other mutual aid or protection in connection with employment;
- G. "employment agency" means any person regularly undertaking with or without compensation to procure opportunities to work or to procure, recruit or refer employees;
- H. "public accommodation" means any establishment that provides or offers its services, facilities, accommodations or goods to the public, but does not include a bona fide private club or other place or establishment that is by its nature and use distinctly private;
- I. "housing accommodation" means any building or portion of a building that is constructed or to be constructed, which is used or intended for use as the residence or sleeping place of any individual;
- J. "real property" means lands, leaseholds or commercial or industrial buildings, whether constructed or to be constructed, offered for sale or rent, and any land rented or leased for the use, parking or storage of house trailers;
- K. "secretary" means the secretary of workforce solutions;

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

M. "physical or mental handicap" means a physical or mental impairment that substantially limits one or more of a person's major life activities. A person is also considered to be physically or mentally handicapped if the person has a record of a physical or mental handicap or is regarded as having a physical or mental handicap;

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

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

P. "sexual orientation" means heterosexuality, homosexuality or bisexuality, whether actual or perceived;

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

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

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

- (1) the nature and cost of the accommodation;

(2) the financial resources of the employer involved in the provision of the reasonable accommodation;

(3) the number of persons the employer employs;

(4) the effect of the accommodation on expenses and resources;

(5) the impact of the accommodation otherwise upon the employer's business;

(6) the overall financial resources of the employer;

(7) the overall size of the business of an employer with respect to the number, type and location of its facilities;

(8) the type of operation of the employer, including the composition, structure and functions of the workforce of the employer; or

(9) the geographic separateness or administrative or fiscal relationship to the employer of the employer's facilities;

T. "cultural or religious headdresses" includes hijabs, head wraps or other headdresses used as part of an individual's personal cultural or religious beliefs;

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

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



## **Chapter 37 Section 4 Laws 2021**

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

## **LAWS 2021, CHAPTER 38**

**SFC/Senate Bill 90**  
**Approved April 5, 2021**

AN ACT

RELATING TO PUBLIC EMPLOYEE RETIREMENT; INCLUDING OVERTIME PAY REQUIRED FOR A REGULAR SCHEDULED TOUR OF DUTY IN THE DEFINITION OF "SALARY" IN THE PUBLIC EMPLOYEES RETIREMENT ACT; INCREASING EMPLOYEE CONTRIBUTION RATES FOR ALL MUNICIPAL FIRE MEMBER COVERAGE PLANS.

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

## **Chapter 38 Section 1 Laws 2021**

SECTION 1. Section 10-11-2 NMSA 1978 (being Laws 1987, Chapter 253, Section 2, as amended) is amended to read:

"10-11-2. DEFINITIONS.--As used in the Public Employees Retirement Act:

A. "accumulated member contributions" means the amounts deducted from the salary of a member and credited to the member's individual account, together with interest, if any, credited to that account;

B. "affiliated public employer" means the state and any public employer affiliated with the association as provided in the Public Employees Retirement Act, but does not include an employer pursuant to the Magistrate Retirement Act, the Judicial Retirement Act or the Educational Retirement Act;

C. "association" means the public employees retirement association established under the Public Employees Retirement Act;

D. "coverage plan funded ratio" means the ratio of the actuarial value of the assets of a coverage plan to the actuarial accrued liability of the association for payments from the coverage plan, as determined by the association's actuaries;

E. "disability retired member" means a retired member who is receiving a pension pursuant to the disability retirement provisions of the Public Employees Retirement Act;

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

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

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

I. "federal social security program" means that program or those programs created and administered pursuant to the act of congress approved August 14, 1935, Chapter 531, 49 Stat. 620, as that act may be amended;

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

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

L. "former member" means a person who was previously employed by an affiliated public employer, who has terminated that employment and who has received a refund of member contributions;

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

N. "member" means a currently employed, contributing employee of an affiliated public employer, or a person who has been but is not currently employed by an affiliated public employer, who has not retired and who has not received a refund of member contributions; "member" also includes the following:

(1) "adult correctional officer member" means a member who is employed as an adult correctional officer or an adult correctional officer specialist by a state correctional facility of the corrections department or its successor agency;

(2) "adult probation and parole officer member" means a member who is employed as a probation and parole officer by the corrections department or its successor agency;

(3) "juvenile correctional officer member" means a member who is employed as a juvenile correctional officer by the children, youth and families department or its successor agency;

(4) "juvenile probation and parole officer member" means a member who is employed as a probation and parole officer by the children, youth and families department or its successor agency;

(5) "municipal detention officer member" means a member who is employed by an affiliated public employer other than the state and who has inmate custodial responsibilities at a facility used for the confinement of persons charged with or convicted of a violation of a law or ordinance;

(6) "municipal fire member" means any member who is employed as a full-time nonvolunteer firefighter by an affiliated public employer and who has taken the oath prescribed for firefighters;

(7) "municipal police member" means any member who is employed as a police officer by an affiliated public employer, other than the state, and who has taken the oath prescribed for police officers; and

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

O. "membership" means membership in the association;

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

Q. "public employer" means the state, any municipality, city, county, metropolitan arroyo flood control authority, economic development district, regional housing authority, soil and water conservation district, entity created pursuant to a joint powers agreement, council of government, conservancy district, irrigation district, water and sanitation district, water district and metropolitan water board, including the boards, departments, bureaus and agencies of a public employer, so long as these entities fall within the meaning of governmental plan as that term is used in Section 414(d) of the Internal Revenue Code of 1986, as amended;

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

and accumulated member contributions if the retired member dies before receiving in pension payments the amount of the accumulated member contributions;

S. "retire" means to:

(1) terminate employment with all employers covered by any state system or the educational retirement system; and

(2) receive a pension from a state system or the educational retirement system;

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

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

V. "salary" means the base salary or wages paid a member, including longevity pay, for personal services rendered an affiliated public employer. "Salary" shall not include overtime pay, unless the overtime payment is required for a regular scheduled tour of duty as set forth in Section 207(k) of Title 29 of the United States Code and is made on the regular payroll for the period represented by that payment, allowances for housing, clothing, equipment or travel, payments for unused sick leave, unless the unused sick leave payment is made through continuation of the member on the regular payroll for the period represented by that payment, and any other form of remuneration not specifically designated by law as included in salary for Public Employees Retirement Act purposes. Salary in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code of 1986, as amended, shall be disregarded. The limitation on compensation for eligible employees shall not be less than the amount that was allowed to be taken into account under the state retirement system acts in effect on July 1, 1993. For purposes of this subsection, "eligible employee" means an individual who was a member of a state system before the first plan year beginning after December 31, 1995;

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

X. "state retirement system acts" means collectively the Public Employees Retirement Act, the Magistrate Retirement Act, the Judicial Retirement Act and the Volunteer Firefighters Retirement Act; and

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

## **Chapter 38 Section 2 Laws 2021**

SECTION 2. Section 10-11-90 NMSA 1978 (being Laws 1987, Chapter 253, Section 90, as amended) is amended to read:

"10-11-90. MUNICIPAL FIRE MEMBER COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE.--A member under municipal fire member coverage plan 1 shall contribute eight percent of salary with the first full pay period in the calendar month in which municipal fire member coverage plan 1 becomes applicable to the member, except that a member whose annual salary is greater than twenty-five thousand dollars (\$25,000) shall contribute:

A. beginning July 1, 2021 and continuing through June 30, 2022, eleven percent of salary;

B. beginning July 1, 2022 and continuing through June 30, 2023, eleven and one-half percent of salary;

C. beginning July 1, 2023 and continuing through June 30, 2024, twelve percent of salary;

D. beginning July 1, 2024 and continuing through June 30, 2025, twelve and one-half percent of salary; and

E. beginning July 1, 2025 and thereafter, thirteen percent of salary."

### **Chapter 38 Section 3 Laws 2021**

SECTION 3. Section 10-11-96 NMSA 1978 (being Laws 1987, Chapter 253, Section 96, as amended) is amended to read:

"10-11-96. MUNICIPAL FIRE MEMBER COVERAGE PLAN 2--MEMBER CONTRIBUTION RATE.--A member under municipal fire member coverage plan 2 shall contribute eight percent of salary with the first full pay period in the calendar month in which municipal fire member coverage plan 2 becomes applicable to the member, except that a member whose annual salary is greater than twenty-five thousand dollars (\$25,000) shall contribute:

A. beginning July 1, 2021 and continuing through June 30, 2022, eleven percent of salary;

B. beginning July 1, 2022 and continuing through June 30, 2023, eleven and one-half percent of salary;

C. beginning July 1, 2023 and continuing through June 30, 2024, twelve percent of salary;

D. beginning July 1, 2024 and continuing through June 30, 2025, twelve and one-half percent of salary; and

E. beginning July 1, 2025 and thereafter, thirteen percent of salary."

## **Chapter 38 Section 4 Laws 2021**

SECTION 4. Section 10-11-102 NMSA 1978 (being Laws 1987, Chapter 253, Section 102, as amended) is amended to read:

"10-11-102. MUNICIPAL FIRE MEMBER COVERAGE PLAN 3--MEMBER CONTRIBUTION RATE.--A member under municipal fire member coverage plan 3 shall contribute eight percent of salary with the first full pay period in the calendar month in which municipal fire member coverage plan 3 becomes applicable to the member, except that a member whose annual salary is greater than twenty-five thousand dollars (\$25,000) shall contribute:

- A. beginning July 1, 2021 and continuing through June 30, 2022, eleven percent of salary;
- B. beginning July 1, 2022 and continuing through June 30, 2023, eleven and one-half percent of salary;
- C. beginning July 1, 2023 and continuing through June 30, 2024, twelve percent of salary;
- D. beginning July 1, 2024 and continuing through June 30, 2025, twelve and one-half percent of salary; and
- E. beginning July 1, 2025 and thereafter, thirteen percent of salary."

## **Chapter 38 Section 5 Laws 2021**

SECTION 5. Section 10-11-108 NMSA 1978 (being Laws 1987, Chapter 253, Section 108, as amended) is amended to read:



"10-11-108. MUNICIPAL FIRE MEMBER COVERAGE PLAN 4--MEMBER CONTRIBUTION RATE.--A member under municipal fire member coverage plan 4 shall contribute twelve and eight-tenths percent of salary with the first full pay period in the calendar month in which municipal fire member coverage plan 4 becomes applicable to the member, except that a member whose annual salary is greater than twenty-five thousand dollars (\$25,000) shall contribute:

A. beginning July 1, 2021 and continuing through June 30, 2022, fifteen and eight-tenths percent of salary;

B. beginning July 1, 2022 and continuing through June 30, 2023, sixteen and three-tenths percent of salary;

C. beginning July 1, 2023 and continuing through June 30, 2024, sixteen and eight-tenths percent of salary;

D. beginning July 1, 2024 and continuing through June 30, 2025, seventeen and three-tenths percent of salary; and

E. beginning July 1, 2025 and thereafter, seventeen and eight-tenths percent of salary."

## **Chapter 38 Section 6 Laws 2021**

SECTION 6. Section 10-11-114 NMSA 1978 (being Laws 1987, Chapter 253, Section 114, as amended) is amended to read:

"10-11-114. MUNICIPAL FIRE MEMBER COVERAGE PLAN 5--MEMBER CONTRIBUTION RATE.--A member under municipal fire member coverage plan 5 shall contribute sixteen and two-tenths percent of salary with the first full pay period in the calendar month in which municipal fire member coverage plan 5 becomes applicable to

the member, except that a member whose annual salary is greater than twenty-five thousand dollars (\$25,000) shall contribute:

A. beginning July 1, 2021 and continuing through June 30, 2022, nineteen and two-tenths percent of salary;

B. beginning July 1, 2022 and continuing through June 30, 2023, nineteen and seven-tenths percent of salary;

C. beginning July 1, 2023 and continuing through June 30, 2024, twenty and two-tenths percent of salary;

D. beginning July 1, 2024 and continuing through June 30, 2025, twenty and seven-tenths percent of salary; and

E. beginning July 1, 2025 and thereafter, twenty-one and two-tenths percent of salary."

### **Chapter 38 Section 7 Laws 2021**

SECTION 7. APPLICABILITY.--The provisions of Section 1 of this act apply to a member's salary or wages earned on or after the effective date of this act.

### **Chapter 38 Section 8 Laws 2021**

SECTION 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

## **LAWS 2021, CHAPTER 39**

**Senate Bill 92, aa**  
**Approved April 5, 2021**

AN ACT

RELATING TO MISSING PERSONS; REQUIRING CONFIDENTIALITY OF A FOUND PERSON'S STATUS AND LOCATION IN CERTAIN CIRCUMSTANCES.

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

**Chapter 39 Section 1 Laws 2021**

SECTION 1. Section 29-15-5 NMSA 1978 (being Laws 1995, Chapter 146, Section 5, as amended) 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.

C. A law enforcement agency shall not report to a custodian or immediate family member pursuant to Subsection B of this section if the missing person is not a minor, has been found and has informed a law enforcement agency or the clearinghouse that the person requests confidentiality regarding the person's status and location. If the missing person who requests confidentiality regarding the person's status

and location is a person with a custodian appointed by a judge, the law enforcement agency shall inform the court that the person has been found and has requested confidentiality regarding the person's status and location. A law enforcement agency shall also report to the custodian that the person has been found unless there is competent evidence that to do so may cause harm to the incapacitated person.

D. The Inspection of Public Records Act shall not apply to a request to inspect records regarding a person who has requested confidentiality pursuant to Subsection C of this section."

## **Chapter 39 Section 2 Laws 2021**

SECTION 2. Section 29-15-11 NMSA 1978 (being Laws 1995, Chapter 146, Section 11, as amended) 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, except as provided pursuant to Section 29-15-5 NMSA 1978."

## **LAWS 2021, CHAPTER 40**

**Senate Bill 96, aa**  
**Approved April 5, 2021**

### **AN ACT**

RELATING TO PUBLIC HEALTH; AMENDING THE MATERNAL MORTALITY AND MORBIDITY PREVENTION ACT TO CLARIFY THE TYPES OF CASES REVIEWED BY THE MATERNAL MORTALITY REVIEW COMMITTEE; EXPANDING COMMITTEE LEADERSHIP, MEMBERSHIP, POWERS AND PRIVILEGES; REQUIRING APPROVAL BY THE SECRETARY OF HEALTH FOR COMMITTEE ACTIONS; PROVIDING FOR AN EXECUTIVE COMMITTEE; CLARIFYING MEMBERSHIP; ELIMINATING A SUBCOMMITTEE; PROVIDING A DEADLINE FOR RULEMAKING.

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

### **Chapter 40 Section 1 Laws 2021**

SECTION 1. Section 24-32-1 NMSA 1978 (being Laws 2019, Chapter 41, Section 1) is amended to read:

"24-32-1. SHORT TITLE.--Chapter 24, Article 32 NMSA 1978 may be cited as the "Maternal Mortality and Morbidity Prevention Act"."

## **Chapter 40 Section 2 Laws 2021**

SECTION 2. Section 24-32-2 NMSA 1978 (being Laws 2019, Chapter 41, Section 2) is amended to read:

"24-32-2. DEFINITIONS.--As used in the Maternal Mortality and Morbidity Prevention Act:

A. "administrative co-chair" means the chief medical officer of the department or another representative of the department appointed by the secretary of health;

B. "aggregate data" means health care data that exclude any individually identifiable health information, including patient and health care provider identification;

C. "chief medical officer" means the chief medical officer of the department;

D. "clinical co-chair" means a committee member with maternal child health clinical or paraprofessional training nominated by the committee and approved by the department to serve in this position;

E. "committee" means the maternal mortality review committee;

F. "committee member" means a person who has been appointed to sit as a member of the committee and who participates in committee business and votes on committee matters;

G. "critical income" means income lost as a result of uncompensated work time used to attend a committee meeting;

H. "de-identified data" means data from which the following identifiers have been removed:

- (1) names;
- (2) any geographic subdivision smaller than a state, including street address, city, county, precinct and zip code and their equivalent geocodes;
- (3) all elements of dates, except the year of an incident, that are directly related to an individual, including birth date, admission date, date of delivery, discharge date and date of death;
- (4) telephone numbers;
- (5) fax numbers;
- (6) electronic mail addresses;
- (7) social security numbers;
- (8) medical record numbers;
- (9) health plan beneficiary numbers;
- (10) account numbers;
- (11) certificate and license numbers;
- (12) vehicle identifiers and serial numbers, including license plate numbers;
- (13) device identifiers and serial numbers;

- (14) web universal resource locators, also known as "URLs";
- (15) internet protocol address numbers;
- (16) biometric identifiers, including finger and voice prints;
- (17) full-face photographic images and any comparable images; and
- (18) any other unique identifying number, characteristic or code;

I. "department" means the department of health;

J. "health care provider" means:

(1) an individual licensed, certified or otherwise authorized to provide health care services in the ordinary course of business in the state; or

(2) a health facility that the department licenses;

K. "law enforcement agency" means a law enforcement agency of the state, an Indian nation, tribe or pueblo or a political subdivision of the state;

L. "maternal mortality" means the death of a pregnant woman or a woman within one year postpartum;

M. "medical record" means the written or graphic documentation, sound recording or electronic record relating to medical, behavioral health and health care services that a patient receives from a health care provider or under the direction of a physician or another licensed health care provider. "Medical record" includes diagnostic documentation, including an x-ray, electrocardiogram and electroencephalogram; other test results; data entered into a prescription drug monitoring program; and an autopsy report;



N. "operational staff" means staff or contractors of the department assigned or contracted to support the work of the committee or its executive committee;

O. "qualified invited guest" means a person approved by the co-chairs and invited by the committee to attend a committee meeting to provide technical expertise to the committee, to enhance training in maternal health, to provide insight on maternal mortality or severe maternal morbidity review in other jurisdictions or to provide operational support to the committee; and

P. "severe maternal morbidity" means unexpected outcomes of labor and delivery that result in significant short- or long-term consequences to a woman's health as identified by hospitalizations using administrative hospital discharge data and the world health organization's *International Classification of Diseases* diagnosis and procedure codes."

## **Chapter 40 Section 3 Laws 2021**

SECTION 3. Section 24-32-3 NMSA 1978 (being Laws 2019, Chapter 41, Section 3) is amended to read:

"24-32-3. MATERNAL MORTALITY REVIEW COMMITTEE--CREATION--MEMBERSHIP--DUTIES.--

A. The "maternal mortality review committee" is created in the department. The committee shall be composed of:

(1) the chief medical officer of the department or another representative of the department appointed by the secretary of health, who shall be the ex-officio administrative co-chair;

(2) a clinical co-chair, who shall be nominated by the committee and approved by the department; and

(3) a maximum of thirty additional members, who shall be appointed by the administrative co-chair; provided that four of those members shall include:

(a) two members nominated by the secretary of Indian affairs;  
and

(b) two members nominated by the director of the office on African American affairs.

B. Each member of the committee, except the administrative co-chair, shall serve a term of three years, with no consecutive terms.

C. Pursuant to requirements established by the department, each member of the committee shall receive training on trauma and the impacts of trauma, including secondary trauma, trauma of racism and trauma of maternal mortality and morbidity.

D. In appointing members of the committee, the administrative co-chair shall include members that work in and represent communities that are most impacted per the state maternal mortality ratio so that the composition of the committee reflects:

(1) the racial, ethnic and linguistic diversity of the state;

(2) the differing geographic regions within the state, including rural and urban areas; and

(3) communities that are most impacted by pregnancy-related deaths, severe maternal morbidity and a lack of access to relevant perinatal and intrapartum care services.

E. The committee shall meet at the call of the co-chairs. A majority of committee members appointed constitutes a quorum for the transaction of any business. The affirmative vote of at least a majority of a quorum present and approval by the secretary of health or the secretary's designee shall be necessary for any action

to be taken by the committee. No vacancy in the membership of the committee shall impair the right of a quorum to exercise all rights and perform all duties of the committee.

F. Operational staff and qualified guests may participate in committee deliberations in an advisory capacity as directed by the co-chairs of the committee. Operational staff and qualified guest presence at a committee meeting shall not convey committee membership.

G. A committee member required to travel in excess of fifty miles to attend a meeting of the committee may, with the approval of the department, receive per diem and mileage for attendance at that meeting pursuant to the Per Diem and Mileage Act. A committee member forsaking critical income to attend a committee meeting may, with the approval of the department and pursuant to rules established by the department, be additionally reimbursed for loss of that income in an amount not to exceed three hundred dollars (\$300) per meeting.

H. The committee shall:

- (1) review each incident of maternal mortality using a de-identified case summary prepared by operational staff;
- (2) review aggregate data relating to severe maternal morbidity;
- (3) outline trends and patterns and provide recommendations relating to maternal mortality and severe maternal morbidity in the state;
- (4) compile reports using aggregate data on an annual basis in an effort to further study the causes and problems associated with maternal mortality and severe maternal morbidity and distribute these reports to the legislature, government agencies, including the Indian Affairs department and the office on African American affairs, health care providers, community-based organizations working in the interest of maternal and child health and others as necessary to reduce the maternal mortality rate

in the state. These reports shall include recommendations to assist health care providers and the health care system in reducing maternal mortality and morbidity;

(5) serve as a link with maternal mortality and morbidity review teams nationwide and participate in national maternal mortality and morbidity review team activities; and

(6) perform any other functions as resources allow to enhance efforts to reduce and prevent maternal mortality and severe maternal morbidity in the state.

I. The co-chairs of the committee may designate an executive committee to conduct business as necessary. The executive committee shall:

(1) consist of the co-chairs of the committee and any other committee members or operational staff that the co-chairs deem necessary. Operational staff and qualified guests may participate in executive committee deliberations in an advisory capacity as directed by the co-chairs of the committee. Operational staff and qualified guest presence at an executive committee meeting shall not convey committee membership;

(2) meet at the call of the co-chairs;

(3) monitor and support the activities of the full committee and recruit committee members for recommendation to the administrative co-chair; and

(4) make final decisions regarding:

(a) committee operations and rules;

(b) data analysis, data dissemination and evaluation based on findings and recommendations from the full committee; and

(c) any other issues within the scope of decisions that may be made by the committee pursuant to the Maternal Mortality and Morbidity Prevention Act that the full committee or department deems necessary."

## **Chapter 40 Section 4 Laws 2021**

SECTION 4. Section 24-32-4 NMSA 1978 (being Laws 2019, Chapter 41, Section 4) is amended to read:

"24-32-4. ACCESS TO HEALTH INFORMATION.--

A. A health care provider, the office of the state medical investigator and the vital records and health statistics bureau of the department shall notify operational staff of any incident of maternal mortality within three months of the incident.

B. Except as otherwise provided by law, the clinical co-chair and operational staff may access medical records and other health information relating to an incident of maternal mortality at any time within five years from the date of the incident. At the request of the clinical co-chair or operational staff with co-chairs or department approval, a health care provider, the office of the state medical investigator and the vital records and health statistics bureau of the department shall provide medical records and other requested health information to the department relating to an incident of maternal mortality. Upon the request of the clinical co-chair or operational staff, a law enforcement agency shall provide any report relating to an incident of maternal mortality to the department. A health care provider or law enforcement agency that provides a medical record, health information or report pursuant to this section with reasonable care and in compliance with the law shall not be held criminally or civilly liable for that release of information.

C. The following shall be confidential and shall not be subject to the Open Meetings Act or the Inspection of Public Records Act or subject to any subpoena, discovery request or introduction into evidence in a civil or criminal proceeding unless

obtained from a source separate and apart from the committee or department by valid means as provided by law:

(1) any meeting, part of a meeting or activity of the committee or its executive committee at which data or other information is to be discussed and that may result in disclosure to the public of information protected by law; and

(2) except as may be necessary in furtherance of the duties of the committee or in response to an alleged violation of a confidentiality agreement pursuant to Subsection E of this section, any information, record, report, notes, memorandum or other data that the department or committee obtains pursuant to the Maternal Mortality and Morbidity Prevention Act.

D. Only the clinical co-chair and operational staff shall collect and have access to medical records, law enforcement reports and vital records data to support the work of the full committee.

E. Each committee member and qualified guest shall sign a confidentiality agreement that indicates the member's or qualified guest's adherence to the provisions of this section."

## **Chapter 40 Section 5 Laws 2021**

SECTION 5. Section 24-32-5 NMSA 1978 (being Laws 2019, Chapter 41, Section 5) is amended to read:

"24-32-5. RULEMAKING.--By December 31, 2021, the secretary of health shall adopt and promulgate amended rules to carry out the provisions of the Maternal Mortality and Morbidity Prevention Act."

# LAWS 2021, CHAPTER 41

Senate Bill 106  
Approved April 5, 2021

AN ACT

RELATING TO DRIVER EDUCATION SCHOOL SURETY BONDS; INCREASING THE REQUIRED SURETY BOND FOR DRIVER EDUCATION SCHOOLS.

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

## Chapter 41 Section 1 Laws 2021

SECTION 1. Section 66-10-6 NMSA 1978 (being Laws 1967, Chapter 185, Section 6, as amended) is amended to read:

"66-10-6. POWERS OF BUREAU.--The bureau shall:

- A. prescribe the forms and procedures necessary for the making of applications and the licensing of driver education schools and driver education instructors pursuant to the provisions of the Driving School Licensing Act;
- B. require periodic and annual reports from the licensed schools on the number and types of pupils enrolled and trained and such other matters as it deems necessary;
- C. require the licensed schools to keep and maintain certain records;
- D. prescribe forms for and supply serially numbered uniform certificates of course completion to owners, primary consignees or operators of courses approved by the bureau and charge a fee not to exceed one dollar (\$1.00) per certificate. The

uniform certificates of course completion shall be printed on copy resistant paper in not less than two self-copying parts so as to provide a control copy of the certificate that shall be retained by the course provider. Each certificate shall include an identifying number that will allow the court or bureau to verify its authenticity with the course provider. Upon successful completion of a course, licensed schools shall issue to each pupil a certificate of completion;

E. require each driver education school to post a surety bond with the bureau in the amount of fifteen thousand dollars (\$15,000);

F. suspend or revoke, subject to the procedures prescribed in the Uniform Licensing Act, any license issued to a driver education school or to a driver education instructor when it is found that the licensee has failed to maintain the qualifications or standards required by the Driving School Licensing Act for the issuance of the initial license;

G. develop and adopt rules needed to administer the Driving School Licensing Act and to license driver education schools and instructors;

H. set annual licensure fees for:

(1) driver education schools, not to exceed five hundred dollars (\$500) per year;

(2) driver education instructors, not to exceed one hundred dollars (\$100) per year; and

(3) driver education school extension locations, not to exceed thirty-five dollars (\$35.00) per year; and

I. set by rule the enrollment fees that may be charged to a student by a private driver education school."



# LAWS 2021, CHAPTER 42

Senate Bill 112, aa  
Approved April 5, 2021

## AN ACT

RELATING TO ECONOMIC DEVELOPMENT; CREATING THE SUSTAINABLE ECONOMY TASK FORCE AND THE SUSTAINABLE ECONOMY ADVISORY COUNCIL; REQUIRING THAT THE SUSTAINABLE ECONOMY TASK FORCE DEVELOP A STRATEGIC PLAN TO TRANSITION THE STATE ECONOMY AWAY FROM RELIANCE ON NATURAL RESOURCE EXTRACTION; PROVIDING DUTIES; REQUIRING THAT DEPARTMENT SECRETARIES OF STATE AGENCIES COMPLY WITH THE STRATEGIC PLAN.

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

### Chapter 42 Section 1 Laws 2021

#### SECTION 1. SUSTAINABLE ECONOMY TASK FORCE--CREATED--STAFF.--

A. The "sustainable economy task force" is created and is administratively attached to the economic development department. The task force consists of the following voting members as follows:

- (1) the commissioner of public lands or the commissioner's designee;
- (2) the secretary of economic development or the secretary's designee;
- (3) the secretary of finance and administration or the secretary's designee;

- (4) the secretary of taxation and revenue or the secretary's designee;
- (5) the secretary of energy, minerals and natural resources or the secretary's designee;
- (6) the secretary of Indian affairs or the secretary's designee;
- (7) the secretary of workforce solutions or the secretary's designee;
- (8) the secretary of general services or the secretary's designee;
- (9) the secretary of higher education or the secretary's designee;
- (10) the secretary of public education or the secretary's designee;
- (11) the secretary of environment or the secretary's designee;
- (12) the state investment officer or the state investment officer's designee; and
- (13) the chair of the sustainable economy advisory council.

B. The chair of the task force shall be the secretary of economic development or the secretary's designee, and the vice chair of the task force shall be the member serving as the chair of the sustainable economy advisory council. The task force shall meet at the call of the chair.

C. The "sustainable economy advisory council" is created and is administratively attached to the economic development department. The advisory council shall advise the sustainable economy task force on developing and achieving the goals of the strategic plan provided in Section 2 of this 2021 act. The advisory council shall consist of the following members:

(1) one representative of local governments, appointed by the chair of the task force;

(2) two representatives of disproportionately impacted communities or organizations with experience working with disproportionately impacted communities, appointed by the chair of the task force;

(3) two representatives of organizations with experience in sustainable economic development planning and workforce development, appointed by the chair of the task force;

(4) one representative from industry and business sectors involved in achieving or that may be affected by the goals of the sustainable economy task force, appointed by the chair of the task force; and

(5) eight representatives of tribal governments or entities, appointed by the Indian affairs department.

D. The chair of the advisory council shall be elected by the members of the advisory council.

E. Members of the task force may receive per diem and mileage pursuant to the Per Diem and Mileage Act.

F. The economic development department shall provide the necessary staff and administrative support to the task force.

G. As used in this section, "disproportionately impacted community" means a community or population of people for which multiple burdens, including environmental and socioeconomic stressors, inequity, poverty, high unemployment, pollution or discrimination, may act to persistently and negatively affect the health, well-being and environment of the community or population and includes tribal communities, communities of color and low-income rural communities and native people, people of

color, women, immigrants, youth, formerly incarcerated people, lesbian, gay, bisexual, transgender and queer people and people with disabilities.

## **Chapter 42 Section 2 Laws 2021**

### **SECTION 2. SUSTAINABLE ECONOMY TASK FORCE--DUTIES--STRATEGIC PLAN--REPORTING.--**

A. The sustainable economy task force shall:

(1) develop a strategic plan in fiscal year 2022 to transition the state economy away from reliance on natural resource extraction; provided that the strategic plan shall adhere to the requirements set forth in Subsection C of this section and shall be updated annually through fiscal year 2027; and

(2) no later than October 1 of each year, report on the strategic plan to the legislative finance committee, the revenue stabilization and tax policy committee and any other appropriate interim legislative committee.

B. The sustainable economy task force may hire or contract with consultants or experts to provide the task force with information to assist in developing the strategic plan.

C. The strategic plan, which shall be developed and updated annually by the sustainable economy task force, shall:

(1) provide policies to promote:

(a) the addition of new jobs statewide to replace jobs that rely on the extraction or development of natural resources;

(b) diversifying the state's tax base to replace the revenue generated from the natural resource extraction sector, including policies promoting: 1) economic development; 2) state investments; 3) infrastructure development; and 4) determining alternative funding sources for education and hospitals; and

(c) long-term economic growth;

(2) address recommendations provided in current and future economic studies and development efforts, including those from state agencies, institutions of higher learning, national laboratories and business incubators;

(3) be developed in consultation with the communities that will be affected by the provisions of the plan, including Indian nations, tribes and pueblos located wholly or partly in New Mexico, local governments and local communities; and

(4) include a plan to implement the recommendations of the study titled the "New Mexico Clean Energy Workforce Development Study" that was commissioned by the workforce solutions department and published in June 2020 and expand the development of jobs with family-sustaining wages and benefits, opportunities for advancement and safe working conditions in industries engaged in sustainable economic development for New Mexico workers, prioritizing disproportionately impacted communities.

D. As used in this section, "disproportionately impacted community" means a community or population of people for which multiple burdens, including environmental and socioeconomic stressors, inequity, poverty, high unemployment, pollution or discrimination, may act to persistently and negatively affect the health, well-being and environment of the community or population and includes tribal communities, communities of color and low-income rural communities and native people, people of color, women, immigrants, youth, formerly incarcerated people, lesbian, gay, bisexual, transgender and queer people and people with disabilities.

## Chapter 42 Section 3 Laws 2021

SECTION 3. Section 9-1-5 NMSA 1978 (being Laws 1977, Chapter 248, Section 5) is amended to read:

### "9-1-5. SECRETARY--DUTIES AND GENERAL POWERS.--

A. The secretary is responsible to the governor for the operation of the department. It is the secretary's duty to manage all operations of the department and to administer and enforce the laws with which the secretary or the department is charged.

B. To perform the secretary's duties, the secretary has every power expressly enumerated in the laws, whether granted to the secretary or the department or any division of the department, except where authority conferred upon any division is explicitly exempted from the secretary's authority by statute. In accordance with these provisions, the secretary shall:

(1) except as otherwise provided in the Executive Reorganization Act, exercise general supervisory and appointing authority over all department employees, subject to any applicable personnel laws and regulations;

(2) delegate authority to subordinates as the secretary deems necessary and appropriate, clearly delineating such delegated authority and the limitations thereto;

(3) organize the department into those organizational units the secretary deems will enable it to function most efficiently, subject to any provisions of law requiring or establishing specific organizational units;

(4) within the limitations of available appropriations and applicable laws, employ and fix the compensation of those persons necessary to discharge the secretary's duties;

(5) take administrative action by issuing orders and instructions, not inconsistent with the law, to assure implementation of and compliance with the provisions of law for whose administration or execution the secretary is responsible and to enforce those orders and instructions by appropriate administrative action or actions in the courts;

(6) conduct research and studies that will improve the operations of the department and the provision of services to the residents of the state;

(7) provide courses of instruction and practical training for employees of the department and other persons involved in the administration of programs with the objective of improving the operations and efficiency of administration;

(8) prepare an annual budget of the department;

(9) provide cooperation, at the request of heads of administratively attached agencies and adjunct agencies, in order to:

(a) minimize or eliminate duplication of services and jurisdictional conflicts;

(b) coordinate activities and resolve problems of mutual concern; and

(c) resolve by agreement the manner and extent to which the department shall provide budgeting, recordkeeping and related clerical assistance to administratively attached agencies;

(10) implement, as much as legally permissible, the strategic plan developed by the sustainable economy task force as provided in Section 2 of this 2021 act;

(11) appoint, with the governor's consent, a "director" for each division. These appointed positions are exempt from the provisions of the Personnel Act. Persons appointed to these positions shall serve at the pleasure of the secretary;

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

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

C. The secretary may apply for and receive, with the governor's approval, in the name of the department any public or private funds, including but not limited to United States government funds, available to the department to carry out its programs, duties or services.

D. Where functions of departments overlap or a function assigned to one department could better be performed by another department, a secretary may recommend appropriate legislation to the next session of the legislature for its approval.

E. The secretary may make and adopt such reasonable procedural rules as may be necessary to carry out the duties of the department and its divisions. No rule promulgated by the director of any division in carrying out the functions and duties of the division shall be effective until approved by the secretary unless otherwise provided by statute. Unless otherwise provided by statute, no rule affecting any person or agency outside the department shall be adopted, amended or repealed without a public hearing on the proposed action before the secretary or a hearing officer designated by the secretary. The public hearing shall be held in Santa Fe unless otherwise permitted by statute. Notice of the subject matter of the rule, the action proposed to be taken, the time and place of the hearing, the manner in which interested persons may present their views and the method by which copies of the proposed rule or proposed amendment or



repeal of an existing rule may be obtained shall be published once at least thirty days prior to the hearing date in a newspaper of general circulation and mailed at least thirty days prior to the hearing date to all persons who have made a written request for advance notice of hearing. All rules shall be filed in accordance with the State Rules Act.

F. If this section conflicts with the powers and duties specifically given by statute to a particular secretary, the specific powers and duties shall control. If this section conflicts with other statutes specifically limiting the powers of a secretary, the specific limitations shall control."

## **Chapter 42 Section 4 Laws 2021**

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

# **LAWS 2021, CHAPTER 43**

**Senate Bill 121, w/ec**  
**Approved April 5, 2021**

AN ACT

RELATING TO PUBLIC FINANCE; PROVIDING FOR THE ISSUANCE AND USE OF STATE TRANSPORTATION PROJECT BONDS FOR CERTAIN TRANSPORTATION PROJECTS; DECLARING AN EMERGENCY.

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

## **Chapter 43 Section 1 Laws 2021**

SECTION 1. AUTHORIZED TRANSPORTATION PROJECTS.--The department of transportation may use the net proceeds of state transportation project bonds issued by the New Mexico finance authority pursuant to Section 67-3-59.2 NMSA 1978 and Section 5 of this 2021 act for the following transportation projects:

A. for state highway construction, reconstruction and improvement projects specifically authorized by the legislature during the first session of the fifty-fifth legislature;

B. for keeping projects in the state transportation improvement program on schedule due to reduced revenues from the coronavirus disease 2019 pandemic; and

C. other state highway projects identified in the state transportation improvement program.

## **Chapter 43 Section 2 Laws 2021**

SECTION 2. Section 67-3-59.2 NMSA 1978 (being Laws 1999 (1st S.S.), Chapter 9, Section 3, as amended) is amended to read:

"67-3-59.2. HIGHWAY INFRASTRUCTURE FUND CREATED--PURPOSE.--

A. The "highway infrastructure fund" is created in the state treasury and shall be administered by the department. The fund shall consist of money from various fees and taxes distributed to the fund. Earnings on investment of the fund shall be credited to the fund. Balances in the fund at the end of any fiscal year shall not revert and shall remain in the fund for the purposes authorized in this section.

B. Money in the fund shall be used solely for acquisition of rights of way or planning, design, engineering, construction or improvement of state highway projects

authorized pursuant to the provisions of Laws 1998, Chapter 84, Subsections C through H of Section 1 of Chapter 85 of Laws 1998, Laws 2003 (1st S.S.), Chapter 3, Sections 27 and 28, Laws 2020 (1st S.S.), Chapter 3, Section 8 and Section 1 of this 2021 act and is appropriated to the department for expenditure for those purposes.

C. The taxes and fees required by law to be distributed to the highway infrastructure fund may be pledged for the payment of bonds issued pursuant to Sections 67-3-59.1, 67-3-59.3 and 67-3-59.4 NMSA 1978, Laws 2020 (1st S.S.), Chapter 3, Section 8 and Section 1 of this 2021 act for the highway projects authorized in the laws specified in Subsection B of this section."

### **Chapter 43 Section 3 Laws 2021**

SECTION 3. Section 67-3-59.3 NMSA 1978 (being Laws 2003 (1st S.S.), Chapter 3, Section 24, as amended) is amended to read:

"67-3-59.3. STATE TRANSPORTATION PROJECT BONDS--ISSUANCE--PROCEDURES--APPROVAL.--

A. In order to provide funds to finance state transportation projects, the New Mexico finance authority, when directed by the state transportation commission, is authorized, subject to the limitations of this section, Section 67-3-59.4 NMSA 1978, Laws 2020 (1st S.S.), Chapter 3, Section 8 and Section 5 of this 2021 act, to issue state transportation project bonds from time to time, payable from:

(1) federal funds not otherwise obligated that are paid into the state road fund;

(2) proceeds of the collection of taxes and fees that are required to be paid into the state road fund and not otherwise pledged exclusively to the payment of outstanding bonds and debentures; and

(3) taxes and fees required by law to be paid into the highway infrastructure fund.

B. The New Mexico finance authority, when directed by the state transportation commission, may issue bonds to refund other bonds issued by or at the direction of the state transportation commission pursuant to this section or Section 67-3-59.1 NMSA 1978 by exchange or current or advance refunding.

C. In consultation with the state transportation commission, the New Mexico finance authority shall determine all terms, covenants and conditions of the bonds; provided that the project design life of a project meets or exceeds the life of the bond issued for that project, and each series of bonds shall be sold, executed and delivered in accordance with the provisions of the New Mexico Finance Authority Act. The New Mexico finance authority may enter into interest rate exchange agreements, interest rate swap contracts, insurance agreements, remarketing agreements and any other agreements deemed necessary in connection with the issuance of the bonds.

D. Proceeds of the bonds and amounts on deposit in the state road fund and the highway infrastructure fund may be used to pay expenses incurred in the preparation, administration, issuance and sale of the bonds and, together with the earnings on the proceeds of the bonds, may be used to pay rebate, penalty, interest and other obligations relating to the bonds and the proceeds of the bonds under the Internal Revenue Code of 1986, as amended.

E. This section is full authority for the issuance and sale of the bonds, and the bonds shall not be invalid for any irregularity or defect in the proceedings for their issuance and sale and shall be incontestable in the hands of bona fide purchasers or holders of the bond for value.

F. The bonds shall be legal investments for a person or board charged with the investment of public funds and may be accepted as security for a deposit of public money and, with the interest thereon, are exempt from taxation by the state and a political subdivision or agency of the state.

G. Any law authorizing the imposition or distribution of taxes or fees paid into the state road fund or the highway infrastructure fund or that affects those taxes and fees shall not be amended or repealed or otherwise directly or indirectly modified so as to impair outstanding bonds secured by a pledge of revenues from those taxes and fees paid into the state road fund or the highway infrastructure fund, unless the bonds have been discharged in full or provisions have been made for a full discharge. In addition, while any bonds issued by the New Mexico finance authority pursuant to the provisions of this section remain outstanding, the powers or duties of the state transportation commission or the authority shall not be diminished or impaired in any manner that will affect adversely the interests and rights of the holder of such bonds.

H. In contracting for state transportation projects to be paid in whole or in part with proceeds of bonds authorized by this section, the department shall require that any sand, gravel, caliche or similar material needed for the project shall, if practicable, be mined from state lands. Each contract shall provide that the contractor notify the commissioner of public lands of the need for the material and that, through lease or purchase, the material shall be mined from state lands if:

(1) the material needed is available from state lands in the vicinity of the project;

(2) the commissioner determines that the lease or purchase is in the best interest of the state land trust beneficiaries; and

(3) the cost to the contractor for the material, including the costs of transportation, is competitive with other available material from nonstate lands.

I. Bonds issued pursuant to this section shall be paid solely from federal funds not otherwise obligated and taxes and fees deposited into the state road fund and the highway infrastructure fund and shall not constitute a general obligation of the state.

J. For purposes of this section, "state transportation project bonds" includes only those bonds issued pursuant to this section and excludes transportation bonds as defined in Section 67-3-72 NMSA 1978."

## **Chapter 43 Section 4 Laws 2021**

SECTION 4. Section 67-3-59.4 NMSA 1978 (being Laws 2003 (1st S.S.), Chapter 3, Section 26, as amended) is amended to read:

"67-3-59.4. STATE TRANSPORTATION PROJECT BONDS--AUTHORIZATION AND APPROPRIATION--PRIORITIES--CRITERIA--REPORTS.--

A. It is the intent of the legislature to authorize the New Mexico finance authority to issue state transportation project bonds pursuant to Section 67-3-59.3 NMSA 1978 for projects specified in Laws 2003 (1st S.S.), Chapter 3, Sections 27 and 28, Laws 2020 (1st S.S.), Chapter 3, Section 8 and Section 1 of this 2021 act in the total aggregate principal amount of one billion five hundred eighty-five million dollars (\$1,585,000,000).

B. The state transportation commission may authorize the New Mexico finance authority to issue and sell state transportation project bonds. The proceeds of the bonds are appropriated to the department of transportation for projects listed in Laws 2003 (1st S.S.), Chapter 3, Sections 27 and 28, Laws 2020 (1st S.S.), Chapter 3, Section 8 and Section 1 of this 2021 act.

C. The department of transportation shall provide to the legislature and the governor a report on transportation priorities and progress. The report shall include:

(1) justification of priority ranking of projects, including the following for each highway project enumerated in Laws 2003 (1st S.S.), Chapter 3, Sections 27 and 28:

- (a) traffic counts and accident rates and the expected improvements to traffic flow, health and safety;
  - (b) the ranking of the pavement and substructure conditions;
  - (c) an assessment of economic development impacts; and
  - (d) other information deemed significant by the department;
- (2) the expected life of the proposed improvement;
- (3) sufficiency of revenue to pay the principal and interest of all outstanding and proposed bonds based on a five- and twenty-year financial forecast for the state road fund and the effect of the bond program on the department's construction and maintenance program;
- (4) status report of ongoing major construction;
- (5) the relationship between the requested projects and the statewide transportation improvement program; and
- (6) any other information requested by the legislature or the executive.

D. The department of transportation shall provide quarterly progress reports to the department of finance and administration and the legislative finance committee.

E. The department of transportation shall adopt and enforce rules with the goal that no less than seventy percent of the work force of an exclusively state-funded project authorized in Laws 2003 (1st S.S.), Chapter 3, Sections 27 and 28 shall be residents of New Mexico."

## **Chapter 43 Section 5 Laws 2021**

SECTION 5. Laws 2020 (1st S.S.), Chapter 3, Section 8 is amended to read:

"SECTION 8. DEPARTMENT OF TRANSPORTATION PROJECTS--  
AUTHORIZATION TO ISSUE STATE TRANSPORTATION PROJECT BONDS.--

A. Of the aggregate principal amount of one billion five hundred eighty-five million dollars (\$1,585,000,000) for state transportation project bonds that the New Mexico finance authority is authorized to issue pursuant to Sections 67-3-59.3 and 67-3-59.4 NMSA 1978, the New Mexico finance authority may, on or after July 1, 2021, issue and sell state transportation project bonds in a principal amount not to exceed two hundred thirty-four million six hundred thousand dollars (\$234,600,000) for acquisition of rights of way, planning, design and construction and to match federal and other state funds for projects for which general fund appropriations were made pursuant to Laws 2019, Chapter 271, Section 9 and projects in Section 1 of this 2021 act.

B. The department of transportation may use the net proceeds of state transportation project bonds issued by the New Mexico finance authority pursuant to Subsection A of this section for the projects for which general fund appropriations were made pursuant to Laws 2019, Chapter 271, Section 9 and projects in Section 1 of this 2021 act.

C. Any unexpended or unencumbered balance after the completion of the projects authorized in this section and in Section 1 of this 2021 act shall revert to the state road fund."

## **Chapter 43 Section 6 Laws 2021**

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



# **LAWS 2021, CHAPTER 44**

**Senate Bill 42, aa**  
**Approved April 5, 2021**

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; INCREASING CERTAIN CONTRIBUTIONS TO THE EDUCATIONAL RETIREMENT FUND; REQUIRING

A REPORT; EXTENDING CERTAIN RETURN-TO-WORK PROVISIONS; REPEALING LAWS 2019, CHAPTER 237, SECTION 18 TO CORRECT A TECHNICAL STATUTORY CONFLICT.

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

## **Chapter 44 Section 1 Laws 2021**

SECTION 1. Section 22-11-21 NMSA 1978 (being Laws 1967, Chapter 16, Section 144, as amended by Laws 2019, Chapter 237, Section 18 and by Laws 2019, Chapter 258, Section 1) is amended to read:

"22-11-21. CONTRIBUTIONS--MEMBERS--LOCAL ADMINISTRATIVE UNITS.--

A. Except as provided in Subsection D of this section, for a member whose annual salary is greater than twenty-four thousand dollars (\$24,000), the member shall make contributions to the fund at the rate of ten and seven-tenths percent of the member's annual salary.

B. For a member whose annual salary is twenty-four thousand dollars (\$24,000) or less, the member shall make contributions to the fund at the rate of seven and nine-tenths percent of the member's annual salary.

C. Except as provided in Subsection D of this section, each local administrative unit shall make an annual contribution to the fund according to the following schedule:

(1) from July 1, 2021 through June 30, 2022, at the rate of fifteen and fifteen-hundredths percent of the annual salary of each member employed by the local administrative unit; and

(2) on and after July 1, 2022, at the rate of sixteen and fifteen-hundredths percent of the annual salary of each member employed by the local administrative unit.

D. If, in a calendar year, the salary of a member, initially employed by a local administrative unit on or after July 1, 1996, equals the annual compensation limit set pursuant to Section 401(a)(17) of the Internal Revenue Code of 1986, as amended, then:

(1) for the remainder of that calendar year, no additional member contributions or local administrative unit contributions for that member shall be made pursuant to this section; provided that no member shall be denied service credit solely because contributions are not made by the member or on behalf of the member pursuant to this subsection; and

(2) the amount of the annual compensation limit shall be divided into four equal portions, and, for purposes of attributing contributory employment and crediting service credit, each portion shall be attributable to one of the four quarters of the calendar year."

## **Chapter 44 Section 2 Laws 2021**

SECTION 2. Section 22-11-25.1 NMSA 1978 (being Laws 2001, Chapter 283, Section 2, as amended) is amended to read:

"22-11-25.1. RETURN TO EMPLOYMENT--BENEFITS--CONTRIBUTIONS.--

A. Except as otherwise provided in Subsections B, F and H of this section, until January 1, 2024, a retired member who begins employment with a local administrative unit at a level greater than one-quarter full-time employee, regardless of salary level, is required to suspend the member's retirement benefits until the end of that employment unless the member has not rendered service to a local administrative unit for at least twelve consecutive months after the date of retirement.

B. Until January 1, 2024, a retired member who retired on or before January 1, 2001, has not suspended or been required to suspend retirement benefits pursuant to the Educational Retirement Act and returns to employment with a local administrative unit is not required to suspend the member's retirement benefits.

C. A retired member who returns to employment with a local administrative unit in accordance with this section is entitled to receive retirement benefits during that employment but is not entitled to acquire or purchase service credit for that employment.

D. A retired member may return to employment with a local administrative unit only if the member submits an application to return to work, on a form prescribed by the board, the board approves the application and the applicant complies with other application rules promulgated by the board.

E. A retired member who returns to employment pursuant to Subsection A, B or F of this section shall make nonrefundable contributions to the fund as would be required by Section 22-11-21 NMSA 1978 if the retired member were a non-retired employee. The local administrative unit employing the retired member shall likewise make contributions as would be required by that section.

F. Until January 1, 2024, a retired member who retired on or before January 1, 2001, who suspended or was required to suspend retirement benefits under the Educational Retirement Act is not required to suspend the member's retirement benefits

if the retired member has not rendered service to a local administrative unit for an additional twelve or more consecutive months, not including any part of a summer or other scheduled break or vacation period, after the initial date of retirement.

G. A retired member who returns to employment with a local administrative unit shall make contributions to the retiree health care fund during the period of that employment and in the amount specified in Section 10-7C-15 NMSA 1978. The local administrative unit employing the retired member shall likewise make contributions during the period of that employment and in the amount specified in that section.

H. A retired member may return to employment with a local administrative unit without a suspension of the member's retirement benefits; provided that:

(1) the retired member has not rendered service to a local administrative unit for at least ninety days after the date of retirement;

(2) prior to the date of retirement, or within ninety days after the date of retirement, the retired member did not enter into any formal or informal agreement with a local administrative unit or with any contractor providing services to a local administrative unit to return to employment; and

(3) the retired member earns a salary of less than fifteen thousand dollars (\$15,000) per year.

I. As used in this section:

(1) "rendered service" includes employment, whether full or part time; substitute teaching; voluntarily performing duties that would otherwise be, or in the past have been, performed by a paid employee or independent contractor; and performing duties as an independent contractor or an employee of an independent contractor; and

(2) "local administrative unit" includes any entity incorporated, formed or otherwise organized by, or subject to the control of, a local administrative unit, regardless of whether the entity is created for profit or nonprofit purposes."

## **Chapter 44 Section 3 Laws 2021**

SECTION 3. Section 22-11-49 NMSA 1978 (being Laws 1991, Chapter 118, Section 7, as amended) is amended to read:

"22-11-49. ALTERNATIVE RETIREMENT PLAN-- CONTRIBUTIONS.--

A. A participant shall contribute an amount equal to the percentage of the participant's salary that the participant would be required to contribute if the participant were, instead, a regular member. The contribution shall be made as provided by the board.

B. A qualifying state educational institution shall contribute on behalf of each participant an amount of the participant's salary equal to the contribution that would be required of the employer if the participant were, instead, a regular member. Of that contribution, a sum equal to the following percentage of the annual salary of each participant shall be paid to the fund, and the remainder of the contribution shall be paid to the alternative retirement plan as provided by the board:

(1) from July 1, 2021 through June 30, 2022, four and one-fourth percent; and

(2) on and after July 1, 2022, five and one-fourth percent; or

(3) if, on July 1 following any report by the actuary to the board that concludes that less than that percentage is required to satisfy the unfunded actuarial liability attributable to the participation of the participants in the alternative retirement

plan, then the percentage the actuary determines is the minimum required to satisfy that liability.

C. Contributions required by this section may be made by a reduction in salary or by a public employer pick-up as provided in the Internal Revenue Code of 1986, as amended."

### **Chapter 44 Section 4 Laws 2021**

SECTION 4. TEMPORARY PROVISION--SOLVENCY REPORT.--Before July 1, 2022, the educational retirement board shall report to the department of finance and administration, any other affected agency, the legislative finance committee, legislative education study committee and any other appropriate interim legislative committees on fund status and options to improve pension plan solvency without additional contributions from public employers.

### **Chapter 44 Section 5 Laws 2021**

SECTION 5. REPEAL.--Laws 2019, Chapter 237, Section 18 is repealed.

### **Chapter 44 Section 6 Laws 2021**

SECTION 6. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

## **LAWS 2021, CHAPTER 45**

**Senate Bill 124, aa**  
**Approved April 5, 2021**

AN ACT

RELATING TO INSURANCE; REGULATING THE PROCESSING AND PAYMENT OF PHARMACY CLAIMS.

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

## **Chapter 45 Section 1 Laws 2021**

SECTION 1. Section 59A-16-21.1 NMSA 1978 (being Laws 2000, Chapter 58, Section 1, as amended) is amended to read:

"59A-16-21.1. HEALTH PLAN REQUIREMENTS.--

A. As used in this section:

(1) "clean claim" means a manually or electronically submitted claim from an eligible provider that:

(a) contains substantially all the required data elements necessary for accurate adjudication without the need for additional information from outside of the health plan's system;

(b) is not materially deficient or improper, including lacking substantiating documentation currently required by the health plan; and

(c) has no particular or unusual circumstances requiring special treatment that prevent payment from being made by the health plan within fourteen days of receipt of a claim for prescription drugs and related fees if submitted electronically by a pharmacy, thirty days of the date of receipt of any other electronically submitted claim or forty-five days if submitted manually;

(2) "eligible provider" means an individual or entity that:

(a) is a participating provider;

(b) a health plan has credentialed after assessing and verifying the provider's qualifications; or

(c) a health plan is obligated to reimburse for claims in accordance with the provisions of: 1) Subsection G of Section 59A-22-54 NMSA 1978; 2) Subsection G of Section 59A-23-14 NMSA 1978; 3) Subsection G of Section 59A-46-54 NMSA 1978; or 4) Subsection G of Section 59A-47-49 NMSA 1978;

(3) "health plan" means one of the following entities or its agent: health maintenance organization, nonprofit health care plan, provider service network or third-party payer; and

(4) "participating provider" means an individual or entity participating in a health plan's provider network.

B. A health plan shall provide for payment of interest on the plan's liability at the rate of one and one-half percent a month on:

(1) the amount of a clean claim electronically submitted by the eligible provider and not paid within thirty days of the date of receipt and within fourteen days of the date of receipt of a claim for prescription drugs and related fees if the eligible provider is a pharmacy; and

(2) the amount of a clean claim manually submitted by the eligible provider and not paid within forty-five days of the date of receipt.

C. If a health plan is unable to determine liability for or refuses to pay a claim of an eligible provider within the times specified in Subsection B of this section, the health plan shall make a good-faith effort to notify the eligible provider by fax, electronic or other written communication within fourteen days of receipt of a claim for prescription drugs and related fees if submitted electronically by a pharmacy, thirty days of receipt of



any other electronically submitted claim or forty-five days if submitted manually, of all specific reasons why it is not liable for the claim or that specific information is required to determine liability for the claim.

D. No contract between a health plan and a participating provider shall include a clause that has the effect of relieving either party of liability for its actions or inactions.

E. The office of superintendent of insurance, with input from interested parties, including health plans and eligible providers, shall promulgate rules to require health plans to provide:

- (1) timely eligible provider access to claims status information;
- (2) processes and procedures for submitting claims and changes in coding for claims;
- (3) standard claims forms; and
- (4) uniform calculation of interest."

## **Chapter 45 Section 2 Laws 2021**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

# **LAWS 2021, CHAPTER 46**

**Senate Bill 129, aa**  
**Approved April 5, 2021**

AN ACT

RELATING TO PRIVATE SECTOR RETIREMENT; AMENDING THE NEW MEXICO WORK AND SAVE ACT; PROVIDING FLEXIBILITY FOR THE NEW MEXICO WORK AND SAVE BOARD TO IMPLEMENT THE PROVISIONS OF THE NEW MEXICO WORK AND SAVE ACT; CLARIFYING DEFINITIONS; CLARIFYING CERTAIN PROVISIONS OF THE WORK AND SAVE PROGRAMS; PROVIDING A SCOPE OF AUTHORITY TO THE NEW MEXICO WORK AND SAVE BOARD; PROVIDING THAT THE BOARD, BOARD MEMBERS AND THE STATE ARE NOT GUARANTORS OF THE WORK AND SAVE PROGRAMS; EXTENDING THE TIME LINE FOR IMPLEMENTATION OF THE NEW MEXICO RETIREMENT PLAN MARKETPLACE AND THE NEW MEXICO WORK AND SAVE IRA PROGRAM.

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

### **Chapter 46 Section 1 Laws 2021**

SECTION 1. Section 58-33-1 NMSA 1978 (being Laws 2020, Chapter 7, Section 1) is amended to read:

"58-33-1. SHORT TITLE.--Chapter 58, Article 33 NMSA 1978 may be cited as the "New Mexico Work and Save Act"."

### **Chapter 46 Section 2 Laws 2021**

SECTION 2. Section 58-33-2 NMSA 1978 (being Laws 2020, Chapter 7, Section 2) is amended to read:

"58-33-2. DEFINITIONS.--As used in the New Mexico Work and Save Act:

- A. "board" means the New Mexico work and save board;
- B. "board member" means a member of the board;

C. "covered employee" means a person who is at least eighteen years of age and who is employed by a covered employer, either full time or part time, or a person who is self-employed as a sole proprietor or an independent contractor; provided that "covered employee" does not include an employee:

- (1) covered under the federal Railway Labor Act;
- (2) on whose behalf an employer makes contributions to a multi-employer pension trust fund pursuant to the federal Taft-Hartley Act; or
- (3) of federal, state or local governments or any agency, department, board, commission, institution or instrumentality of those governments;

D. "covered employer" means a person engaged in a business, industry, profession, trade, nonprofit or other enterprise with its primary place of business physically located in New Mexico, but does not include a federal, state or local government or any agency, department, board, commission, institution or instrumentality of those governments;

E. "default investment option" means a Roth individual retirement account with a target date fund investment and a default contribution rate established by the board;

F. "financial institution" means a duly licensed bank, savings and loan association, credit union, broker-dealer, asset manager, insurance company, mutual fund or other financial entity;

G. "financial service provider" means a financial or investment service provider that, if approved by the board as meeting the eligibility criteria, may administer and maintain one or more program participant investment accounts or one or more marketplace participant accounts for which the provider is a fiduciary;

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

I. "IRA" means an individual retirement account that conforms to the requirements of Section 408(a) of the Internal Revenue Code;

J. "marketplace participant" means a covered employer that establishes a plan through the New Mexico retirement plan marketplace or a covered employee who establishes an investment account through the New Mexico retirement plan marketplace;

K. "New Mexico retirement plan marketplace" means a board-approved web-based marketplace that facilitates access to retirement savings plans for private sector and nonprofit employers and employees, including multiple-employer plans;

L. "New Mexico work and save IRA program" means the retirement savings program, designed and implemented by the board, that facilitates payroll deductions of program participants in individual retirement accounts without any contributions from covered employers;

M. "New Mexico work and save platform" means the online digital service designed and implemented by the board to facilitate interaction among covered employers, covered employees, program participants, financial service providers and other users via the internet;

N. "participating employer" means a covered employer that provides payroll deductions for individual retirement accounts through the New Mexico work and save IRA program but that does not contribute to those accounts;

O. "program participant" means a covered employee who is contributing to an individual retirement account through the New Mexico work and save IRA program or has an individual retirement account balance through the New Mexico work and save IRA program;

P. "Roth individual retirement account" means a voluntary payroll deduction Roth individual retirement account that conforms to the requirements of Section 408A of the Internal Revenue Code; and

Q. "total fees and expenses" means all fees, costs and expenses, including administrative expenses, investment expenses of the New Mexico work and save IRA program, investment advice expenses, accounting costs, actuarial costs, legal costs, marketing expenses, education expenses, trading costs, insurance annuitization costs and other operating expenses."

## **Chapter 46 Section 3 Laws 2021**

SECTION 3. Section 58-33-4 NMSA 1978 (being Laws 2020, Chapter 7, Section 4) is amended to read:

### **"58-33-4. BOARD--SCOPE OF AUTHORITY--POWERS AND DUTIES.--**

A. The board shall not directly or indirectly manage or maintain the funds or accounts of a program participant. The board shall contract with appropriate financial service providers to manage and maintain the funds and accounts of a program participant.

B. In carrying out its duties to achieve the goals and objectives of the New Mexico Work and Save Act, the board shall:

(1) provide for the design, establishment and operation of the New Mexico work and save IRA program pursuant to the provisions of Section 58-33-9 NMSA 1978 and shall provide oversight and modify the program as necessary;

(2) provide for the design, establishment and operation of the New Mexico retirement plan marketplace pursuant to the provision of Section 58-33-8 NMSA 1978 and shall provide oversight and modify the marketplace as necessary;

(3) be covered against liability pursuant to the provisions of the Tort Claims Act and, in addition, shall evaluate the need for, and procure as needed:

(a) insurance against any and all loss in connection with the property, assets or activities of the New Mexico retirement plan marketplace or the New Mexico work and save IRA program; and

(b) insurance indemnifying each board member from personal loss or liability, including legal fees and expenses, resulting from a member's action or inaction as a board member other than in cases of gross negligence as determined by a final adjudication by a court of competent jurisdiction;

(4) elect a chair and other officers it deems necessary;

(5) meet as necessary to perform its duties;

(6) appoint an executive director, who shall be the chief administrative officer of the board; and

(7) review and revise board rules and processes as necessary in response to changes in applicable state and federal laws to ensure the objectives of the New Mexico Work and Save Act.

C. In the design and implementation of the New Mexico work and save IRA program or the New Mexico retirement plan marketplace, the board shall:

(1) act in accordance with best practices for retirement saving vehicles;

(2) encourage participation, saving, sound investment practices and appropriate selection of investment options, including any default investments;

(3) maximize simplicity and ease of administration for covered employers;

- (4) minimize total costs, including by collective investment and economies of scale;
- (5) require portability of benefits;
- (6) avoid preemption of the New Mexico work and save IRA program by federal law;
- (7) ensure that no assets of the New Mexico retirement plan marketplace or the New Mexico work and save IRA program are encumbered, expended or otherwise used for a purpose other than one specified in the New Mexico Work and Save Act;
- (8) develop and implement an education and outreach plan to gain input and disseminate information regarding the New Mexico retirement plan marketplace, the New Mexico work and save IRA program and retirement savings in general, including timely information to covered employers regarding the applicable provisions of the New Mexico work and save IRA program;
- (9) develop and implement an investment policy and designate appropriate default investments for the New Mexico work and save IRA program that include a mix of asset classes, including target date funds and index funds, that minimize program participant fees and total expenses;
- (10) establish procedures for the timely and fair resolution of any disputes related to accounts or program operation; and
- (11) perform other activities as are needed to further the purposes of the New Mexico Work and Save Act.

D. The board may:

(1) promulgate rules as necessary and appropriate to carry out the provisions of the New Mexico Work and Save Act consistent with the Internal Revenue Code and rules adopted in accordance with that code, including ensuring that the New Mexico work and save IRA program satisfies all criteria for favorable tax treatment and complies with all applicable federal and state laws;

(2) enter into contracts, agreements, memorandums of understanding or other arrangements with private or nonprofit entities or with this or any other state or their agencies or instrumentalities to operate or manage any part of the New Mexico work and save IRA program or the New Mexico retirement plan marketplace, including combining resources, investments or administrative functions;

(3) sue and be sued in its name;

(4) fix, revise and collect fees and other charges in connection with the New Mexico retirement plan marketplace or the New Mexico work and save IRA program;

(5) contract with private and public entities and professionals, technology entities or professionals, financial institutions, depositories, financial service providers, consultants, actuaries, attorneys, auditors, investment advisers, investment administrators, investment management firms, other investment firms, third party administrators and other professionals as may be appropriate or required;

(6) make and execute contracts, agreements or instruments necessary or convenient in the exercise of the powers and functions granted the board by the New Mexico Work and Save Act; provided that the board may delegate that power to the executive director and may limit the scope of that delegation;

(7) invest and reinvest its funds in accordance with applicable state and federal law; and



(8) collaborate with and evaluate the role of financial service providers, advisors or other financial professionals and financial institutions, including those assisting and providing guidance to program participants."

## **Chapter 46 Section 4 Laws 2021**

SECTION 4. Section 58-33-7 NMSA 1978 (being Laws 2020, Chapter 7, Section 7) is amended to read:

### **"58-33-7. BOARD AND BOARD EMPLOYEE REQUIREMENTS AND PROHIBITIONS--CONFLICTS OF INTEREST.--**

A. Board members and employees of the board shall comply with the Gift Act, the Governmental Conduct Act, the Open Meetings Act and any other applicable state or federal laws.

B. Board members and employees of the board shall not:

(1) directly or indirectly have any interest in an investment of the New Mexico work and save IRA program or in gains or profits accruing from that investment, other than as program participants;

(2) borrow New Mexico retirement plan marketplace or New Mexico work and save IRA program-related funds or deposits or access and use those funds or deposits for personal gain or as agents or partners of others; or

(3) become endorsers, sureties or obligors on investments made pursuant to the New Mexico Work and Save Act.

C. If a board member or employee of the board has an interest, either direct or indirect, in a contract to which the New Mexico retirement plan marketplace or the

New Mexico work and save IRA program is or is to be a party, that interest shall be disclosed to the board in writing and shall be set forth in the minutes of the board. The board member or employee having that interest shall not participate in an action by the board with respect to that contract.

D. Board members and employees of the board shall act as fiduciaries with respect to the design, implementation and oversight of the New Mexico retirement plan marketplace and the New Mexico work and save IRA program, acting solely in the best interests of the program participants and for the exclusive purpose of providing benefits to program participants and administering the marketplace and the IRA program with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an enterprise of a like character and with like aims."

## **Chapter 46 Section 5 Laws 2021**

SECTION 5. Section 58-33-8 NMSA 1978 (being Laws 2020, Chapter 7, Section 8) is amended to read:

### **"58-33-8. NEW MEXICO RETIREMENT PLAN MARKETPLACE.--**

A. The board shall provide for the design and implementation of the New Mexico retirement plan marketplace website. The New Mexico retirement plan marketplace will be hosted on and accessible online through the New Mexico work and save platform that provides covered employers and employees with access to financial service providers that have been approved by the board to administer and maintain marketplace participant investment accounts. In developing and implementing the New Mexico retirement plan marketplace, the board may work in concert with other states or private or nonprofit entities offering an online marketplace similar to the New Mexico retirement plan marketplace website.

B. In establishing the New Mexico retirement plan marketplace, the board shall:

(1) design the New Mexico retirement plan marketplace as a website accessible online through the New Mexico work and save platform to connect employers and individuals with retirement savings plans, ensuring that the design does not favor a particular kind of service provider or business model;

(2) establish requirements for financial service providers that participate in the marketplace and for plans offered on the marketplace;

(3) develop marketing, outreach and educational materials; and

(4) promote the benefits of retirement savings and financial literacy.

C. The board shall provide public notice of the process for inclusion on the New Mexico retirement plan marketplace website before the website becomes publicly available. The marketplace shall be available to the public before the board opens the New Mexico work and save IRA program for enrollment, and the marketplace website address shall be included on any internet website posting or other materials regarding the New Mexico work and save IRA program. The board shall allow all financial service providers that meet the requirements established by the board to participate in the New Mexico retirement plan marketplace. In addition, the board shall not exclude, by policy or otherwise, a retirement plan or option within a plan that meets the requirements of the board and is otherwise allowed under federal or state law, including plan design options that are selected by the employer.

D. Participation in plans offered on the New Mexico retirement plan marketplace is voluntary for covered employers and employees; provided that an employer that offers a retirement plan through the New Mexico retirement plan marketplace may use automatic enrollment and automatic escalation of contributions but shall allow an employee opt-out option.

E. The New Mexico retirement plan marketplace may offer an array of private retirement plan options, including a:

- (1) simple individual retirement-type plan;
- (2) payroll deduction individual retirement-type plan;
- (3) multiple-employer plan, if allowed under federal law; and
- (4) plan described in Section 401(a) or 403(b) of the Internal Revenue Code.

F. The New Mexico retirement plan marketplace shall offer a financial literacy module for employers and employees.

G. The New Mexico retirement plan marketplace shall allow, but shall not require, the availability within approved plans of distribution options that provide income in retirement, including systematic withdrawal programs, guaranteed lifetime withdrawal benefits and annuities.

H. The board shall establish administrative fees for financial service providers that participate in the New Mexico retirement plan marketplace. The fees shall be sufficient to cover the actual cost of maintaining the New Mexico retirement plan marketplace."

## **Chapter 46 Section 6 Laws 2021**

SECTION 6. Section 58-33-9 NMSA 1978 (being Laws 2020, Chapter 7, Section 9) is amended to read:

"58-33-9. NEW MEXICO WORK AND SAVE IRA PROGRAM--CREATED--IMPLEMENTATION.--

A. The New Mexico work and save IRA program developed by the board under the New Mexico Work and Save Act shall:

(1) facilitate the establishment of individual retirement accounts for program participants that are administered and managed by board-approved financial service providers;

(2) provide that a covered employer may voluntarily choose to participate in the New Mexico work and save IRA program;

(3) provide that a participating employer may automatically enroll its employees but shall allow its employees to opt out;

(4) allow covered employees to voluntarily contribute to an individual retirement account through automatic payroll deductions, if allowed pursuant to federal law;

(5) provide that the default investment option for program participants shall be a Roth individual retirement account with a target date fund investment and a default contribution rate established by the board by rule; provided that the board may establish a principal protection fund for initial savings up to an amount established by the board; and provided that a program participant may choose to stop participating altogether, choose a different investment from among the options available or choose to contribute at a higher or lower contribution rate, subject to the Roth individual retirement account contribution dollar limits applicable under the Internal Revenue Code;

(6) offer default escalation of contribution rates that can be increased or decreased by program participants within the limits allowed by the Internal Revenue Code;

(7) provide for direct deposit of contributions into one or more investments approved by the board;

(8) be professionally managed;

(9) not allow employer contributions by covered employers;

(10) ensure that each board-approved financial service provider submits a report on the status of each program participant's account to each program participant at least annually and provides annual reports to the board regarding the number of program participant accounts maintained by the financial service provider and the overall value of those accounts;

(11) when practicable, use existing employer and public infrastructure to facilitate contributions, recordkeeping and outreach and use pooled or collective investment arrangements;

(12) provide that each program participant owns the contributions to and earnings on amounts contributed to the participant's account under the New Mexico work and save IRA program and that the state, the board and covered employers have no proprietary interest, whether legal or equitable, in those contributions or earnings;

(13) not impose any duties on employers pursuant to the federal Employee Retirement Income Security Act of 1974; and

(14) keep total fees and expenses below one percent of the funds invested by a program participant in the New Mexico work and save IRA program.

B. The board shall ensure that the New Mexico work and save IRA program is financially self-sustaining no later than five years after the date that it is fully implemented.

C. If a covered employer knowingly or intentionally fails to transmit a payroll deduction contribution to the New Mexico work and save IRA program on the earliest date the amount withheld from the covered employee's compensation can reasonably be segregated from the covered employer's assets, but not later than the fifteenth day of the month following the month in which the covered employee's contribution amounts are withheld from the covered employee's paycheck, the failure to remit those contributions on a timely basis shall be subject to the same sanctions as employer misappropriation of employee wage withholdings."

## Chapter 46 Section 7 Laws 2021

SECTION 7. Section 58-33-10 NMSA 1978 (being Laws 2020, Chapter 7, Section 10) is amended to read:

"58-33-10. POLICIES AND PROCEDURES FOR THE NEW MEXICO WORK AND SAVE IRA PROGRAM.--The board shall promulgate rules to implement the New Mexico work and save IRA program that:

- A. establish the processes by which a covered employer may choose to voluntarily enroll in the New Mexico work and save IRA program and become a participating employer;
- B. establish the processes for program participants to enroll in and contribute to New Mexico work and save IRA program payroll deduction individual retirement accounts, including elections by covered employees, withholding by participating employers of program participants' payroll deduction contributions from wages and remittance for deposit to the program participants' individual retirement accounts and voluntary enrollment and contributions by self-employed persons;
- C. establish the processes for withdrawals, rollovers, conversions and direct transfers from individual retirement accounts in the interest of facilitating portability and maximization of benefits;
- D. establish processes governing the distribution of funds from the New Mexico work and save IRA program; and
- E. require education of and outreach to covered employers, covered employees and the public regarding the New Mexico work and save IRA program. The rules shall specify the content, frequency, timing and means of required disclosures from the New Mexico work and save IRA program to covered employees, covered

employers, program participants and participating employers and other interested parties. These disclosures shall include:

- (1) the benefits associated with tax-favored retirement saving;
- (2) the potential advantages and disadvantages associated with contributing to individual retirement accounts through the New Mexico work and save IRA program;
- (3) the eligibility rules for individual retirement accounts;
- (4) that the program participant is solely responsible for determining whether and, if so, how much the program participant is eligible to contribute on a tax-favored basis to an individual retirement account;
- (5) the penalty for excess contributions to individual retirement accounts and the method of correcting excess contributions;
- (6) instructions for enrolling, making elections to contribute or to decline to contribute and making elections regarding contribution rates, types of individual retirement accounts and investments;
- (7) instructions for implementing and for changing the elections;
- (8) the potential availability of a program participant's tax credit, including the eligibility conditions for the credit and instructions on how to claim it;
- (9) statements that the New Mexico work and save IRA program, the board, board members or board employees, a covered employer or the state does not offer tax, investment or other financial advice, and that the program participant should contact appropriate professional advisors, and that only the program participant is liable for decisions the program participant makes in relation to the New Mexico work and save IRA program;



(10) statements that payroll deduction individual retirement accounts are not intended to be employer-sponsored retirement plans and that the New Mexico work and save IRA program is not an employer-sponsored retirement plan;

(11) the potential implications of account balances in the New Mexico work and save IRA program for the application of asset limits under certain public assistance programs;

(12) that the program participant is solely responsible for investment performance, including market gains and losses, and that individual retirement accounts and rates of return are not guaranteed by the New Mexico work and save IRA program, the board, individual board members, board employees, covered employers or the state or any of its officers or employees;

(13) additional information and tools designed to promote financial literacy and capability, which may take the form of links to or explanations of how to obtain such information; and

(14) how to obtain additional information about the New Mexico work and save IRA program."

## **Chapter 46 Section 8 Laws 2021**

SECTION 8. Section 58-33-11 NMSA 1978 (being Laws 2020, Chapter 7, Section 11) is amended to read:

"58-33-11. PROTECTION FOR COVERED EMPLOYERS.--

A. The New Mexico work and save IRA program is not an employer-sponsored plan. A covered employer does not bear responsibility for:

- (1) the decision by a covered employee to participate or not to participate in the New Mexico work and save IRA program;
- (2) the performance of a specific savings option selection made by a program participant and facilitated through the New Mexico work and save IRA program;
- (3) investment decisions made by a program participant;
- (4) the administration, investment, investment returns or investment performance of an IRA savings option facilitated through the New Mexico work and save IRA program, including interest rate or other rate of return on a contribution or individual retirement account balance;
- (5) the design or administration of the New Mexico work and save IRA program or the benefits paid to or the earnings or losses of program participants;
- (6) a program participant's awareness of or compliance with the conditions and other provisions of the tax laws that determine which persons are eligible to make tax-favored contributions to individual retirement accounts, in what amount and in what time frame and manner; or
- (7) loss, failure to realize gain or other adverse consequences, including adverse tax consequences or loss of favorable tax treatment, public assistance or other benefits incurred by a program participant as a result of participating in the New Mexico work and save IRA program.

B. No covered employer shall be or shall be considered to be a fiduciary under the New Mexico work and save IRA program."

## **Chapter 46 Section 9 Laws 2021**

SECTION 9. Section 58-33-12 NMSA 1978 (being Laws 2020, Chapter 7, Section 12) is amended to read:

"58-33-12. ANNUAL REPORT.--The board shall prepare an annual report on the operation of the New Mexico work and save IRA program and the New Mexico retirement plan marketplace and shall provide the report to the governor, the state treasurer and appropriate legislative interim committees and shall make the report available to all program participants, participating employers and the general public."

## **Chapter 46 Section 10 Laws 2021**

SECTION 10. A new section of the New Mexico Work and Save Act is enacted to read:

"BOARD AND STATE NOT GUARANTORS.--The board, each board member and the state shall not guarantee any rate of return or interest rate on any contribution made by a New Mexico work and save IRA program participant or New Mexico retirement plan marketplace participant."

## **Chapter 46 Section 11 Laws 2021**

SECTION 11. TEMPORARY PROVISION--NEW MEXICO WORK AND SAVE ACT--IMPLEMENTATION DATES.--The New Mexico work and save board shall implement the New Mexico retirement plan marketplace and the New Mexico work and save IRA program on or before July 1, 2024.

# **LAWS 2021, CHAPTER 47**

**Senate Bill 133, aa, w/cc**

**Approved April 5, 2021**

AN ACT

RELATING TO AVIATION; ENACTING THE RURAL AIR SERVICE ENHANCEMENT ACT.

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

**Chapter 47 Section 1 Laws 2021**

SECTION 1. SHORT TITLE.--This act may be cited as the "Rural Air Service Enhancement Act".

**Chapter 47 Section 2 Laws 2021**

SECTION 2. DEFINITIONS.--As used in the Rural Air Service Enhancement Act:

- A. "department" means the department of transportation;
- B. "director" means the director of the division;
- C. "division" means the aviation division of the department; and
- D. "minimum revenue guarantee" means the amount of money guaranteed by a municipality or county to be earned by an airline providing scheduled air services to and from that municipality or county, which is the difference between the minimum flight charge revenue specified in the contract between the municipality or county and the airline and the amount of actual flight charge revenue received by the airline that is less than that contractual amount.

## Chapter 47 Section 3 Laws 2021

### SECTION 3. RURAL AIR SERVICE ENHANCEMENT GRANT PROGRAM.--

A. The "rural air service enhancement grant program" is created in the division to be administered by the director.

B. The director shall:

(1) establish and publish deadlines and guidelines for the submission of grant applications;

(2) develop procedures for receipt, review and approval of grant applications;

(3) receive, review and approve grant applications;

(4) monitor municipalities' and counties' use of grant money by reviewing annual reports submitted to the director to ensure that grants are used consistently with the terms of the grant awards;

(5) establish grant reporting requirements that meet the general purpose of the Rural Air Service Enhancement Act; and

(6) perform other duties as necessary to carry out the provisions of the Rural Air Service Enhancement Act.

C. Each fiscal year, competitive grants for minimum revenue guarantees shall be awarded to applicants for the sole purpose of funding rural air service enhancement grants.

D. The director shall award grants to applicants through a competitive process and based upon the following criteria:

- (1) the demand for service on the proposed air routes;
- (2) the economic impact on the municipality or county of the proposed new air routes; and
- (3) the feasibility of a common carrier licensed by the state servicing proposed new air routes.

E. Applicants shall meet the following minimum criteria to be eligible for a grant:

- (1) municipalities or counties shall have a minimum population of twenty thousand persons residing within a fifty-mile radius of the airport unless the municipality or county has existing scheduled air service;
- (2) aircraft to be used to service proposed new air routes served by the rural air service enhancement grant program shall have a passenger capacity of not more than nine persons;
- (3) routes to be served by the program shall be new air routes that were not served at the time the grant was made; and
- (4) minimum matching funds from a municipality or county shall be:
  - (a) ten percent if the municipality or county has no existing scheduled air service at the time of application; and
  - (b) fifty percent if the municipality or county has existing scheduled air service at the time of application.

F. Individual grants awarded through the rural air service enhancement grant program shall not:

(1) exceed one million two hundred fifty thousand dollars (\$1,250,000) per year for municipalities or counties with existing scheduled air service;

(2) exceed one million seven hundred fifty thousand dollars (\$1,750,000) per year for municipalities or counties not served by existing scheduled air service; or

(3) be used for infrastructure improvement.

G. Individual grants awarded through the rural air service enhancement grant program shall cover a time frame of at least two years.

H. No more than ten percent of the balance of the rural air service enhancement fund on July 1 of any year may be used by the division for infrastructure improvements associated with individual grants awarded through the rural air service enhancement grant program.

I. Funds received through individual grants awarded through the rural air service enhancement grant program shall be expended by the grantee municipality or county only to airlines that have been selected through a competitive process pursuant to the Procurement Code.

## **Chapter 47 Section 4 Laws 2021**

SECTION 4. GRANT APPLICATIONS.--A municipality or county may submit an application to the director for a rural air service enhancement grant. An applicant shall comply with deadlines and guidelines published by the director. A grant application shall include:

- A. a description of the facility that will serve the proposed new scheduled air service;
- B. an estimate of the demand for the proposed new scheduled air service routes;
- C. identification of the air common carrier that will service the proposed new scheduled air service routes and the aircraft to be used on the new scheduled air service routes;
- D. a description of existing scheduled air service routes serving the applicant;
- E. a description and schedule of the proposed new scheduled air service routes to serve the applicant;
- F. a justification for the new proposed scheduled air service routes;
- G. the requested grant amount and the amount of any matching funds; and
- H. the time frame for a commitment to subsidize the proposed new scheduled air service routes.

## **Chapter 47 Section 5 Laws 2021**

### SECTION 5. RURAL AIR SERVICE ENHANCEMENT FUND--CREATED.--

A. The "rural air service enhancement fund" is created in the state treasury. All appropriations, gifts, devises, grants and donations received shall be deposited in the fund. Money in the fund is appropriated to the division for the purpose of carrying out the rural air service enhancement grant program and related infrastructure improvements pursuant to the provisions of the Rural Air Service Enhancement Act. Money in the fund shall not revert at the end of a fiscal year.



B. The fund shall be administered by the division. Disbursements from the fund shall be made only upon warrant drawn by the secretary of finance and administration pursuant to vouchers signed by the director or the director's designee for the purpose of carrying out the rural air service enhancement grant program and related infrastructure improvements pursuant to the provisions of the Rural Air Service Enhancement Act.

## **Chapter 47 Section 6 Laws 2021**

SECTION 6. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

## **LAWS 2021, CHAPTER 48**

**Senate Bill 137, w/ec**  
**Approved April 5, 2021**

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 48 Section 1 Laws 2021**

SECTION 1. AUTHORIZATION OF QUALIFYING WATER PROJECTS.-- Pursuant to Section 72-4A-9 NMSA 1978, the legislature authorizes the New Mexico finance authority to make loans or grants from the water project fund to the following qualifying entities for the following qualifying water projects on terms and conditions established by the water trust board and the New Mexico finance authority:

1. to the southern Sandoval county arroyo and flood control authority in Sandoval county for a flood prevention project;
2. to the village of Columbus in Luna county for a flood prevention project;
3. to the upper Rio Grande water and sanitation district in Rio Arriba county for a flood prevention project;
4. to the city of Sunland Park in Dona Ana county for a flood prevention project;
5. to the city of Truth or Consequences in Sierra county for a flood prevention project;
6. to the Albuquerque-Bernalillo county water utility authority in Bernalillo county for a water conservation, treatment, recycling or reuse project;
7. to Los Alamos county for a water conservation, treatment, recycling or reuse project;
8. to the city of Gallup in McKinley county for a water storage, conveyance and delivery project;
9. to the village of Ruidoso in Lincoln county for a water storage, conveyance and delivery project;
10. to the Albuquerque-Bernalillo county water utility authority in Bernalillo county for a water storage, conveyance and delivery project;
11. to the Williams Acres water and sanitation district in McKinley county for a water storage, conveyance and delivery project;

12. to the Pueblo of Santa Clara in Rio Arriba county for a water storage, conveyance and delivery project;
13. to the city of Roswell in Chaves county for a water storage, conveyance and delivery project;
14. to the Union del Llano mutual domestic water and sanitation district in Taos county for a water storage, conveyance and delivery project;
15. to the Regina mutual domestic water consumers association, incorporated, in Sandoval county for a water storage, conveyance and delivery project;
16. to the city of Belen in Valencia county for a water storage, conveyance and delivery project;
17. to the Rodarte mutual domestic water consumers association in Taos county for a water storage, conveyance and delivery project;
18. to the city of Eunice in Lea county for a water storage, conveyance and delivery project;
19. to the Sangre de Cristo regional mutual domestic water consumers and mutual sewage works association in Guadalupe county for a water storage, conveyance and delivery project;
20. to El Rito regional water and wastewater association in Rio Arriba county for a water storage, conveyance and delivery project;
21. to the Fambrough mutual domestic water consumers association in Chaves county for a water storage, conveyance and delivery project;
22. to the Agua Pura mutual domestic water consumers and mutual sewage works association in Mora county for a water storage, conveyance and delivery project;

23. to La Cueva mutual domestic water consumers association in San Miguel county for a water storage, conveyance and delivery project;
24. to the New Mexico new model community ditch association in Hidalgo county for a water storage, conveyance and delivery project;
25. to the eastern New Mexico water utility authority in Curry county for a water storage, conveyance and delivery project;
26. to the Buena Vista mutual domestic water consumers and sewage works association in Mora county for a water storage, conveyance and delivery project;
27. to the Dona Ana mutual domestic water consumers association in Dona Ana county for a water storage, conveyance and delivery project;
28. to the Mescalero Apache Tribe in Otero county for a water storage, conveyance and delivery project;
29. to the Otis mutual domestic water consumers and sewage works association in Eddy county for a water storage, conveyance and delivery project;
30. to the Rio Lucio domestic water consumers association in Taos county for a water storage, conveyance and delivery project;
31. to the Alto Lakes water and sanitation district in Lincoln county for a water storage, conveyance and delivery project;
32. to El Salto mutual domestic water consumers and mutual sewage works association in Taos county for a water storage, conveyance and delivery project;
33. to the Pena Blanca water and sanitation district in Sandoval county for a water storage, conveyance and delivery project;

34. to the city of Santa Fe in Santa Fe county for a water storage, conveyance and delivery project;

35. to the Claunch-Pinto soil and water conservation district in Torrance county for two water restoration and management projects;

36. to the San Juan soil and water conservation district in San Juan county for a watershed restoration and management project; and

37. to the Ute Creek soil and water conservation district in Harding county for a watershed restoration and management project.

## **Chapter 48 Section 2 Laws 2021**

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

## **LAWS 2021, CHAPTER 49**

**Senate Bill 144, aa, w/ec**  
**Approved April 5, 2021**

AN ACT

RELATING TO EDUCATION; AMENDING THE DEFINITION OF "EDUCATION TECHNOLOGY INFRASTRUCTURE" IN THE PUBLIC SCHOOL CAPITAL OUTLAY ACT TO INCLUDE THE INTERCONNECTION BETWEEN STUDENTS AND TEACHERS TO SUPPORT REMOTE LEARNING; REQUIRING THE PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL TO ESTABLISH GUIDELINES TO FUND EDUCATION TECHNOLOGY INFRASTRUCTURE TO ENSURE THAT THOSE EXPENDITURES ARE IN ACCORD WITH THE DEVELOPMENT OF A STATEWIDE

EDUCATION TECHNOLOGY INFRASTRUCTURE NETWORK; DECLARING AN EMERGENCY.

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

## **Chapter 49 Section 1 Laws 2021**

SECTION 1. Section 22-24-3 NMSA 1978 (being Laws 1975, Chapter 235, Section 3, as amended by Laws 2018, Chapter 66, Section 1 and by Laws 2018, Chapter 71, Section 2) is amended to read:

"22-24-3. DEFINITIONS.--As used in the Public School Capital Outlay Act:

- A. "authority" means the public school facilities authority;
- B. "building system" means a set of interacting parts that makes up a single, nonportable or fixed component of a facility and that, together with other building systems, makes up an entire integrated facility or property, including roofing, electrical distribution, electronic communication, plumbing, lighting, mechanical, fire prevention, facility shell, interior finishes, heating, ventilation and air conditioning systems and school security systems, as defined by the council;
- C. "constitutional special schools" means the New Mexico school for the blind and visually impaired and the New Mexico school for the deaf;
- D. "constitutional special schools support spaces" means all facilities necessary to support the constitutional special schools' educational mission that are not included in the constitutional special schools' educational adequacy standards, including performing arts centers, facilities for athletic competition, school district administration and facility and vehicle maintenance;
- E. "council" means the public school capital outlay council;

F. "education technology infrastructure" means the physical hardware and services used to interconnect students, teachers, school districts and school buildings necessary to support broadband connectivity and remote learning as determined by the council;

G. "fund" means the public school capital outlay fund;

H. "maximum allowable gross square foot per student" means a determination made by applying the established maximum allowable square foot guidelines for educational facilities based on type of school and number of students in the current published New Mexico public school adequacy planning guide to the department's current year certified first reporting date membership;

I. "replacement cost per square foot" means the statewide cost per square foot as established by the council;

J. "school district" includes state-chartered charter schools and the constitutional special schools;

K. "school district population density" means the population density on a per square mile basis of a school district as estimated by the authority based on the most current tract level population estimates published by the United States census bureau; and

L. "school district population density factor" means zero when the school district population density is greater than fifty people per square mile, six-hundredths when the school district population density is greater than fifteen but less than fifty-one persons per square mile and twelve-hundredths when the school district population density is less than sixteen persons per square mile."

## Chapter 49 Section 2 Laws 2021

SECTION 2. Section 22-24-4.5 NMSA 1978 (being Laws 2014, Chapter 28, Section 4, as amended) is amended to read:

"22-24-4.5. EDUCATION TECHNOLOGY INFRASTRUCTURE DEFICIENCY CORRECTIONS.--

A. No later than September 1, 2014, the council, with the advice of the department and the department of information technology, shall define and develop:

(1) minimum adequacy standards for an education technology infrastructure deficiency corrections initiative to identify and determine reasonable costs for correcting education technology infrastructure deficiencies in or affecting school districts;

(2) a methodology for prioritizing projects to correct education technology infrastructure deficiencies in or affecting school districts; and

(3) a methodology for determining a school district's share of the project costs.

B. The council shall develop guidelines for a statewide education technology infrastructure network that integrates regional hub locations for network services and the installation and maintenance of equipment. The council may fund education technology infrastructure projects or items that the council determines are in accord with the guidelines and necessary to education for:

(1) students;

(2) school buses;



- (3) internet connectivity within a school district;
- (4) a multi-district regional education network; and
- (5) a statewide education network.

C. The council may approve allocations from the fund pursuant to Subsection M of Section 22-24-4 NMSA 1978 and this section for projects in or affecting a school district committing to pay its share of the project costs. The council may adjust the school district's share of the project costs in accordance with Paragraph (11) of Subsection B of Section 22-24-5 NMSA 1978 or the methodology for determining the school district's share of the project costs."

## **Chapter 49 Section 3 Laws 2021**

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

# **LAWS 2021, CHAPTER 50**

**Senate Bill 145, aa**  
**Approved April 5, 2021**

AN ACT

RELATING TO STATE AGENCIES; PROVIDING NEW SUNSET DATES FOR CERTAIN AGENCIES.

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

## **Chapter 50 Section 1 Laws 2021**

SECTION 1. A new Section 9-15-51.1 NMSA 1978 is enacted to read:

"9-15-51.1. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The office of military base planning and support and the military base planning commission are terminated on July 1, 2027 pursuant to the provisions of the Sunset Act. The office and the commission shall continue to operate according to the provisions of Sections 9-15-48 through 9-15-51.1 NMSA 1978 until July 1, 2028. Effective July 1, 2028, Sections 9-15-48 through 9-15-51.1 NMSA 1978 are repealed."

## **Chapter 50 Section 2 Laws 2021**

SECTION 2. Section 61-4-17 NMSA 1978 (being Laws 1979, Chapter 77, Section 2, as amended) is amended to read:

"61-4-17. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The chiropractic board is terminated on July 1, 2027 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Chiropractic Physician Practice Act until July 1, 2028. Effective July 1, 2028, the Chiropractic Physician Practice Act is repealed."

## **Chapter 50 Section 3 Laws 2021**

SECTION 3. Section 61-7A-15 NMSA 1978 (being Laws 1989, Chapter 387, Section 15, as amended) is amended to read:

"61-7A-15. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The nutrition and dietetics practice board is terminated on July 1, 2027 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Nutrition and Dietetics Practice Act until July 1, 2028. Effective July 1, 2028, the Nutrition and Dietetics Practice Act is repealed."

## **Chapter 50 Section 4 Laws 2021**

SECTION 4. Section 61-9-19 NMSA 1978 (being Laws 1978, Chapter 188, Section 2, as amended) is amended to read:

"61-9-19. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The New Mexico state board of psychologist examiners is terminated on July 1, 2027 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Professional Psychologist Act until July 1, 2028. Effective July 1, 2028, the Professional Psychologist Act is repealed."

## **Chapter 50 Section 5 Laws 2021**

SECTION 5. Section 61-9A-30 NMSA 1978 (being Laws 1993, Chapter 49, Section 30, as amended) is amended to read:

"61-9A-30. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The counseling and therapy practice board is terminated on July 1, 2027 pursuant to the provisions of the Sunset Act. The board shall continue to operate according to the provisions of the Counseling and Therapy Practice Act until July 1, 2028. Effective July 1, 2028, the Counseling and Therapy Practice Act is repealed."

## **Chapter 50 Section 6 Laws 2021**

SECTION 6. Section 61-10-22 NMSA 1978 (being Laws 1979, Chapter 36, Section 2, as amended) is amended to read:

"61-10-22. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board of osteopathic medicine is terminated on July 1, 2027 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Osteopathic Medicine Act until July 1, 2028. Effective July 1, 2028, the Osteopathic Medicine Act is repealed."

## **Chapter 50 Section 7 Laws 2021**

SECTION 7. Section 61-12A-24 NMSA 1978 (being Laws 1996, Chapter 55, Section 24, as amended) is amended to read:

"61-12A-24. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board of examiners for occupational therapy is terminated on July 1, 2027 pursuant to the provisions of the Sunset Act. The board shall continue to operate according to the provisions of the Occupational Therapy Act until July 1, 2028. Effective July 1, 2028, the Occupational Therapy Act is repealed."

## **Chapter 50 Section 8 Laws 2021**

SECTION 8. Section 61-12B-16 NMSA 1978 (being Laws 1984, Chapter 103, Section 17, as amended) is amended to read:

"61-12B-16. TERMINATION OF BOARD--DELAYED REPEAL.--The advisory board of respiratory care practitioners is terminated on July 1, 2027 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Respiratory Care Act until July 1, 2028. Effective July 1, 2028, the Respiratory Care Act is repealed."

## **Chapter 50 Section 9 Laws 2021**

SECTION 9. Section 61-12C-28 NMSA 1978 (being Laws 1993, Chapter 173, Section 21, as amended) is amended to read:

"61-12C-28. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The massage therapy board is terminated on July 1, 2027 pursuant to the provisions of the Sunset Act. The board shall continue to operate according to the provisions of the Massage Therapy Practice Act until July 1, 2028. Effective July 1, 2028, Chapter 61, Article 12C NMSA 1978 is repealed."

## **Chapter 50 Section 10 Laws 2021**

SECTION 10. Section 61-12D-17 NMSA 1978 (being Laws 1997, Chapter 89, Section 17, as amended) is amended to read:

"61-12D-17. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The physical therapy board is terminated on July 1, 2027 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Physical Therapy Act until July 1, 2028. Effective July 1, 2028, the Physical Therapy Act is repealed."

## **Chapter 50 Section 11 Laws 2021**

SECTION 11. Section 61-14B-25 NMSA 1978 (being Laws 1996, Chapter 57, Section 25, as amended) is amended to read:

"61-14B-25. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The speech-language pathology, audiology and hearing aid dispensing practices board is terminated on July 1, 2027 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act until July 1, 2028. Effective July 1, 2028, the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act is repealed."

## **Chapter 50 Section 12 Laws 2021**

SECTION 12. Section 61-14D-19 NMSA 1978 (being Laws 1993, Chapter 325, Section 19, as amended) is amended to read:

"61-14D-19. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The athletic trainer practice board is terminated on July 1, 2027 pursuant to the provisions of the Sunset Act. The board shall continue to operate according to the provisions of the

Athletic Trainer Practice Act until July 1, 2028. Effective July 1, 2028, Chapter 61, Article 14D NMSA 1978 is repealed."

## **LAWS 2021, CHAPTER 51**

**House Bill 43, aa**  
**Approved April 5, 2021**

### AN ACT

RELATING TO PUBLIC EDUCATION; ENACTING THE BLACK EDUCATION ACT; CREATING A DEPARTMENT LIAISON; CREATING AN ADVISORY COUNCIL; PROVIDING POWERS AND DUTIES; REQUIRING RACIAL SENSITIVITY AND ANTI-RACISM TRAINING OR PROFESSIONAL DEVELOPMENT FOR SCHOOL PERSONNEL; REQUIRING THE PUBLIC EDUCATION AND HIGHER EDUCATION DEPARTMENTS TO COOPERATE IN DEVELOPING PROGRAMS, CURRICULA AND INSTRUCTIONAL MATERIALS THAT RECOGNIZE AND TEACH BLACK CULTURE AND ANTI-RACISM AND TO IMPROVE JOB OPPORTUNITIES FOR BLACK PEOPLE IN PUBLIC AND HIGHER EDUCATION; REQUIRING AN ANNUAL STATEWIDE STATUS REPORT.

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

### **Chapter 51 Section 1 Laws 2021**

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

"SHORT TITLE.--Sections 1 through 7 of this act may be cited as the "Black Education Act"."

## **Chapter 51 Section 2 Laws 2021**

SECTION 2. A new section of the Public School Code is enacted to read:

"DEFINITIONS.--As used in the Black Education Act:

- A. "council" means the Black education advisory council; and
- B. "liaison" means the Black education liaison."

## **Chapter 51 Section 3 Laws 2021**

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

"BLACK EDUCATION ADVISORY COUNCIL APPOINTED.--

A. The "Black education advisory council" is created as an advisory council to the secretary. The secretary shall appoint no more than twenty-three members to the council who are knowledgeable about and interested in the education of Black students, including:

- (1) three current teachers or school administrators of public schools;
- (2) three current teachers or school administrators of charter schools;
- (3) two representatives of post-secondary education, including one representative of teacher preparation programs, appointed in collaboration with the higher education department;
- (4) three parents of currently enrolled students in public schools, appointed in collaboration with the office on African American affairs;

(5) three students currently attending a public secondary school, appointed in collaboration with the office on African American affairs;

(6) one representative of the higher education department;

(7) one representative of the office on African American affairs;

(8) one representative of the developmental disabilities planning council; and

(9) representatives of Black cultural, community and business organizations, other community and business organizations and other interested persons.

B. The secretary shall give due regard to geographic representation. Members shall serve at the pleasure of the secretary.

C. The council shall elect a chair and such other officers as it deems necessary.

D. The council shall meet as necessary, but at least twice each year.

E. Members of the council who are not paid with public money are entitled to receive per diem and mileage but shall receive no other compensation, perquisite or allowance for their service on the council."

## **Chapter 51 Section 4 Laws 2021**

SECTION 4. A new section of the Public School Code is enacted to read:

"COUNCIL DUTIES.--The council shall advise the secretary, school districts and charter schools on matters related to improving public school education for Black



students, increasing parent involvement and community engagement in the education of Black students and increasing the number of Black high school graduates who succeed in post-secondary academic, professional or vocational education."

## **Chapter 51 Section 5 Laws 2021**

SECTION 5. A new section of the Public School Code is enacted to read:

"BLACK EDUCATION LIAISON CREATED--DUTIES.--

- A. The "Black education liaison" is created in the department.
- B. The liaison shall:
  - (1) focus on issues related to Black education and advise the secretary and the council on the development and implementation of public policy regarding the education of Black students;
  - (2) advise the department and the council 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 Black student education;
  - (3) assist and be assisted by other staff in the department and in the higher education department to improve elementary, secondary and post-secondary educational outcomes for Black students;
  - (4) maintain and update information on the department's website or a separate website that includes:
    - (a) subject to funding, links to a statewide hotline for reporting racially charged incidents;

(b) links to the department's Black education white papers as well as other pertinent research; and

(c) information on and links to historically Black colleges and universities;

(5) 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 Black students enrolled in public schools;

(6) support and consult with the council;

(7) support school districts and charter schools to recruit parents on site-based and school district committees that represent the ethnic diversity of the community; and

(8) implement activities that are recommended and prioritized by the council within available funding."

## **Chapter 51 Section 6 Laws 2021**

SECTION 6. A new section of the Public School Code is enacted to read:

"ADDITIONAL DUTIES OF LIAISON AND COUNCIL--REPORT TO SECRETARY AND OTHERS.--

A. As part of their duties pursuant to the Black Education Act, the liaison and the council shall study and prepare white papers on current research on methods and practices that will improve educational outcomes and school experiences for Black students by:

(1) identifying best practices for strengthening educational outcomes for Black students;

(2) addressing the Black student achievement gap in a holistic and systemic manner that includes clearly articulated measures to improve public education for Black students that result in substantially improved graduation rates, college or career readiness and higher education completion rates at the undergraduate and graduate levels;

(3) combating discrimination and racism in the public school system, including creating and sustaining equitable and culturally responsive learning environments;

(4) recommending curricula and instructional materials that include the history and culture of Black people in New Mexico, America and the world; and

(5) providing mechanisms for parents, community and business organizations, public schools, public post-secondary educational institutions and state and local policymakers to work together to improve educational opportunities for Black students.

B. The liaison and advisory council shall develop or recommend anti-racism and cultural sensitivity training and professional development programs for all school personnel.

C. The department, through the liaison and advisory council, shall establish a formal cooperative relationship with the higher education department and public post-secondary educational institutions in the state to help:

(1) improve the education of Black students in the kindergarten through sixteen educational system in New Mexico, including the recruitment and retention of Black teachers, educational support providers, faculty and educational and administrative leaders in the system; and

(2) improve teacher preparation programs by recruiting Black students and including curricula that demonstrate cultural awareness and sensitivity to matters of race and promote anti-racism.

D. White papers shall be submitted to the secretary, the council, the governor, the legislature, school districts, charter schools, the higher education department, public post-secondary educational institutions and interested persons."

## **Chapter 51 Section 7 Laws 2021**

SECTION 7. A new section of the Public School Code is enacted to read:

"BLACK EDUCATION STATEWIDE STATUS REPORT.--

A. The department, in collaboration with the higher education department, shall submit an annual preschool through post-secondary statewide Black 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. In addition to the data required pursuant to Section 22-2C-11 NMSA 1978, the status report for public schools shall highlight Black student data and include:

- (1) ethnicity by grade by school;
- (2) the number and type of bilingual and multicultural programs in each school district and charter school;
- (3) student achievement by ethnicity at all grades measured by a statewide test or other measure of proficiency approved by the department;
- (4) attendance and truancy for all grades by ethnicity;

- (5) diploma seals and distinctions earned by ethnicity; and
- (6) licensed school employees by ethnicity by school.

C. The status report shall include the following information, by public post-secondary educational institution, which may be compiled from data otherwise required to be submitted to the higher education department, and which is disaggregated by ethnicity and highlights Black student or faculty data:

- applicable;
- (1) enrollment by institution and by main or branch campus, if applicable;
  - (2) student retention by class;
  - (3) student completion rates;
  - (4) degrees or certificates earned by ethnicity;
  - (5) faculty hired in tenure-track positions by ethnicity;
  - (6) adjunct faculty hired by ethnicity;
  - (7) number of tenured faculty by ethnicity; and
  - (8) faculty or administration leadership positions by ethnicity."

## **Chapter 51 Section 8 Laws 2021**

SECTION 8. Section 22-5-4.3 NMSA 1978 (being Laws 1986, Chapter 33, Section 9, as amended) is amended to read:

**"22-5-4.3. SCHOOL DISCIPLINE POLICIES--RACIAL SENSITIVITY AND ANTI-RACISM TRAINING--HOTLINE FOR REPORTING RACIALLY CHARGED INCIDENTS AND RACIALIZED AGGRESSION INVOLVING STUDENTS OR SCHOOL PERSONNEL--STUDENTS MAY SELF-ADMINISTER CERTAIN MEDICATIONS.--**

A. Local school boards shall establish student discipline policies and shall file them with the department. The local school board shall involve parents, school personnel and students in the development of these policies, and public hearings shall be held during the formulation of these policies in the high school attendance areas within each school district or on a district-wide basis for those school districts that have no high school.

B. Each school district discipline policy shall establish rules of conduct governing areas of student and school activity, detail specific prohibited acts and activities and enumerate possible disciplinary sanctions, which sanctions may include in-school suspension, school service, suspension or expulsion. Corporal punishment shall be prohibited by each local school board and each governing body of a charter school.

C. An individual school within a school district may establish a school discipline policy, provided that parents, school personnel and students are involved in its development and a public hearing is held in the school prior to its adoption. If an individual school adopts a discipline policy in addition to the local school board's school district discipline policy, it shall submit its policy to the local school board for approval.

D. All school discipline policies shall define and include a specific prohibition against racialized aggression involving a student or school personnel. Every school district and every charter school shall provide links to the statewide hotline to report racially charged incidents or racialized aggression.

E. No school employee who in good faith reports any known or suspected violation of the school discipline policy or in good faith attempts to enforce the policy

shall be held liable for any civil damages as a result of such report or of the employee's efforts to enforce any part of the policy.

F. All public school and school district discipline policies shall allow students to carry and self-administer asthma medication and emergency anaphylaxis medication that has been legally prescribed to the student by a licensed health care provider under the following conditions:

(1) the health care provider has instructed the student in the correct and responsible use of the medication;

(2) the student has demonstrated to the health care provider and the school nurse or other school official the skill level necessary to use the medication and any device that is necessary to administer the medication as prescribed;

(3) the health care provider formulates a written treatment plan for managing asthma or anaphylaxis episodes of the student and for medication use by the student during school hours or school-sponsored activities, including transit to or from school or school-sponsored activities; and

(4) the student's parent has completed and submitted to the school any written documentation required by the school or the school district, including the treatment plan required in Paragraph (3) of this subsection and other documents related to liability.

G. The parent of a student who is allowed to carry and self-administer asthma medication and emergency anaphylaxis medication may provide the school with backup medication that shall be kept in a location to which the student has immediate access in the event of an asthma or anaphylaxis emergency.

H. Authorized school personnel who in good faith provide a person with backup medication as provided in this section shall not be held liable for civil damages as a result of providing the medication."

## **Chapter 51 Section 9 Laws 2021**

SECTION 9. A new section of the School Personnel Act is enacted to read:

"ANTI-RACISM AND RACIAL SENSITIVITY TRAINING AND PROFESSIONAL DEVELOPMENT.--Each year, all school personnel shall successfully complete an online or in-person anti-racism, racial awareness and sensitivity training or professional development approved by the department that addresses race, racism and racialized aggression and demonstrates how to create and foster an equitable and culturally responsive learning environment for racial minority students."

## **LAWS 2021, CHAPTER 52**

**House Bill 6, aa**  
**Approved April 5, 2021**

AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; ELIMINATING LOCAL AND FEDERAL CREDITS WHEN DETERMINING THE STATE EQUALIZATION GUARANTEE DISTRIBUTION; INCLUDING PROPOSED USE OF FEDERAL AND LOCAL REVENUE IN EDUCATIONAL PLANS AND REPORTING STUDENT OUTCOMES FROM THOSE USES; PROVIDING FOR THE EXCLUSION OF ENROLLMENT GROWTH PROGRAM UNITS IN THE CALCULATION OF SAVE HARMLESS PROGRAM UNITS; CHANGING THE PHASE TWO FORMULA VALUE CALCULATION WHEN DETERMINING THE LOCAL AND STATE MATCH FOR CAPITAL OUTLAY PROJECTS; EXPANDING THE EDUCATION TECHNOLOGY EQUIPMENT ACT, GENERAL OBLIGATION BONDS, THE PUBLIC SCHOOL CAPITAL IMPROVEMENTS ACT AND THE PUBLIC SCHOOL BUILDINGS ACT TO COVER TEACHER HOUSING.

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



## Chapter 52 Section 1 Laws 2021

SECTION 1. Section 6-15A-3 NMSA 1978 (being Laws 1997, Chapter 193, Section 3, as amended) is amended to read:

"6-15A-3. DEFINITIONS.--As used in the Education Technology Equipment Act:

A. "debt" means an obligation payable from ad valorem property tax revenues or the general fund of a school district and that may be secured by the full faith and credit of a school district and a pledge of its taxing powers;

B. "department" means the public education department;

C. "education technology equipment" means tools used in the educational process that constitute learning and administrative resources and may include:

(1) closed-circuit television systems; educational television and radio broadcasting; cable television, satellite, copper and fiber-optic transmission; computer network connection devices; digital communications equipment (voice, video and data); servers; switches; portable media such as discs and drives to contain data for electronic storage and playback; and purchase or lease of software licenses or other technologies and services, maintenance, equipment and computer infrastructure information, techniques and tools used to implement technology in schools and related facilities;

(2) improvements, alterations and modifications to, or expansions of, existing buildings, including teacher housing, or personal property necessary or advisable to house or otherwise accommodate any of the tools listed in Paragraph (1) of this subsection; and

(3) expenditures for technical support and training expenses of school district employees who administer education technology projects funded by a lease-purchase arrangement and may include training by contractors;

D. "eligible charter school" means a locally chartered or state-chartered charter school located within the geographic boundaries of a school district:

(1) that timely provides the information necessary to identify the lease-purchase education technology equipment needed in the charter school to be included in the local school board resolution for lease-purchase of education technology equipment; and

(2) for which the proposed lease-purchase of education technology equipment is included in the school district's approved technology master plan;

E. "lease-purchase arrangement" means a financing arrangement constituting debt of a school district pursuant to which periodic lease payments composed of principal and interest components are to be paid to the holder of the lease-purchase arrangement and pursuant to which the owner of the education technology equipment may retain title to or a security interest in the equipment and may agree to release the security interest or transfer title to the equipment to the school district for nominal consideration after payment of the final periodic lease payment. "Lease-purchase arrangement" also means any debt of the school district incurred for the purpose of acquiring education technology equipment pursuant to the Education Technology Equipment Act whether designated as a general obligation lease, note or other instrument evidencing a debt of the school district;

F. "local school board" means the governing body of a school district; and

G. "school district" means an area of land established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes."

## Chapter 52 Section 2 Laws 2021

SECTION 2. Section 6-23-7 NMSA 1978 (being Laws 1993, Chapter 231, Section 7, as amended) is amended to read:

"6-23-7. PUBLIC SCHOOL UTILITY CONSERVATION FUND CREATED--USE.--

A. The "public school utility conservation fund" is created as a special fund in the state treasury. The fund shall consist of money transferred to the fund, from year to year, from the distribution of the permanent fund and land income of which the common schools are the beneficiary. No other money from any school district or state source shall be deposited or paid into the public school utility conservation fund.

B. Annually, after the calculation of the state equalization guarantee distribution has been made, the secretary of public education shall determine the sum of the deductions made in the state equalization guarantee distribution of school districts pursuant to Section 22-8-25 NMSA 1978 and shall certify that amount to the secretary of finance and administration. Distributions from the permanent fund and land income of which the common schools are the beneficiary equal to that amount shall be transferred from the common school current fund to the public school utility conservation fund.

C. Money in the public school utility conservation fund is appropriated to the public education department solely for the purpose of disbursing money to school districts to make payments pursuant to any guaranteed utility savings contract between the school district and a qualified provider or any installment contract or lease-purchase agreement for the purchase and installation of energy or water conservation measures pursuant to that guaranteed utility savings contract.

D. Disbursements from the public school utility conservation fund shall be made only to school districts and only upon certification by the secretary of public education that the disbursement is for a payment authorized by the Public Facility Energy Efficiency and Water Conservation Act.

E. The secretary of public education shall submit to the legislative finance committee and the legislative education study committee prior to each regular legislative session a list of school districts proposing to enter into approved guaranteed utility savings contracts in the succeeding fiscal year. The list shall include information on the amount of the school district's proposed annual payments and specific amounts that utility and operational budget items are guaranteed to be reduced to achieve the savings to make the payments.

F. Any unexpended or unencumbered balance remaining in the public school utility conservation fund at the end of any fiscal year shall be transferred to the public school fund."

### **Chapter 52 Section 3 Laws 2021**

SECTION 3. Section 22-8-6 NMSA 1978 (being Laws 1967, Chapter 16, Section 60, as amended by Laws 2019, Chapter 206, Section 8 and by Laws 2019, Chapter 207, Section 8) is amended to read:

"22-8-6. OPERATING BUDGETS--EDUCATIONAL PLANS-- SUBMISSION-- CERTAIN REPORTS--FAILURE TO SUBMIT.--

A. Prior to April 15 of each year, each local school board shall submit to the department an operating budget for the school district and any locally chartered charter school in the school district for the ensuing fiscal year.

B. The date for the submission of the operating budget for each school district and each charter school as required by this section may be extended to a later date fixed by the secretary.

C. The operating budget required by this section may include:

(1) estimates of the cost of insurance policies for periods up to five years if a lower rate may be obtained by purchasing insurance for the longer term; or

(2) estimates of the cost of contracts for the transportation of students for terms extending up to four years.

D. The operating budget required by this section shall include a budget for each charter school of the membership projected for each charter school, the total program units generated at that charter school and approximate anticipated disbursements and expenditures at each charter school.

E. For fiscal year 2021 and subsequent fiscal years, each school district's and each locally chartered or state-chartered charter school's educational plan shall include:

(1) information on the instructional time offered by the school district or charter school, including the number of instructional days by school site and the number of hours in each instructional day and the frequency of early-release days;

(2) a narrative explaining the identified services to improve the academic success of at-risk students;

(3) a narrative explaining the services provided to students enrolled in the following programs:

(a) extended learning time programs, including a report of how the extended learning time is used to improve the academic success of students and professional learning of teachers; and

(b) K-5 plus programs;

(4) a narrative explaining the school district's or charter school's beginning teacher mentorship programs as well as class size and teaching load information;

(5) a narrative explaining supplemental programs or services offered by the school district or charter school to ensure that the Bilingual Multicultural Education Act, the Indian Education Act and the Hispanic Education Act are being implemented by the school district or charter school;

(6) a narrative describing the amount of program cost generated for services to students with disabilities and the spending of these revenues on services to students with disabilities, which shall include the following:

(a) program cost generated for students enrolled in approved special education programs;

(b) budgeted expenditures of program cost, for students enrolled in approved special education programs, on students with disabilities;

(c) the amount of program cost generated for personnel providing ancillary and related services to students with disabilities;

(d) budgeted expenditures of program cost for personnel providing ancillary and related services to students with disabilities, on special education ancillary and related services personnel; and

(e) a description of the steps taken to ensure that students with disabilities have access to a free and appropriate public education; and

(7) a common set of performance targets and performance measures, as determined by the department in consultation with the department of finance and administration, the legislative finance committee and the legislative education study committee.

F. In addition to the requirements of Subsection E of this section, a school district or charter school that receives federal or local revenue shall include in its educational plan a narrative explaining how the school district or charter school will use the federal or local revenue to improve outcomes for students or to improve the condition of a school building. No later than October 1 of each year, a school district or charter school that received federal or local revenue in the prior fiscal year shall report to the department on the actual uses of that revenue, including a comprehensive evaluation of how the programs and services provided with that revenue improved outcomes for students or how capital projects undertaken improved the condition of a school building. A school district or charter school that is required under federal law to consult with tribal entities as a condition of receiving impact aid funds shall include in its educational plan a detailed narrative of its consultations with tribal entities and the results of those consultations. The school district or charter school shall transmit the October 1 spending and outcomes report to the appropriate tribal authorities. No later than November 15 of each year, the department shall compile the federal and local revenue outcomes reports into a statewide report to the legislative education study committee and the legislative finance committee that includes an analysis and identification of effective programs and strategies that improve outcomes for students.

G. A school district or charter school operating budget and educational plan shall prioritize federal and local revenue for purposes relating to the Indian Education Act; for capital expenditures authorized by the Public School Capital Outlay Act, the Public School Capital Improvements Act or the Public School Buildings Act; or for research-based or evidence-based social, emotional or academic interventions for which at-risk program units may be used.

H. If a local school board or governing board of a charter school fails to submit an operating budget pursuant to this section, the department shall prepare the operating budget for the school district or charter school for the ensuing fiscal year. A local school board or governing board of a charter school shall be considered as failing to submit an operating budget pursuant to this section if the budget submitted exceeds the total projected resources of the school district or charter school or if the budget submitted does not comply with the law or with rules and procedures of the department.

I. As used in this section:

(1) "federal revenue" means seventy-five percent of the revenue derived from:

(a) federal forest reserve funds distributed in accordance with Section 22-8-33 NMSA 1978; or

(b) federal 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 funds"; and

(2) "local revenue" means seventy-five percent of the revenue from a school district one-half mill school district property tax and revenue from the Oil and Gas Ad Valorem Production Tax Act and the Oil and Gas Production Equipment Ad Valorem Tax Act."

## **Chapter 52 Section 4 Laws 2021**

SECTION 4. Section 22-8-13.3 NMSA 1978 (being Laws 2020, Chapter 71, Section 1) is amended to read:

"22-8-13.3. REPORTING SYSTEM--REPORTING REQUIREMENTS.--

A. No later than December 31, 2021, the department, with input from stakeholders, including school districts, charter school leaders, business managers and staff from the legislative finance committee and legislative education study committee, shall establish, implement and maintain a statewide financial reporting system that is based on a standard chart of accounts. The department shall annually update the reporting system.



B. In designing, implementing and maintaining the reporting system pursuant to Subsection A of this section, the department shall adhere to the following guidelines:

(1) the reporting system shall be based on a standard chart of accounts that will enable comparisons between schools, between local education agencies and between regional education cooperatives;

(2) the reporting system shall allow for the display of administrative costs of every school site and local education agency;

(3) the reporting system shall make it possible to determine how school sites and local education agencies budget funds to support at-risk students, offer bilingual and multicultural educational services to students and support special education students;

(4) the reporting system shall make it possible to determine each local education agency's and regional education cooperative's actual expenditures, which shall include actual salary expenditures and actual benefit expenditures reported by job category specified in the standard chart of accounts at the local education agency level, at the school site level and, if applicable, at the regional education cooperative level;

(5) the reporting system shall report the expenditures for each of the major categories specified in the chart of accounts for school sites and local education agencies; and

(6) the reporting system shall make it possible to determine how school sites and local education agencies budget seventy-five percent of their federal impact aid and forest reserve revenue and seventy-five percent of their local revenue from the one-half mill school district property tax and revenue from the Oil and Gas Ad Valorem Production Tax Act and the Oil and Gas Production Equipment Ad Valorem Tax Act.

C. The standard chart of accounts shall include the reporting of revenues received at all levels, including local, state and federal funds.

D. As used in this section:

(1) "local education agency" means a school district or state-chartered charter school; and

(2) "reporting system" means the statewide online financial reporting system."

## **Chapter 52 Section 5 Laws 2021**

SECTION 5. 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--  
DETERMINATION OF AMOUNT.--

A. 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 MEM on the first reporting date of the current year, whichever is greater; provided that the calculation of

program units using the MEM on the first reporting date of the current school year shall exclude enrollment growth program units;

(4) using the results of the calculations in Paragraph (1), (2) or (3) of this subsection and the staffing cost multiplier from the October report of the prior school year, establish a total program cost of the school district or charter school;

(5) 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

(6) deduct ninety percent of the amount certified for the school district by the department pursuant to the Energy Efficiency and Renewable Energy Bonding Act.

B. 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.

C. 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 (5) and (6) of Subsection A of this section.

D. The amount of the state equalization guarantee distribution to which a state-chartered charter school is entitled is the difference between the state-chartered charter school's program cost and the two percent withheld by the department for administrative services.

E. The state equalization guarantee distribution shall be distributed prior to June 30 of each fiscal year. 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 52 Section 6 Laws 2021**

SECTION 6. Section 22-8-31 NMSA 1978 (being Laws 1967, Chapter 16, Section 84, as amended) is amended to read:

"22-8-31. STATE-SUPPORT RESERVE FUND.--

- A. The "state-support reserve fund" is created.
- B. The state-support reserve fund shall be used only to augment the appropriations for the state equalization guarantee distribution in order to ensure, to the extent of the amount undistributed in the fund, that the maximum figures for such distribution established by law shall not be reduced.
- C. The undistributed money in the state-support reserve fund shall be invested by the state treasurer in interest-bearing securities of the United States government or in certificates of deposit in qualified banks and in savings and loan associations whose deposits are insured with an agency of the United States. The state treasurer may deposit money from the state-support reserve fund or any other fund in one or more accounts with any such bank or federally insured savings and loan association, but the state treasurer, in any official capacity, shall not deposit money from that fund or any other fund in any one federally insured savings and loan association the aggregate of which would exceed the amount of federal savings and loan insurance corporation insurance for a single public account. Income from these investments shall be periodically credited to the general fund.
- D. At least forty-five days before the money is needed, the chief shall notify the state treasurer in writing of the amount that will be needed for distribution.

E. It is the intent of the legislature that the state-support reserve fund be reimbursed in the amount of the yearly distribution by appropriation in the year following the distribution so that the fund at the beginning of each fiscal year shall have a credit balance of at least ten million dollars (\$10,000,000).

F. Distribution from the state-support reserve fund shall be made in the same manner and on the same basis as the state equalization guarantee distribution."

## **Chapter 52 Section 7 Laws 2021**

SECTION 7. Section 22-18-1 NMSA 1978 (being Laws 1967, Chapter 16, Section 228, as amended) is amended to read:

"22-18-1. GENERAL OBLIGATION BONDS--AUTHORITY TO ISSUE.--

A. After consideration of the priorities for the school district's capital needs as shown by the facility assessment database maintained by the public school facilities authority and subject to the provisions of Article 9, Section 11 of the constitution of New Mexico and Sections 6-15-1 and 6-15-2 NMSA 1978, a school district may issue general obligation bonds for the purpose of:

(1) erecting, remodeling, making additions to and furnishing school buildings, including teacher housing;

(2) purchasing or improving school grounds;

(3) purchasing computer software and hardware for student use in public schools;

(4) providing matching funds for capital outlay projects funded pursuant to the Public School Capital Outlay Act; or

(5) any combination of these purposes.

B. The bonds shall be fully negotiable and constitute negotiable instruments within the meaning and for all purposes of the Uniform Commercial Code."

## **Chapter 52 Section 8 Laws 2021**

SECTION 8. Section 22-24-5 NMSA 1978 (being Laws 1975, Chapter 235, Section 5, as amended) is amended to read:

"22-24-5. PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS-- APPLICATION-- GRANT ASSISTANCE.--

A. Applications for grant assistance, approval of applications, prioritization of projects and grant awards shall be conducted pursuant to the provisions of this section.

B. Except as provided in Sections 22-24-4.3, 22-24-5.4 and 22-24-5.6 NMSA 1978, the following provisions govern grant assistance from the fund for a public school capital outlay project not wholly funded pursuant to Section 22-24-4.1 NMSA 1978:

(1) all school districts are eligible to apply for funding from the fund, regardless of percentage of indebtedness;

(2) priorities for funding shall be determined by using the statewide adequacy standards developed pursuant to Subsection C of this section; provided that:

(a) the council shall apply the standards to charter schools to the same extent that they are applied to other public schools;

(b) the council may award grants annually to school districts for the purpose of repairing, renovating or replacing public school building systems in existing buildings as identified in Section 22-24-4.6 NMSA 1978;

(c) the council shall adopt and apply adequacy standards appropriate to the unique needs of the constitutional special schools;

(d) the council may award school security system project grants to school districts pursuant to the provisions of Section 22-24-4.7 NMSA 1978; and

(e) in an emergency in which the health or safety of students or school personnel is at immediate risk or in which there is a threat of significant property damage, the council may award grant assistance for a project using criteria other than the statewide adequacy standards;

(3) the council shall establish criteria to be used in public school capital outlay projects that receive grant assistance pursuant to the Public School Capital Outlay Act. In establishing the criteria, the council shall consider:

(a) the feasibility of using design, build and finance arrangements for public school capital outlay projects;

(b) the potential use of more durable construction materials that may reduce long-term operating costs;

(c) concepts that promote efficient but flexible utilization of space; and

(d) any other financing or construction concept that may maximize the dollar effect of the state grant assistance;

(4) no more than ten percent of the combined total of grants in a funding cycle shall be used for retrofitting existing facilities for technology infrastructure;

(5) no later than May 1 of each calendar year, the phase one formula value shall be calculated for each school district in accordance with the following procedure:

(a) the final prior year net taxable value for a school district divided by the MEM for that school district is calculated for each school district;

(b) the final prior year net taxable value for the whole state divided by the MEM for the state is calculated;

(c) excluding any school district for which the result calculated pursuant to Subparagraph (a) of this paragraph is more than twice the result calculated pursuant to Subparagraph (b) of this paragraph, the results calculated pursuant to Subparagraph (a) of this paragraph are listed from highest to lowest;

(d) the lowest value listed pursuant to Subparagraph (c) of this paragraph is subtracted from the highest value listed pursuant to that subparagraph;

(e) the value calculated pursuant to Subparagraph (a) of this paragraph for the subject school district is subtracted from the highest value listed in Subparagraph (c) of this paragraph;

(f) the result calculated pursuant to Subparagraph (e) of this paragraph is divided by the result calculated pursuant to Subparagraph (d) of this paragraph;

(g) the sum of the property tax mill levies for the prior tax year imposed by each school district on residential property pursuant to Chapter 22, Article 18 NMSA 1978, the Public School Capital Improvements Act, the Public School Buildings Act, the Education Technology Equipment Act and Paragraph (2) of Subsection B of Section 7-37-7 NMSA 1978 is calculated for each school district;

(h) the lowest value calculated pursuant to Subparagraph (g) of this paragraph is subtracted from the highest value calculated pursuant to that subparagraph;



(i) the lowest value calculated pursuant to Subparagraph (g) of this paragraph is subtracted from the value calculated pursuant to that subparagraph for the subject school district;

(j) the value calculated pursuant to Subparagraph (i) of this paragraph is divided by the value calculated pursuant to Subparagraph (h) of this paragraph;

(k) if the value calculated for a subject school district pursuant to Subparagraph (j) of this paragraph is less than five-tenths, then, except as provided in Subparagraph (n) or (o) of this paragraph, the value for that school district equals the value calculated pursuant to Subparagraph (f) of this paragraph;

(l) if the value calculated for a subject school district pursuant to Subparagraph (j) of this paragraph is five-tenths or greater, then that value is multiplied by five-hundredths;

(m) if the value calculated for a subject school district pursuant to Subparagraph (j) of this paragraph is five-tenths or greater, then the value calculated pursuant to Subparagraph (l) of this paragraph is added to the value calculated pursuant to Subparagraph (f) of this paragraph. Except as provided in Subparagraph (n) or (o) of this paragraph, the sum equals the value for that school district;

(n) in those instances in which the calculation pursuant to Subparagraph (k) or (m) of this paragraph yields a value less than one-tenth, one-tenth shall be used as the value for the subject school district;

(o) in those instances in which the calculation pursuant to Subparagraph (k) or (m) of this paragraph yields a value greater than one, one shall be used as the value for the subject school district;

(p) the phase one formula value shall equal a fraction the numerator of which is the value for the subject school district in the current year plus the

value for that school district in each of the two preceding years and the denominator of which is three; and

(q) as used in this paragraph, "MEM" means the average full-time-equivalent enrollment of students attending public school in a school district on the second and third reporting dates of the prior school year;

(6) no later than May 1 of each calendar year, the phase two formula value shall be calculated for each school district in accordance with the following procedure:

(a) the sum of the final prior five years net taxable value for a school district multiplied by nine ten-thousandths for that school district is calculated for each school district;

(b) the value calculated pursuant to Subparagraph (a) of this paragraph is added to the average unrestricted revenue used for capital expenditures pursuant to Subsection K of this section;

(c) the maximum allowable gross square foot per student multiplied by the replacement cost per square foot divided by forty-five is calculated for each school district;

(d) in fiscal years 2022 through 2024, the value calculated pursuant to Subparagraph (a) of this paragraph divided by the value calculated pursuant to Subparagraph (c) of this paragraph is calculated for each school district and in fiscal year 2025 and subsequent fiscal years, the value calculated pursuant to Subparagraph (b) of this paragraph divided by the value calculated pursuant to Subparagraph (c) of this paragraph is calculated for each school district;

(e) in those instances in which the calculation pursuant to Subparagraph (d) of this paragraph yields a value equal to or greater than one, the phase two formula value shall be zero for the subject school district;

(f) in those instances in which the calculation pursuant to Subparagraph (d) of this paragraph yields a value of ninety-hundredths or more but less than one, the phase two formula value shall be one minus the value calculated in Subparagraph (d) of this paragraph; and

(g) in those instances in which the calculation pursuant to Subparagraph (d) of this paragraph yields a value less than ninety-hundredths, the phase two formula value shall be one minus the value calculated in Subparagraph (d) of this paragraph plus the school district population density factor;

(7) the state share of a project approved by the council shall be funded within available resources pursuant to the provisions of this paragraph. Except as provided in Section 22-24-5.7 NMSA 1978 and except as adjusted pursuant to Paragraph (9), (10), (11) or (12) of this subsection, the amount to be distributed from the fund for an approved project shall equal the total project cost multiplied by the following percentage, except that in no case shall the state share be less than six percent:

(a) for fiscal years prior to fiscal year 2020, the percentage shall be the phase one formula value;

(b) for fiscal year 2020, the percentage shall be the sum of eight-tenths multiplied by the phase one formula value and two-tenths multiplied by the phase two formula value;

(c) for fiscal year 2021, the percentage shall be the sum of six-tenths multiplied by the phase one formula value and four-tenths multiplied by the phase two formula value;

(d) for fiscal year 2022, the percentage shall be the sum of four-tenths multiplied by the phase one formula value and six-tenths multiplied by the phase two formula value;

(e) for fiscal year 2023, the percentage shall be the sum of two-tenths multiplied by the phase one formula value and eight-tenths multiplied by the phase two formula value; and

(f) for fiscal year 2024 and thereafter, the percentage shall be the phase two formula value;

(8) as used in this subsection:

(a) "governmental entity" includes an Indian nation, tribe or pueblo;

(b) "phase one formula value" for a state-chartered charter school means the phase one formula value calculated pursuant to Paragraph (5) of this subsection for the school district in which the state-chartered charter school is physically located;

(c) "phase two formula value" for a state-chartered charter school means the phase two formula value calculated pursuant to Paragraph (6) of this subsection for the school district in which the state-chartered charter school is physically located;

(d) "subject school district" means the school district that has submitted the application for funding and in which the approved public school capital outlay project will be located; and

(e) "total project cost" means the total amount necessary to complete the public school capital outlay project less any insurance reimbursement received by the school district for the project;

(9) the amount to be distributed from the fund for an approved project pursuant to Paragraph (7) of this subsection shall be reduced by the following procedure:

(a) the total of all legislative appropriations made after January 1, 2003 for nonoperating purposes either directly to the subject school district or to another governmental entity for the purpose of passing the money through directly to the subject school district, and not rejected by the subject school district, is calculated; provided that: 1) an appropriation made in a fiscal year shall be deemed to be accepted by a school district unless, prior to June 1 of that fiscal year, the school district notifies the department of finance and administration and the public education department that the school district is rejecting the appropriation; 2) the total shall exclude any education technology appropriation made prior to January 1, 2005 unless the appropriation was on or after January 1, 2003 and not previously used to offset distributions pursuant to the Technology for Education Act; 3) the total shall exclude any appropriation previously made to the subject school district that is reauthorized for expenditure by another recipient; 4) the total shall exclude one-half of the amount of any appropriation made or reauthorized after January 1, 2007 if the purpose of the appropriation or reauthorization is to fund, in whole or in part, a capital outlay project that, when prioritized by the council pursuant to this section either in the immediately preceding funding cycle or in the current funding cycle, ranked in the top one hundred fifty projects statewide; 5) the total shall exclude the proportionate share of any appropriation made or reauthorized after January 1, 2008 for a capital project that will be jointly used by a governmental entity other than the subject school district. Pursuant to criteria adopted by rule of the council and based upon the proposed use of the capital project, the council shall determine the proportionate share to be used by the governmental entity and excluded from the total; and 6) unless the grant award is made to the state-chartered charter school or unless the appropriation was previously used to calculate a reduction pursuant to this paragraph, the total shall exclude appropriations made after January 1, 2007 for nonoperating purposes of a specific state-chartered charter school, regardless of whether the charter school is a state-chartered charter school at the time of the appropriation or later opts to become a state-chartered charter school;

(b) the percentage used for the subject school district for the applicable fiscal year pursuant to Paragraph (7) of this subsection is subtracted from one;

(c) the value calculated pursuant to Subparagraph (a) of this paragraph for the subject school district is multiplied by the amount calculated pursuant to Subparagraph (b) of this paragraph for that school district;

(d) the total amount of reductions for the subject school district previously made pursuant to Subparagraph (e) of this paragraph for other approved public school capital outlay projects is subtracted from the amount calculated pursuant to Subparagraph (c) of this paragraph; and

(e) the amount to be distributed from the fund pursuant to Paragraph (7) of this subsection shall be reduced by the amount calculated pursuant to Subparagraph (d) of this paragraph;

(10) the amount calculated pursuant to Paragraph (7) of this subsection, after any reduction pursuant to Paragraph (9) of this subsection, may be increased by an additional five percent if the council finds that the subject school district has been exemplary in implementing and maintaining a preventive maintenance program. The council shall adopt such rules as are necessary to implement the provisions of this paragraph;

(11) the council may adjust the amount of local share otherwise required if it determines that a school district has made a good-faith effort to use all of its local resources. Before making any adjustment to the local share, the council shall consider whether:

(a) the school district has insufficient bonding capacity over the next four years to provide the local match necessary to complete the project and, for all educational purposes, has a residential property tax rate of at least ten dollars (\$10.00) on each one thousand dollars (\$1,000) of taxable value, as measured by the sum of all rates imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds;

(b) the school district: 1) has fewer than an average of eight hundred full-time-equivalent students on the second and third reporting dates of the prior school year; 2) has at least seventy percent of its students eligible for free or reduced-fee lunch; 3) has a share of the total project cost, as calculated pursuant to provisions of this section, that would be greater than fifty percent; and 4) for all educational purposes, has a residential property tax rate of at least seven dollars (\$7.00) on each one thousand dollars (\$1,000) of taxable value, as measured by the sum of all rates imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds; or

(c) the school district: 1) has an enrollment growth rate over the previous school year of at least two and one-half percent; 2) pursuant to its five-year facilities plan, will be building a new school within the next two years; and 3) for all educational purposes, has a residential property tax rate of at least ten dollars (\$10.00) on each one thousand dollars (\$1,000) of taxable value, as measured by the sum of all rates imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds;

(12) the local match for the constitutional special schools shall be set at fifty percent for projects that qualify under the educational adequacy category and one hundred percent for projects that qualify in the support spaces category; provided that the council may adjust or waive the amount of any direct appropriation offset to or local share required for the constitutional special schools if an applicant constitutional special school has insufficient or no local resources available; and

(13) no application for grant assistance from the fund shall be approved unless the council determines that:

(a) the public school capital outlay project is needed and included in the school district's five-year facilities plan among its top priorities;

(b) the school district has used its capital resources in a prudent manner;

(c) the school district has provided insurance for buildings of the school district in accordance with the provisions of Section 13-5-3 NMSA 1978;

(d) the school district has submitted a five-year facilities plan that includes: 1) enrollment projections; 2) a current preventive maintenance plan that has been approved by the council pursuant to Section 22-24-5.3 NMSA 1978 and that is followed by each public school in the district; 3) the capital needs of charter schools located in the school district; and 4) projections for the facilities needed in order to maintain a full-day kindergarten program;

(e) the school district is willing and able to pay any portion of the total cost of the public school capital outlay project that, according to Paragraph (7), (9), (10) or (11) of this subsection, is not funded with grant assistance from the fund;

(f) the application includes the capital needs of any charter school located in the school district or the school district has shown that the facilities of the charter school have a smaller deviation from the statewide adequacy standards than other district facilities included in the application; and

(g) the school district has agreed, in writing, to comply with any reporting requirements or conditions imposed by the council pursuant to Section 22-24-5.1 NMSA 1978.

C. After consulting with the public school capital outlay oversight task force and other experts, the council shall regularly review and update statewide adequacy standards applicable to all school districts. The standards shall establish the acceptable level for the physical condition and capacity of buildings, the educational suitability of facilities and the need for education technology infrastructure. Except as otherwise provided in the Public School Capital Outlay Act, the amount of outstanding deviation from the standards shall be used by the council in evaluating and prioritizing public school capital outlay projects.



D. The acquisition of a facility by a school district or charter school pursuant to a financing agreement that provides for lease payments with an option to purchase for a price that is reduced according to lease payments made may be considered a public school capital outlay project and eligible for grant assistance under this section pursuant to the following criteria:

(1) no grant shall be awarded unless the council determines that, at the time of exercising the option to purchase the facility by the school district or charter school, the facility will equal or exceed the statewide adequacy standards and the building standards for public school facilities;

(2) no grant shall be awarded unless the school district and the need for the facility meet all of the requirements for grant assistance pursuant to the Public School Capital Outlay Act;

(3) the total project cost shall equal the total payments that would be due under the agreement if the school district or charter school would eventually acquire title to the facility;

(4) the portion of the total project cost to be paid from the fund may be awarded as one grant, but disbursements from the fund shall be made from time to time as lease payments become due;

(5) the portion of the total project cost to be paid by the school district or charter school may be paid from time to time as lease payments become due; and

(6) neither a grant award nor any provision of the Public School Capital Outlay Act creates a legal obligation for the school district or charter school to continue the lease from year to year or to purchase the facility.

E. In order to encourage private capital investment in the construction of public school facilities, the purchase of a privately owned school facility that is, at the time of application, in use by a school district may be considered a public school capital

outlay project and eligible for grant assistance pursuant to this section if the council finds that:

(1) at the time of the initial use by the school district, the facility to be purchased equaled or exceeded the statewide adequacy standards and the building standards for public school facilities;

(2) at the time of application, attendance at the facility to be purchased is at seventy-five percent or greater of design capacity and the attendance at other schools in the school district that the students at the facility would otherwise attend is at eighty-five percent or greater of design capacity; and

(3) the school district and the capital outlay project meet all of the requirements for grant assistance pursuant to the Public School Capital Outlay Act; provided that, when determining the deviation from the statewide adequacy standards for the purposes of evaluating and prioritizing the project, the students using the facility shall be deemed to be attending other schools in the school district.

F. It is the intent of the legislature that grant assistance made pursuant to this section allows every school district to meet the standards developed pursuant to Subsection C of this section; provided, however, that nothing in the Public School Capital Outlay Act or the development of standards pursuant to that act prohibits a school district from using other funds available to the district to exceed the statewide adequacy standards.

G. Upon request, the council shall work with, and provide assistance and information to, the public school capital outlay oversight task force.

H. The council may establish committees or task forces, not necessarily consisting of council members, and may use the committees or task forces, as well as existing agencies or organizations, to conduct studies, conduct surveys, submit recommendations or otherwise contribute expertise from the public schools, programs,

interest groups and segments of society most concerned with a particular aspect of the council's work.

I. Upon the recommendation of the authority, the council shall develop building standards for public school facilities and shall promulgate other such rules as are necessary to carry out the provisions of the Public School Capital Outlay Act.

J. No later than December 15 of each year, the council shall prepare a report summarizing its activities during the previous fiscal year. The report shall describe in detail all projects funded, the progress of projects previously funded but not completed, the criteria used to prioritize and fund projects and all other council actions. The report shall be submitted to the public education commission, the governor, the legislative finance committee, the legislative education study committee and the legislature.

K. As used in this section, "unrestricted revenue used for capital expenditures" means the amount of revenue certified by the department that was not restricted for a particular purpose and used by a school district to make capital outlay expenditures, as defined by the council's rules. No later than July 1, 2024, the council shall adopt rules identifying the procedure for calculating unrestricted revenue used for capital expenditures after consulting with school districts, including school districts with limited bonding capacity for capital projects, the department, the public school capital outlay oversight task force, the legislative education study committee and the legislative finance committee; provided that the rules shall provide for the exclusion of revenue raised pursuant to the Public School Capital Improvements Act and the Public School Buildings Act and expenditures related to teacher housing. For the purposes of the phase two formula value pursuant to Paragraph (6) of Subsection B of this section, the average unrestricted revenue used for capital expenditures shall be calculated as follows:

(1) in fiscal year 2025, the amount shall be equal to unrestricted revenue used for capital expenditures in the most recent prior fiscal year for which data is available multiplied by 0.2;

(2) in fiscal year 2026, the amount shall be equal to the average unrestricted revenue used for capital expenditures for the two most recent prior fiscal years for which data is available multiplied by 0.4;

(3) in fiscal year 2027, the amount shall be equal to the average unrestricted revenue used for capital expenditures for the three most recent prior fiscal years for which data is available multiplied by 0.6;

(4) in fiscal year 2028, the amount shall be equal to the average unrestricted revenue used for capital expenditures for the four most recent prior fiscal years for which data is available multiplied by 0.8; and

(5) in fiscal year 2029 and subsequent fiscal years, the amount shall be equal to the average unrestricted revenue used for capital expenditures for the five most recent prior fiscal years for which data is available."

## **Chapter 52 Section 9 Laws 2021**

SECTION 9. Section 22-25-2 NMSA 1978 (being Laws 1975 (S.S.), Chapter 5, Section 2, as amended) is amended to read:

"22-25-2. DEFINITIONS.--As used in the Public School Capital Improvements Act:

A. "program unit" means the product of the program element multiplied by the applicable cost differential factor, as defined in Section 22-8-2 NMSA 1978; and

B. "capital improvements" means expenditures, including payments made with respect to lease-purchase arrangements as defined in the Education Technology Equipment Act or the Public School Lease Purchase Act but excluding any other debt service expenses, for:

(1) erecting, remodeling, making additions to, providing equipment for or furnishing public school buildings, including teacher housing and pre-kindergarten classroom facilities;

(2) purchasing or improving public school or pre-kindergarten grounds;

(3) maintenance of public school buildings, including teacher housing, or public school or pre-kindergarten grounds, including the purchasing or repairing of maintenance equipment and participating in the facility information management system as required by the Public School Capital Outlay Act and including payments under contracts with regional education cooperatives for maintenance support services and expenditures for technical training and certification for maintenance and facilities management personnel, but excluding salary expenses of school district employees;

(4) purchasing activity vehicles for transporting students to extracurricular school activities;

(5) purchasing computer software and hardware for student use in public school classrooms; and

(6) purchasing and installing education technology improvements, excluding salary expenses of school district employees, but including tools used in the educational process that constitute learning and administrative resources, and that may also include:

(a) satellite, copper and fiber-optic transmission; computer and network connection devices; digital communication equipment, including voice, video and data equipment; servers; switches; portable media devices, such as discs and drives to contain data for electronic storage and playback; and the purchase or lease of software licenses or other technologies and services, maintenance, equipment and computer infrastructure information, techniques and tools used to implement technology in schools and related facilities; and

(b) improvements, alterations and modifications to, or expansions of, existing buildings or tangible personal property necessary or advisable to house or otherwise accommodate any of the tools listed in this paragraph."

## **Chapter 52 Section 10 Laws 2021**

SECTION 10. Section 22-26-2 NMSA 1978 (being Laws 1983, Chapter 163, Section 2, as amended) is amended to read:

"22-26-2. DEFINITION.--As used in the Public School Buildings Act, "capital improvements" means expenditures, including payments made with respect to lease-purchase arrangements as defined in the Education Technology Equipment Act but excluding any other debt service expenses, for:

- A. erecting, remodeling, making additions to, providing equipment for or furnishing public school buildings, including teacher housing and pre-kindergarten classrooms belonging to the school district or charter school located in the school district;
- B. payments made pursuant to a financing agreement entered into by a school district or a charter school for the leasing of a building or other real property with an option to purchase for a price that is reduced according to payments made;
- C. purchasing or improving public school grounds;
- D. purchasing activity vehicles for transporting students to and from extracurricular school activities; provided that this authorization for expenditure does not apply to school districts with a student MEM greater than sixty thousand;
- E. administering the projects undertaken pursuant to Subsections A and C of this section, including expenditures for facility maintenance software, project management software, project oversight and district personnel specifically related to

administration of projects funded by the Public School Buildings Act; provided that expenditures pursuant to this subsection shall not exceed five percent of the total project costs; and

F. purchasing and installing education technology improvements, excluding salary expenses of school district employees, but including tools used in the educational process that constitute learning and administrative resources, and that may also include:

(1) satellite, copper and fiber-optic transmission; computer and network connection devices; digital communication equipment, including voice, video and data equipment; servers; switches; portable media devices, such as discs and drives to contain data for electronic storage and playback; and purchase or lease of software licenses or other technologies and services, maintenance, equipment and computer infrastructure information, techniques and tools used to implement technology in schools and related facilities; and

(2) improvements, alterations and modifications to, or expansions of, existing buildings or tangible personal property necessary or advisable to house or otherwise accommodate any of the tools listed in this subsection."

## **Chapter 52 Section 11 Laws 2021**

SECTION 11. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

## **LAWS 2021, CHAPTER 53**

**H AFC/House Bill 222**  
**Approved April 5, 2021**

AN ACT

RELATING TO SPECIAL EDUCATION; ENACTING THE SPECIAL EDUCATION OMBUD ACT; ESTABLISHING THE OFFICE OF THE STATE SPECIAL EDUCATION OMBUD; PROVIDING DUTIES; REQUIRING INVESTIGATION AND RESOLUTION OF CONCERNS; PROVIDING ACCESS TO STUDENT EDUCATIONAL RECORDS; PROVIDING FOR THE CONFIDENTIALITY OF RECORDS; PROVIDING POTENTIAL ACTIONS FOR NONCOMPLIANCE; REQUIRING AN ANNUAL REPORT.

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

### **Chapter 53 Section 1 Laws 2021**

SECTION 1. SHORT TITLE.--Sections 1 through 11 of this act may be cited as the "Special Education Ombud Act".

### **Chapter 53 Section 2 Laws 2021**

SECTION 2. DEFINITIONS.--As used in the Special Education Ombud Act:

- A. "council" means the developmental disabilities planning council;
- B. "office" means the office of the state special education ombud;
- C. "parent" includes a legal guardian or custodian who has custody and control of a student or an individual who has legal authority to make educational decisions on behalf of the student;
- D. "state ombud" means the state special education ombud; and
- E. "student" means a public school student receiving or seeking special education services.



## Chapter 53 Section 3 Laws 2021

### SECTION 3. CREATION OF THE OFFICE OF THE STATE SPECIAL EDUCATION OMBUD--GENERAL DUTIES OF THE OFFICE.--

- A. The "office of the state special education ombud" is created within the council.
- B. The council shall appoint the "state special education ombud", who shall head the office and supervise the ombuds and other staff of the office. The state ombud may contract for services to assist the office in conducting its duties and may use the services of volunteers.
- C. The state ombud shall:
- (1) identify, investigate and resolve concerns pertaining to special education services that are filed with the office by parents;
  - (2) assist students and parents in protecting the educational rights of students, which may include assisting students and parents in individualized education plan meetings or other proceedings pursuant to the federal Individuals with Disabilities Education Act;
  - (3) inform students and parents about special education resources in their community;
  - (4) ensure that students and parents have regular and timely access to the services provided through the office and that students and parents receive timely responses from representatives of the office;

(5) identify any patterns of concerns that emerge regarding special education services and educational rights and recommend strategies for improvement to the public education department;

(6) collaborate with the public education department to ensure that all dispute resolution processes are available to students and parents, including the special education parent liaison, mediation, facilitated individualized education program meetings, state complaint and investigations and due process hearings;

(7) collaborate with the parent training information centers and protection and advocacy agencies within the state to identify and report systemic special education issues to the public education department;

(8) ensure that office staff, contractors and volunteers are trained in:

(a) federal, state and local laws, rules and policies with respect to special education in the state;

(b) investigative techniques;

(c) dispute resolution; and

(d) such other matters as the office deems appropriate;

(9) develop procedures for the certification of ombuds. An employee or contractor shall not investigate a concern filed with the office unless that person is certified by the office;

(10) analyze, comment on and monitor the development and implementation of federal and state laws, rules and other governmental policies and actions that pertain to the educational rights of students with respect to the adequacy of special education services in the state;

(11) recommend changes to laws, rules, policies and actions pertaining to the special educational rights of students as the office determines to be appropriate;

(12) facilitate public comment on proposed laws, rules, policies and actions; and

(13) provide information to public and private agencies, legislators and other persons regarding the problems and concerns of special education services and make recommendations related to those problems and concerns.

## **Chapter 53 Section 4 Laws 2021**

SECTION 4. ANNUAL REPORT--CONTENTS.--No later than December 1 of each year, the office shall prepare a report that includes:

A. actions taken by the office in the year for which the report is prepared;

B. special education concerns identified by or on behalf of students and parents, resolution of the concerns and the effectiveness of the resolution processes;

C. recommendations for improving the quality of special education services provided to students and protecting the educational rights of students; and

D. policy, regulatory and legislative recommendations to solve identified concerns related to special education, to improve processes of resolutions of concerns, to improve the quality of services provided to students, to protect the educational rights of students and to remove barriers to education and educational services.

## **Chapter 53 Section 5 Laws 2021**

SECTION 5. INVESTIGATION AND RESOLUTION OF SPECIAL EDUCATION CONCERNS.--The office shall identify, investigate and seek to resolve concerns related

to special education communicated by or on behalf of students and parents. If the office does not address a concern, the office shall notify the concerned person of the decision not to address the concern and the reasons for the decision.

## **Chapter 53 Section 6 Laws 2021**

SECTION 6. ACCESS TO STUDENT EDUCATIONAL RECORDS.--Upon request and with consent from the student or the student's parent, the office shall have access to the student's educational records from the public education department, a school district or a public school as necessary to carry out the office's responsibilities.

## **Chapter 53 Section 7 Laws 2021**

### SECTION 7. CONFIDENTIALITY OF INFORMATION.--

A. All files and records maintained by the office that pertain to students are confidential and not subject to the provisions of the Inspection of Public Records Act. The state ombud shall not disclose the identity of a concerned person or student about whom the office maintains files or records unless:

- (1) the concerned person, student or parent consents in writing to the disclosure;
- (2) the concerned person, student or parent gives oral consent that is documented immediately in writing by a representative of the office. If the student is unable to give oral consent, the student may give consent in any way that the student is able to, and the consent shall also be documented immediately in writing by a representative of the office; or
- (3) disclosure is ordered by a court.

B. The annual report required pursuant to Section 4 of the Special Education Ombud Act may be based on confidential information and may be published or furnished to the public, but the report shall not identify individual students directly or indirectly nor violate the privileged or confidential nature of the relationship and communications between the student and the office.

## **Chapter 53 Section 8 Laws 2021**

SECTION 8. CONFLICT OF INTEREST.--The council shall ensure that:

A. a person or an immediate family member of that person involved in the designation of an ombud does not have a conflict of interest;

B. an employee or a contractor of the office or an immediate family member of the employee or contractor does not have a conflict of interest; and

C. an ombud:

(1) does not have an ownership or investment interest, represented by equity, debt or other financial relationship, in a public school providing special education services;

(2) is not employed by, or participating in the management of, a public school providing special education services; and

(3) does not receive, or have the right to receive, directly or indirectly, remuneration in cash or in kind under a compensation arrangement with a public school providing special education services.

## **Chapter 53 Section 9 Laws 2021**

SECTION 9. POSTING AND DISTRIBUTION OF OMBUD INFORMATION.-- Every public school providing special education services shall post in a conspicuous location in the public school a notice regarding the office that contains a brief description of the services provided by the office and the name, address and phone number of the office and shall post it online on the public school's website, if applicable. The public school providing special education services shall distribute information regarding the state ombud at the beginning of every school year, in addition to providing the information as part of the annual individual education plan process prior to scheduling the first individual education plan meeting of each school year. The form of the notice shall be approved by the office.

## **Chapter 53 Section 10 Laws 2021**

SECTION 10. AVAILABILITY OF LEGAL COUNSEL TO THE OFFICE.--The council shall ensure that adequate legal counsel is available and is able, without conflict of interest, to:

- A. provide advice and consultation to the office needed to protect the educational rights of students; and
- B. assist the office and contractors in the performance of the official duties of the state ombud and representatives.

## **Chapter 53 Section 11 Laws 2021**

SECTION 11. INTERFERENCE WITH THE OFFICE AND RETALIATION PROHIBITED--POTENTIAL ACTIONS FOR NONCOMPLIANCE.--

- A. A person shall not willfully interfere with the lawful actions of the office.

B. A person shall not institute discriminatory, disciplinary or retaliatory action against any student or parent for filing a concern with, providing information to or otherwise cooperating with the office.

C. If public school personnel or a contractor or volunteer of a school district or charter school fails to comply with the provisions of the Special Education Ombud Act:

(1) the council shall report the noncompliance to the public education department;

(2) the office shall collaborate with the public education department to access processes and resources to address special education services concerns; and

(3) the office shall collaborate with the public education department to identify further appropriate actions to be taken in response to the report, which may include a corrective action plan or any other administrative action that the public education department is authorized to take to ensure that students receive the free and appropriate public education required by the Individuals with Disabilities Education Act and state law. The office shall provide a letter to the concerned person explaining the actions the public education department will take.

## **Chapter 53 Section 12 Laws 2021**

SECTION 12. Section 28-16A-5 NMSA 1978 (being Laws 1993, Chapter 50, Section 5) is amended to read:

"28-16A-5. POWERS AND DUTIES.--

A. The developmental disabilities planning council shall:

- (1) act as a planning and coordinating body for persons with developmental disabilities;
- (2) provide statewide advocacy systems for persons with developmental disabilities;
- (3) work with appropriate state agencies to develop the developmental disabilities three-year plan as required by the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000;
- (4) monitor and evaluate the implementation of the developmental disabilities state plan;
- (5) to the maximum extent feasible, review and comment on all state plans that relate to programs affecting persons with developmental disabilities;
- (6) submit to the secretary of the United States department of health and human services, through the office of the governor, periodic reports that the secretary may request;
- (7) advise the governor and the legislature about the needs of persons with developmental disabilities;
- (8) carry out any other activities authorized or required by the provisions of the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000; and
- (9) oversee the office of the state special education ombud.

B. The developmental disabilities planning council is authorized to:

- (1) award grants and enter into contracts to carry out its duties;



- (2) seek funding from sources other than the state;
- (3) create and support regional county or local advisory councils;
- (4) provide training to persons with developmental disabilities, their families and providers of support and services through traineeships, sponsoring training opportunities and by other means determined appropriate by the developmental disabilities planning council; and
- (5) promulgate rules in accordance with the State Rules Act to carry out the provisions of the Special Education Ombud Act."

## **LAWS 2021, CHAPTER 54**

**SJC/Senate Bill 279**  
**Approved April 5, 2021**

### AN ACT

RELATING TO LICENSING; REPEALING THE OSTEOPATHIC MEDICINE ACT; AMENDING THE MEDICAL PRACTICE ACT TO INCLUDE PROVISIONS PERTAINING TO OSTEOPATHIC AND MEDICAL PHYSICIANS AND OSTEOPATHIC PHYSICIAN ASSISTANTS; INCREASING CERTAIN FEES; TRANSFERRING FUNCTIONS, PERSONNEL, MONEY, APPROPRIATIONS, RECORDS, FURNITURE, EQUIPMENT, SUPPLIES AND OTHER PROPERTY FROM THE BOARD OF OSTEOPATHIC MEDICINE TO THE NEW MEXICO MEDICAL BOARD.

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

## **Chapter 54 Section 1 Laws 2021**

SECTION 1. Section 7-9-77.1 NMSA 1978 (being Laws 1998, Chapter 96, Section 1, as amended) is amended to read:

"7-9-77.1. DEDUCTION--GROSS RECEIPTS TAX--CERTAIN MEDICAL AND HEALTH CARE SERVICES.--

A. Receipts of a health care practitioner from payments by the United States government or any agency thereof for provision of medical and other health services by a health care practitioner or of medical or other health and palliative services by hospices or nursing homes to medicare beneficiaries pursuant to the provisions of Title 18 of the federal Social Security Act may be deducted from gross receipts.

B. Receipts of a health care practitioner from payments by a third-party administrator of the federal TRICARE program for provision of medical and other health services by medical doctors and osteopathic physicians to covered beneficiaries may be deducted from gross receipts.

C. Receipts of a health care practitioner from payments by or on behalf of the Indian health service of the United States department of health and human services for provision of medical and other health services by medical doctors and osteopathic physicians to covered beneficiaries may be deducted from gross receipts.

D. Receipts of a clinical laboratory from payments by the United States government or any agency thereof for medical services provided by the clinical laboratory to medicare beneficiaries pursuant to the provisions of Title 18 of the federal Social Security Act may be deducted from gross receipts.

E. Receipts of a home health agency from payments by the United States government or any agency thereof for medical, other health and palliative services provided by the home health agency to medicare beneficiaries pursuant to the

provisions of Title 18 of the federal Social Security Act may be deducted from gross receipts.

F. Prior to July 1, 2024, receipts of a dialysis facility from payments by the United States government or any agency thereof for medical and other health services provided by the dialysis facility to medicare beneficiaries pursuant to the provisions of Title 18 of the federal Social Security Act may be deducted from gross receipts.

G. A taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction separately in a manner required by the department. A taxpayer who has receipts that are deductible pursuant to this section and Section 7-9-93 NMSA 1978 shall deduct the receipts under this section prior to calculating the receipts that may be deducted pursuant to Section 7-9-93 NMSA 1978.

H. The department shall compile an annual report on the deductions created pursuant to this section that shall include the number of taxpayers approved by the department to receive each deduction, the aggregate amount of deductions approved and any other information necessary to evaluate the effectiveness of the deductions. The department shall compile and present the annual reports to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the deductions and whether the deductions are providing a benefit to the state.

I. For the purposes of this section:

(1) "clinical laboratory" means a laboratory accredited pursuant to 42 USCA 263a;

(2) "dialysis facility" means an end-stage renal disease facility as defined pursuant to 42 C.F.R. 405.2102;

(3) "health care practitioner" means:

- Practice Act;
  - (a) an athletic trainer licensed pursuant to the Athletic Trainer Practice Act;
  - (b) an audiologist licensed pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;
  - (c) a chiropractic physician licensed pursuant to the Chiropractic Physician Practice Act;
  - (d) a counselor or therapist practitioner licensed pursuant to the Counseling and Therapy Practice Act;
  - (e) a dentist licensed pursuant to the Dental Health Care Act;
  - (f) a doctor of oriental medicine licensed pursuant to the Acupuncture and Oriental Medicine Practice Act;
  - (g) an independent social worker licensed pursuant to the Social Work Practice Act;
  - (h) a massage therapist licensed pursuant to the Massage Therapy Practice Act;
  - (i) a naprapath licensed pursuant to the Naprapathic Practice Act;
  - (j) a nutritionist or dietitian licensed pursuant to the Nutrition and Dietetics Practice Act;
  - (k) an occupational therapist licensed pursuant to the Occupational Therapy Act;
  - (l) an optometrist licensed pursuant to the Optometry Act;

- Practice Act;
- (m) an osteopathic physician licensed pursuant to the Medical
- (n) a pharmacist licensed pursuant to the Pharmacy Act;
- Therapy Act;
- (o) a physical therapist licensed pursuant to the Physical
- (p) a physician licensed pursuant to the Medical Practice Act;
- (q) a podiatrist licensed pursuant to the Podiatry Act;
- Psychologist Act;
- (r) a psychologist licensed pursuant to the Professional
- (s) a radiologic technologist licensed pursuant to the Medical Imaging and Radiation Therapy Health and Safety Act;
- Act;
- (t) a registered nurse licensed pursuant to the Nursing Practice
- (u) a respiratory care practitioner licensed pursuant to the Respiratory Care Act; and
- (v) a speech-language pathologist licensed pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

(4) "home health agency" means a for-profit entity that is licensed by the department of health and certified by the federal centers for medicare and medicaid services as a home health agency and certified to provide medicare services;

(5) "hospice" means a for-profit entity licensed by the department of health as a hospice and certified to provide medicare services;

(6) "nursing home" means a for-profit entity licensed by the department of health as a nursing home and certified to provide medicare services; and

(7) "TRICARE program" means the program defined in 10 U.S.C. 1072(7)."

## **Chapter 54 Section 2 Laws 2021**

SECTION 2. Section 13-7-23 NMSA 1978 (being Laws 2020, Chapter 58, Section 1) is amended to read:

"13-7-23. PHARMACIST PRESCRIPTIVE AUTHORITY SERVICES--REIMBURSEMENT PARITY.--A group health plan shall reimburse a participating provider that is a certified pharmacist clinician or pharmacist certified to provide a prescriptive authority service who provides a service at the standard contracted rate that the group health plan reimburses, for the same service under that group health plan, any licensed physician or physician assistant licensed pursuant to the Medical Practice Act or any advanced practice certified nurse practitioner licensed pursuant to the Nursing Practice Act."

## **Chapter 54 Section 3 Laws 2021**

SECTION 3. Section 21-22D-3 NMSA 1978 (being Laws 1995, Chapter 144, Section 18, as amended) is amended to read:

"21-22D-3. DEFINITIONS.--As used in the Health Professional Loan Repayment Act:

- A. "department" means the higher education department;
- B. "health professional" means a primary care physician, optometrist, podiatrist, physician's assistant, dentist, nurse, member of an allied health profession as

defined in the Allied Health Student Loan for Service Act or a licensed or certified health professional as determined by the department;

C. "loan" means a grant of money to defray the costs incidental to a health education, under a contract between the federal government or a commercial lender and a health professional, requiring either repayment of principal and interest or repayment in services;

D. "nurse in advanced practice" means a registered nurse, including a:

(1) certified nurse practitioner, certified registered nurse anesthetist or clinical nurse specialist, authorized pursuant to the Nursing Practice Act to function beyond the scope of practice of professional registered nursing; or

(2) certified nurse-midwife licensed by the department of health; and

E. "osteopathic primary care physician" means an osteopathic physician licensed pursuant to the Medical Practice Act with specialty training in family medicine, general internal medicine, obstetrics, gynecology or general pediatrics."

## **Chapter 54 Section 4 Laws 2021**

SECTION 4. Section 21-22D-12 NMSA 1978 (being Laws 2019, Chapter 68, Section 2) is amended to read:

"21-22D-12. OSTEOPATHIC PHYSICIAN EXCELLENCE FUND.--The department shall apply funds appropriated to the department from the osteopathic physician excellence fund established pursuant to Section 21-22D-13 NMSA 1978 exclusively for health professional loan repayment assistance for osteopathic primary care physicians who are licensed pursuant to the Medical Practice Act and who practice in areas of New Mexico that the department has designated as underserved."

## **Chapter 54 Section 5 Laws 2021**

SECTION 5. Section 21-26-4 NMSA 1978 (being Laws 1983, Chapter 195, Section 4) is amended to read:

"21-26-4. INTERN PROGRAM--HIGHER EDUCATION DEPARTMENT CONTRACT--REGULATIONS.--The higher education department shall:

- A. in cooperation with the hospitals and the New Mexico medical board, develop an intern training program to provide postdoctoral training for osteopathic interns;
- B. contract with hospitals to provide intern training programs; and
- C. promulgate regulations to carry out the provisions of the Osteopathic Intern Act, including program requirements, distribution of training funds and matching fund and financial accountability requirements of hospitals receiving intern training funds; provided, however, for the purposes of this subsection, "matching funds" may include the provision of in-kind services. Regulations of the department shall be filed in accordance with the State Rules Act."

## **Chapter 54 Section 6 Laws 2021**

SECTION 6. Section 22-13-31 NMSA 1978 (being Laws 2010, Chapter 96, Section 1, as amended) is amended to read:

"22-13-31. BRAIN INJURY--PROTOCOLS TO BE USED BY COACHES FOR BRAIN INJURIES RECEIVED BY STUDENTS IN SCHOOL ATHLETIC ACTIVITIES-- TRAINING OF COACHES AND STUDENT ATHLETES--INFORMATION TO BE PROVIDED TO COACHES, STUDENT ATHLETES AND STUDENT ATHLETES' PARENTS OR GUARDIANS--REQUIRING ACKNOWLEDGMENT OF TRAINING AND INFORMATION--NONSCHOLASTIC YOUTH ATHLETIC ACTIVITY ON SCHOOL



DISTRICT PROPERTY--BRAIN INJURY PROTOCOL COMPLIANCE--  
CERTIFICATION.--

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 two hundred forty hours from the hour in which the student athlete 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 written medical release from a licensed health care professional.

C. Each school district shall ensure that each coach participating in school athletic activities and each student athlete 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 and each student athlete 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 or student athlete 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 training and 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 the first participation in school athletic activities by a student athlete during an academic year, a school district shall provide a brain injury training and 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 training and information form from the student athlete and the student athlete's parent or guardian confirming that the student athlete has received the brain injury training required by this section and that the student athlete and parent or guardian understand the brain injury information before permitting the student athlete to begin or continue participating in school athletic

activities for that academic year. The form required by this subsection may be contained on the student athlete sport physical form.

F. As a condition of permitting nonscholastic youth athletic activity to take place on school district property, the superintendent of a school district shall require the person offering the nonscholastic youth athletic activity to sign a certification that the nonscholastic youth athletic activity will follow the brain injury protocols established pursuant to Section 22-13-31.1 NMSA 1978.

G. 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) "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 the Medical Practice Act;

(c) a practicing certified nurse practitioner licensed pursuant to the Nursing Practice Act;

(d) a practicing osteopathic physician assistant licensed pursuant to the Medical Practice Act;

(e) a practicing psychologist licensed pursuant to the provisions of the Professional Psychologist Act;

(f) a practicing athletic trainer licensed pursuant to the provisions of the Athletic Trainer Practice Act; or

(g) a practicing physical therapist licensed pursuant to the Physical Therapy Act;

(4) "nonscholastic youth athletic activity" means an organized athletic activity in which the participants, a majority of whom are under nineteen years of age, are engaged in an athletic game or competition against another team, club or entity, or in practice or preparation for an organized athletic game or competition against another team, club or entity. "Nonscholastic youth athletic activity" does not include an elementary school, middle school, high school, college or university activity or an activity that is incidental to a nonathletic program;

(5) "school athletic activity" means a sanctioned middle school, junior high school or senior high school function that the New Mexico activities association regulates; and

(6) "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."

## **Chapter 54 Section 7 Laws 2021**

SECTION 7. Section 22-13-31.1 NMSA 1978 (being Laws 2016, Chapter 53, Section 2, as amended) is amended to read:

"22-13-31.1. BRAIN INJURY--PROTOCOLS--TRAINING OF COACHES--BRAIN INJURY EDUCATION.--

A. A coach shall not allow a youth athlete to participate in a youth athletic activity on the same day that the youth athlete:

(1) exhibits signs, symptoms or behaviors consistent with a brain injury after a coach, a league official or a youth athlete reports, observes or suspects that a youth 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 youth athlete who has been prohibited from participating in a youth athletic activity pursuant to Subsection A of this section to participate in a youth athletic activity no sooner than two hundred forty hours from the hour in which the youth athlete received a brain injury and only after the youth athlete:

(1) no longer exhibits any sign, symptom or behavior consistent with a brain injury; and

(2) receives a written medical release from a licensed health care professional.

C. Each youth athletic league shall ensure that each coach participating in youth athletic activities and each youth athlete in the league receives training provided pursuant to Paragraph (1) of Subsection D of this section.

D. The department of health shall consult with the brain injury advisory council to promulgate rules to establish:

(1) protocols and content consistent with current medical knowledge for training each coach participating in youth athletic activities and each youth athlete to:

(a) understand the nature and risk of brain injury associated with youth athletic activity;

(b) recognize signs, symptoms or behaviors consistent with a brain injury when a coach or youth athlete suspects or observes that a youth 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 training and information forms and educational materials for, and the means of providing these forms and materials to, coaches, youth athletes and youth athletes' parents or guardians regarding the nature and risk of brain injury resulting from youth athletic activity, including the risk of continuing or returning to youth athletic activity after a brain injury.

E. At the beginning of each youth athletic activity season or the first participation in youth athletic activities by a youth athlete during a youth athletic activity season, a youth athletic league shall provide a brain injury training and information form created pursuant to Subsection D of this section to a youth athlete and the youth athlete's parent or guardian. The youth athletic league shall receive signatures on the brain injury training and information form from the youth athlete and the youth athlete's parent or guardian confirming that the youth athlete has received the brain injury training required by this section and that the youth athlete and parent or guardian understand the brain injury information before permitting the youth athlete to begin or continue participating in youth athletic activities for the athletic season or term of participation.

F. As used in this section:

(1) "brain injury" means a body-altering physical trauma to the brain, skull or neck caused by blunt or penetrating force, concussion, diffuse axonal injury, hypoxia-anoxia or electrical charge;

(2) "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 the Medical Practice Act;

(c) a practicing certified nurse practitioner licensed pursuant to the Nursing Practice Act;

(d) a practicing osteopathic physician assistant licensed pursuant to the Medical Practice Act;

(e) a practicing psychologist licensed pursuant to the provisions of the Professional Psychologist Act;

(f) a practicing athletic trainer licensed pursuant to the provisions of the Athletic Trainer Practice Act; or

(g) a practicing physical therapist licensed pursuant to the provisions of the Physical Therapy Act;

(3) "youth athlete" means an individual under nineteen years of age who engages in, is eligible to engage in or seeks to engage in a youth athletic activity; and

(4) "youth athletic activity" means an organized athletic activity in which the participants, a majority of whom are under nineteen years of age, are engaged in an athletic game or competition against another team, club or entity, or in practice or preparation for an organized athletic game or competition against another team, club or entity. "Youth athletic activity" does not include an elementary school, middle school,

high school, college or university activity or an activity that is incidental to a nonathletic program."

## **Chapter 54 Section 8 Laws 2021**

SECTION 8. Section 24-2D-5.2 NMSA 1978 (being Laws 2005, Chapter 140, Section 3, as amended) is amended to read:

"24-2D-5.2. OVERDOSE PREVENTION AND PAIN MANAGEMENT ADVISORY COUNCIL CREATED--DUTIES.--

A. The "overdose prevention and pain management advisory council" is created and shall be administratively attached to the department of health. Members of the council shall be appointed by the governor to consist of one representative each from the department of health, the human services department, the department of public safety, the New Mexico medical board, the board of nursing, the board of pharmacy, the board of acupuncture and oriental medicine, the New Mexico board of dental health care, the chiropractic board, the university of New Mexico health sciences center, a harm reduction organization, a third-party payer, a statewide medical association, a statewide association of pharmacists, a statewide association of nurse practitioners, a statewide association of certified registered nurse anesthetists and a statewide association of osteopathic physicians; one person who is a pain management specialist; one person who is an addiction specialist; one person who is a consumer health care advocate; and one person who has no direct ties or pecuniary interest in the health care field.

B. The council shall meet at least quarterly to review the current status of overdose prevention and current pain management practices in New Mexico and national overdose prevention and pain management standards and educational efforts for both consumers and professionals. The council shall also make recommendations regarding overdose prevention and pain management practices. The council may create subcommittees as needed. Members who are not public employees shall receive per



diem and mileage as provided in the Per Diem and Mileage Act. Public employee members shall receive mileage from their respective employers for attendance at council meetings."

## **Chapter 54 Section 9 Laws 2021**

SECTION 9. Section 24-14C-2 NMSA 1978 (being Laws 2011, Chapter 152, Section 2, as amended) is amended to read:

"24-14C-2. DEFINITIONS.--As used in the Health Care Work Force Data Collection, Analysis and Policy Act:

A. "board" means any state health care work force licensing or regulatory board, including the New Mexico medical board; the New Mexico board of dental health care; the board of nursing; the board of pharmacy; any other licensing or regulatory board that the chancellor designates; any other health professional licensing board listed in Chapter 61 NMSA 1978; and the university;

B. "chancellor" means the chancellor for health sciences of the university of New Mexico;

C. "database" means the health care work force database created pursuant to the Health Care Work Force Data Collection, Analysis and Policy Act;

D. "ethnicity" means an individual's self-identification or affiliation as either "Hispanic or Latino" or "not Hispanic or Latino" according to cultural, historical, linguistic or religious ties;

E. "New Mexico center for health care workforce analysis" means a state entity that collects, analyzes and reports data regarding the state's health care work force and collaborates with the federal national center for health care workforce analysis pursuant to Section 5103 of the federal Patient Protection and Affordable Care Act;

F. "race" means an individual's self-identification or affiliation with one of the following categories used to identify individuals according to historical or phenotypical characteristics:

- (1) American Indian or Alaska Native;
- (2) Asian;
- (3) Black or African American;
- (4) Native Hawaiian or other Pacific Islander;
- (5) White; or
- (6) a mixture of any of the categories listed in Paragraphs (1) through (5) of this subsection; and

G. "university" means the university of New Mexico."

## **Chapter 54 Section 10 Laws 2021**

SECTION 10. Section 27-2-12.30 NMSA 1978 (being Laws 2020, Chapter 58, Section 2) is amended to read:

"27-2-12.30. PHARMACIST PRESCRIPTIVE AUTHORITY SERVICES--REIMBURSEMENT PARITY.--A medical assistance program or its contractor shall reimburse a participating provider that is a certified pharmacist clinician or pharmacist certified to provide a prescriptive authority service who provides a service at the standard contracted rate that the medical assistance program reimburses, for the same service under that program, any licensed physician or physician assistant licensed pursuant to the Medical Practice Act or any advanced practice certified nurse practitioner licensed pursuant to the Nursing Practice Act."

## **Chapter 54 Section 11 Laws 2021**

SECTION 11. Section 59A-22-53.2 NMSA 1978 (being Laws 2020, Chapter 58, Section 3) is amended to read:

"59A-22-53.2. PHARMACIST PRESCRIPTIVE AUTHORITY SERVICES--REIMBURSEMENT PARITY.--An insurer shall reimburse a participating provider that is a certified pharmacist clinician or pharmacist certified to provide a prescriptive authority service who provides a service pursuant to a health insurance plan, policy or certificate of health insurance at the standard contracted rate that the health insurance policy, health care plan or certificate of health insurance reimburses, for the same service pursuant to that policy, plan or certificate, any licensed physician or physician assistant licensed pursuant to the Medical Practice Act or any advanced practice certified nurse practitioner licensed pursuant to the Nursing Practice Act."

## **Chapter 54 Section 12 Laws 2021**

SECTION 12. Section 59A-23-12.2 NMSA 1978 (being Laws 2020, Chapter 58, Section 4) is amended to read:

"59A-23-12.2. PHARMACIST PRESCRIPTIVE AUTHORITY SERVICES--REIMBURSEMENT PARITY.--An insurer shall reimburse a participating provider that is a certified pharmacist clinician or pharmacist certified to provide a prescriptive authority service who provides a service pursuant to a health insurance plan, policy or certificate of health insurance at the standard contracted rate that the health insurance policy, health care plan or certificate of health insurance reimburses, for the same service pursuant to that policy, plan or certificate, any licensed physician or physician assistant licensed pursuant to the Medical Practice Act or any advanced practice certified nurse practitioner licensed pursuant to the Nursing Practice Act."

## **Chapter 54 Section 13 Laws 2021**

SECTION 13. Section 59A-46-52.2 NMSA 1978 (being Laws 2020, Chapter 58, Section 5) is amended to read:

"59A-46-52.2. PHARMACIST PRESCRIPTIVE AUTHORITY SERVICES--REIMBURSEMENT PARITY.--A carrier shall reimburse a participating provider that is a certified pharmacist clinician or pharmacist certified to provide a prescriptive authority service who provides a service pursuant to an individual or group contract at the standard contracted rate that the carrier reimburses, for the same service under that individual or group contract, any licensed physician or physician assistant licensed pursuant to the Medical Practice Act or any advanced practice certified nurse practitioner licensed pursuant to the Nursing Practice Act."

## **Chapter 54 Section 14 Laws 2021**

SECTION 14. Section 59A-47-47.2 NMSA 1978 (being Laws 2020, Chapter 58, Section 6) is amended to read:

"59A-47-47.2. PHARMACIST PRESCRIPTIVE AUTHORITY SERVICES--REIMBURSEMENT PARITY.--A health care plan shall reimburse a participating provider that is a certified pharmacist clinician or pharmacist certified to provide a prescriptive authority service who provides a service pursuant to a subscriber at the same rate that the carrier reimburses, for the standard contracted service under that subscriber contract, any licensed physician or physician assistant licensed pursuant to the Medical Practice Act or any advanced practice certified nurse practitioner licensed pursuant to the Nursing Practice Act."

## **Chapter 54 Section 15 Laws 2021**

SECTION 15. Section 61-2-14.1 NMSA 1978 (being Laws 2019, Chapter 15, Section 1) is amended to read:

"61-2-14.1. CONTACT LENSES--SPECTACLES--LIMITATIONS ON PRESCRIPTIONS--CRIMINAL PENALTY--CIVIL REMEDY--EXCEPTIONS.--

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

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

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

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

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

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

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

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

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

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

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

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

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

F. As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

## **Chapter 54 Section 16 Laws 2021**

SECTION 16. Section 61-6-1 NMSA 1978 (being Laws 1989, Chapter 269, Section 1, as amended) is amended to read:

"61-6-1. SHORT TITLE--PURPOSE.--

A. Chapter 61, Article 6 NMSA 1978 may be cited as the "Medical Practice Act".

B. In the interest of the public health, safety and welfare and to protect the public from the improper, unprofessional, incompetent and unlawful practice of medicine, it is necessary to provide laws and rules controlling the granting and use of the privilege to practice medicine and to establish a medical board to implement and enforce the laws and rules.

C. The primary duties and obligations of the medical board are to issue licenses to qualified health care practitioners, including physicians, physician assistants and anesthesiologist assistants, to discipline incompetent or unprofessional physicians, physician assistants or anesthesiologist assistants and to aid in the rehabilitation of impaired physicians, physician assistants and anesthesiologist assistants for the purpose of protecting the public."

## **Chapter 54 Section 17 Laws 2021**

SECTION 17. Section 61-6-2 NMSA 1978 (being Laws 1923, Chapter 44, Section 1, as amended) is amended to read:

"61-6-2. NEW MEXICO MEDICAL BOARD--APPOINTMENT--TERMS--QUALIFICATIONS.--



A. There is created the "New Mexico medical board", consisting of eleven members. The board shall be composed of two public members, one physician assistant and eight reputable physicians, at least two of whom shall be osteopathic physicians and at least two of whom shall be medical physicians. The osteopathic physicians and the medical physicians shall be of known ability, shall be graduates of medical colleges or schools in good standing and shall have been licensed physicians in and bona fide residents of New Mexico for a period of five years immediately preceding the date of their appointment. The physician assistant shall have been a licensed physician assistant and a resident of New Mexico for at least five years immediately preceding the date of appointment. Public members of the board shall be residents of New Mexico, shall not have been licensed by the board as a health care practitioner over which the board has licensure authority and shall have no significant financial interest, direct or indirect, in the occupation regulated.

B. The governor shall appoint the medical physician members from a list of names submitted to the governor by the New Mexico medical society or its authorized governing body or council. The list shall contain five names of qualified medical physicians for each medical physician member to be appointed. Medical physician member vacancies shall be filled in the same manner.

C. The governor shall appoint osteopathic physician members from a list of names submitted to the governor by the New Mexico osteopathic medical association or its authorized governing body or council. The list shall contain five names of qualified osteopathic physicians for each osteopathic physician member to be appointed. Osteopathic physician member vacancies shall be filled in the same manner.

D. The governor shall appoint the physician assistant member from a list of names submitted to the governor by the New Mexico academy of physician assistants or its authorized governing body or council. The list shall contain five names of qualified physician assistants.

E. Members shall be appointed to four-year terms, staggered so that not more than three terms expire in a year. All board members shall hold office until their successors are appointed.

F. A board member failing to attend three consecutive meetings, either regular or special, shall automatically be removed as a member of the board unless excused from attendance by the board for good cause shown."

## **Chapter 54 Section 18 Laws 2021**

SECTION 18. Section 61-6-3 NMSA 1978 (being Laws 1989, Chapter 269, Section 3, as amended) is amended to read:

"61-6-3. MEETINGS OF THE BOARD--QUORUM.--

A. The board shall hold four regular meetings every fiscal year.

B. During the second quarter of each year, the board shall hold its annual meeting and shall elect officers.

C. In addition to the regular meetings, the board may hold special meetings at the call of the president after written notice to all members of the board or at the written or electronic request of any two members.

D. A majority of the members of the board shall constitute a quorum and shall be capable of conducting any board business. The vote of a majority of a quorum shall prevail, even though the vote may not represent an actual majority of all the board members."

## Chapter 54 Section 19 Laws 2021

SECTION 19. Section 61-6-4 NMSA 1978 (being Laws 1989, Chapter 269, Section 4, as amended) is amended to read:

"61-6-4. ELECTION--DUTIES OF OFFICERS--REIMBURSEMENT OF BOARD MEMBERS.--

- A. At its annual meeting, the board shall elect a chair, a vice chair and a secretary-treasurer.
- B. The chair shall preside over the meetings and affairs of the board.
- C. The vice chair shall perform such duties as may be assigned by the chair and shall serve as chair due to the absence or incompetence of the chair.
- D. The secretary-treasurer shall be a physician member of the board and shall:
  - (1) review applications for licensure and interview applicants to determine eligibility for licensure;
  - (2) issue temporary licenses pursuant to Section 61-6-14 NMSA 1978;
  - (3) serve on committees related to board activities that require physician participation;
  - (4) serve as a consultant on medical practice issues when a board action is not required; and
  - (5) perform any other functions assigned by the board or by the chair.

E. The secretary-treasurer may be compensated at the discretion of the board.

F. Board members shall receive per diem and mileage as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance, except that the secretary-treasurer may be additionally compensated as provided in Subsection E of this section and board members may be additionally compensated in accordance with Subsection G of this section.

G. Board members or agents performing interviews of applicants may be compensated at the board's discretion."

## **Chapter 54 Section 20 Laws 2021**

SECTION 20. Section 61-6-5 NMSA 1978 (being Laws 1973, Chapter 361, Section 2, as amended) is amended to read:

"61-6-5. DUTIES AND POWERS.--The board shall:

A. enforce and administer the provisions of the Medical Practice Act, the Physician Assistant Act, the Anesthesiologist Assistants Act, the Genetic Counseling Act, the Impaired Health Care Provider Act, the Polysomnography Practice Act, the Naturopathic Doctors' Practice Act and the Naprapathic Practice Act;

B. adopt, publish and file, in accordance with the Uniform Licensing Act and the State Rules Act, all rules for the implementation and enforcement of the provisions of the Medical Practice Act, the Physician Assistant Act, the Anesthesiologist Assistants Act, the Genetic Counseling Act, the Impaired Health Care Provider Act, the Polysomnography Practice Act, the Naturopathic Doctors' Practice Act and the Naprapathic Practice Act;

C. adopt and use a seal;

D. administer oaths to all applicants, witnesses and others appearing before the board, as appropriate;

E. take testimony on matters within the board's jurisdiction;

F. keep an accurate record of all its meetings, receipts and disbursements;

G. maintain records in which the name, address and license number of all licensees shall be recorded, together with a record of all license renewals, suspensions, revocations, probations, stipulations, censures, reprimands and fines;

H. grant, deny, review, suspend and revoke licenses to practice medicine and censure, reprimand, fine and place on probation and stipulation licensees and applicants in accordance with the Uniform Licensing Act for any cause stated in the Medical Practice Act, the Impaired Health Care Provider Act, the Naturopathic Doctors' Practice Act and the Naprapathic Practice Act;

I. hire staff and administrators as necessary to carry out the provisions of the Medical Practice Act;

J. have the authority to hire or contract with investigators to investigate possible violations of the Medical Practice Act;

K. have the authority to hire a competent attorney to give advice and counsel in regard to any matter connected with the duties of the board, to represent the board in any legal proceedings and to aid in the enforcement of the laws in relation to the medical profession and to fix the compensation to be paid to such attorney; provided, however, that such attorney shall be compensated from the funds of the board;

L. establish continuing education requirements for licensed practitioners over which the board has authority;

M. establish committees as it deems necessary for carrying on its business;

N. hire or contract with a licensed physician to serve as medical director and fulfill specified duties of the secretary-treasurer;

O. establish and maintain rules related to the management of pain based on review of national standards for pain management; and

P. have the authority to waive licensure fees for the purpose of the recruitment and retention of health care practitioners over which the board has authority."

## **Chapter 54 Section 21 Laws 2021**

SECTION 21. Section 61-6-6 NMSA 1978 (being Laws 1973, Chapter 361, Section 1, as amended) is amended to read:

"61-6-6. DEFINITIONS.--As used in the Medical Practice Act:

A. "approved postgraduate training program for physicians" means a program approved by the accreditation council for graduate medical education, the American osteopathic association or other board-approved program;

B. "board" means the New Mexico medical board;

C. "collaboration" means the process by which a licensed physician and a physician assistant jointly contribute to the health care and medical treatment of patients; provided that:

(1) each collaborator performs actions that the collaborator is licensed or otherwise authorized to perform; and

(2) collaboration shall not be construed to require the physical presence of the licensed physician at the time and place services are rendered;

D. "licensed physician" means a medical or osteopathic physician licensed under the Medical Practice Act to practice medicine in New Mexico;

E. "licensee" or "health care practitioner" means a medical physician, osteopathic physician, physician assistant, polysomnographic technologist, anesthesiologist assistant, naturopathic doctor or naprapath licensed by the board to practice in New Mexico;

F. "medical college or school in good standing" for medical physicians means a board-approved medical college or school that has as high a standard as that required by the association of American medical colleges and the council on medical education of the American medical association; and for osteopathic physicians means a college of osteopathic medicine accredited by the commission of osteopathic college accreditation;

G. "medical student" means a student enrolled in a board-approved medical college or school in good standing;

H. "physician assistant" means a health care practitioner who is licensed by the board to practice as a physician assistant and who provides services to patients with the supervision of or in collaboration with a licensed physician as set forth in rules promulgated by the board;

I. "resident" means a graduate of a medical college or school in good standing who is in training in a board-approved and accredited residency training program in a hospital or facility affiliated with an approved hospital and who has been appointed to the position of "resident" or "fellow" for the purpose of postgraduate medical training;

J. "the practice of medicine" consists of:

(1) advertising, holding out to the public or representing in any manner that one is authorized to practice medicine or to practice health care that is under the authority of the board in this state;

(2) offering or undertaking to administer, dispense or prescribe a drug or medicine for the use of another person, except as authorized pursuant to a professional or occupational licensing statute set forth in Chapter 61 NMSA 1978;

(3) offering or undertaking to give or administer, dispense or prescribe a drug or medicine for the use of another person, except as directed by a licensed physician;

(4) offering or undertaking to perform an operation or procedure upon a person;

(5) offering or undertaking to diagnose, correct or treat in any manner or by any means, methods, devices or instrumentalities any disease, illness, pain, wound, fracture, infirmity, deformity, defect or abnormal physical or mental condition of a person;

(6) offering medical peer review, utilization review or diagnostic service of any kind that directly influences patient care, except as authorized pursuant to a professional or occupational licensing statute set forth in Chapter 61 NMSA 1978; or

(7) acting as the representative or agent of a person in doing any of the things listed in this subsection;

K. "the practice of medicine across state lines" means:

(1) the rendering of a written or otherwise documented medical opinion concerning diagnosis or treatment of a patient within this state by a physician located outside this state as a result of transmission of individual patient data by electronic,



telephonic or other means from within this state to the physician or the physician's agent; or

(2) the rendering of treatment to a patient within this state by a physician located outside this state as a result of transmission of individual patient data by electronic, telephonic or other means from within this state to the physician or the physician's agent;

L. "sexual contact" means touching the primary genital area, groin, anus, buttocks or breast of a patient or allowing a patient to touch another's primary genital area, groin, anus, buttocks or breast in a manner that is commonly recognized as outside the scope of acceptable medical or health care practice;

M. "sexual penetration" means sexual intercourse, cunnilingus, fellatio or anal intercourse, whether or not there is any emission, or introducing any object into the genital or anal openings of another in a manner that is commonly recognized as outside the scope of acceptable medical or health care practice; and

N. "United States" means the fifty states, its territories and possessions and the District of Columbia."

## **Chapter 54 Section 22 Laws 2021**

SECTION 22. Section 61-6-7.2 NMSA 1978 (being Laws 1997, Chapter 187, Section 3, as amended) is amended to read:

"61-6-7.2. INACTIVE LICENSE.--

A. A physician assistant license shall expire every two years on a date established by the board.

B. A physician assistant who notifies the board in writing on forms prescribed by the board may elect to place the physician assistant's license on an inactive status. A physician assistant with an inactive license shall be excused from payment of renewal fees and shall not practice as a physician assistant.

C. A physician assistant who engages in practice while the physician assistant's license is lapsed or on inactive status is practicing without a license, and this is grounds for discipline pursuant to the Physician Assistant Act and Medical Practice Act.

D. A physician assistant requesting restoration from inactive status shall pay the current renewal fee and fulfill the requirement for renewal pursuant to the Physician Assistant Act and Medical Practice Act.

E. The board may, in its discretion, summarily suspend for nonpayment of fees the license of a physician assistant who has not renewed the physician assistant's license within ninety days of expiration.

F. A physician assistant who has not submitted an application for renewal on or before the license expiration date, but who has submitted an application for renewal within forty-five days after the license expiration date, shall be assessed a late fee.

G. A physician assistant who has not submitted an application for renewal between forty-six and ninety days after the expiration date shall be assessed a late fee."

## **Chapter 54 Section 23 Laws 2021**

SECTION 23. Section 61-6-10.2 NMSA 1978 (being Laws 2001, Chapter 311, Section 2, as amended) is amended to read:

"61-6-10.2. DEFINITIONS.--As used in the Anesthesiologist Assistants Act:

A. "anesthesiologist" means a physician licensed to practice medicine in New Mexico who has successfully completed an accredited anesthesiology graduate medical education program, who is board certified by the American board of anesthesiology or the American osteopathic board of anesthesiology or is board eligible and who has completed a residency in anesthesiology within the last three years or who has foreign certification determined by the board to be the substantial equivalent;

B. "anesthesiologist assistant" means a skilled person licensed by the board as being qualified by academic and practical training to assist an anesthesiologist in developing and implementing anesthesia care plans for patients under the supervision and direction of the anesthesiologist who is responsible for the performance of that anesthesiologist assistant;

C. "applicant" means a person who is applying to the board for a license as an anesthesiologist assistant;

D. "board" means the New Mexico medical board; and

E. "license" means an authorization to practice as an anesthesiologist assistant."

## **Chapter 54 Section 24 Laws 2021**

SECTION 24. That version of Section 61-6-10.2 NMSA 1978 (being Laws 2015, Chapter 52, Section 4) that is to become effective July 1, 2025 is amended to read:

"61-6-10.2. DEFINITIONS.--As used in the Anesthesiologist Assistants Act:

A. "anesthesiologist" means a physician licensed to practice medicine in New Mexico who has successfully completed an accredited anesthesiology graduate medical education program, who is board certified by the American board of anesthesiology, the American osteopathic board of anesthesiology or is board eligible, who has completed a

residency in anesthesiology within the last three years or who has foreign certification determined by the board to be the substantial equivalent and who is an employee of the department of anesthesiology of a medical school in New Mexico;

B. "anesthesiologist assistant" means a skilled person employed or to be employed by a university in New Mexico with a medical school licensed by the board as being qualified by academic and practical training to assist an anesthesiologist in developing and implementing anesthesia care plans for patients under the supervision and direction of the anesthesiologist who is responsible for the performance of that anesthesiologist assistant;

C. "applicant" means a person who is applying to the board for a license as an anesthesiologist assistant;

D. "board" means the New Mexico medical board; and

E. "license" means an authorization to practice as an anesthesiologist assistant."

## **Chapter 54 Section 25 Laws 2021**

SECTION 25. Section 61-6-10.6 NMSA 1978 (being Laws 2001, Chapter 311, Section 6) is amended to read:

"61-6-10.6. INACTIVE LICENSE.--

A. An anesthesiologist assistant who notifies the board in writing on forms prescribed by the board may elect to place the anesthesiologist assistant's license on inactive status. An anesthesiologist assistant with an inactive license shall be excused from payment of renewal fees and shall not practice as an anesthesiologist assistant.

B. An anesthesiologist assistant who engages in practice while the anesthesiologist assistant's license is lapsed or on inactive status is practicing without a license and is subject to disciplinary action pursuant to the Anesthesiologist Assistants Act and Medical Practice Act.

C. An anesthesiologist assistant requesting restoration from inactive status shall pay the current renewal fee and fulfill the requirement for renewal pursuant to the Anesthesiologist Assistants Act."

## **Chapter 54 Section 26 Laws 2021**

SECTION 26. Section 61-6-10.11 NMSA 1978 (being Laws 2015, Chapter 52, Section 3) is amended to read:

"61-6-10.11. ANESTHESIOLOGIST ASSISTANTS--EMPLOYMENT  
CONDITIONS.--An anesthesiologist assistant shall:

A. be a current or future employee of a university in New Mexico with a medical school; or

B. in a practice other than one at a university in New Mexico with a medical school:

(1) be certified as an anesthesiologist assistant by the national commission for certification of anesthesiologist assistants;

(2) practice only in a health facility licensed by the department of health where, at the time the anesthesiologist assistant begins practicing there, at least three anesthesiologists who are licensed physicians and who are board-certified as anesthesiologists by the American board of anesthesiology are on staff as employees or contractors;

(3) practice only in a class A county; and

(4) be supervised only by an anesthesiologist who is a licensed physician and who is board-certified as an anesthesiologist by the American board of anesthesiology."

## **Chapter 54 Section 27 Laws 2021**

SECTION 27. Section 61-6-11 NMSA 1978 (being Laws 1923, Chapter 44, Section 3, as amended) is amended to read:

"61-6-11. PHYSICIAN LICENSURE.--

A. The board may consider for licensure a person who is of good moral character, is a graduate of an accredited United States or Canadian medical or osteopathic medical school, has passed an examination approved by the board and has completed two years of an approved postgraduate training program for physicians.

B. An applicant who has not completed two years of an approved postgraduate training program for physicians, but who otherwise meets all other licensing requirements, may present evidence to the board of the applicant's other professional experience for consideration by the board in lieu of the approved postgraduate training program. The board shall, in its sole discretion, determine if the professional experience is substantially equivalent to the required approved postgraduate training program for physicians.

C. A graduate of a board-approved medical or osteopathic medical school located outside the United States or Canada may be granted a license to practice medicine in New Mexico, provided the applicant presents evidence to the board that the applicant is a person of good moral character and provided that the applicant presents satisfactory evidence to the board that the applicant has successfully passed an examination as required by the board and has successfully completed two years of

postgraduate medical training in an approved postgraduate training program for physicians. A graduate of a medical school located outside the United States who successfully completes at least two years of an approved postgraduate training program for physicians at or affiliated with an institution located in New Mexico prior to December 30, 2007 and who meets the other requirements of this section may also be granted a license to practice medicine.

D. All applicants for licensure may be required to appear personally before the board or a designated agent for an interview.

E. An applicant for licensure by examination shall not be granted a license if the applicant has taken the examination in two or more steps and has failed to successfully pass the final step within seven years of the date that the first step was passed. An applicant for licensure who holds a medical or osteopathic doctor degree and a doctoral degree in a medically related field must successfully complete the entire examination series within ten years from the date the first step of the examination is passed. The board may, by rule, establish exceptions to the time requirements of this subsection.

F. Every applicant for licensure under this section shall pay the fees required by Section 61-6-19 NMSA 1978.

G. The board may require fingerprints and other information necessary for a state and national criminal background check."

## **Chapter 54 Section 28 Laws 2021**

SECTION 28. Section 61-6-11.1 NMSA 1978 (being Laws 2001, Chapter 96, Section 10) is amended to read:

"61-6-11.1. TELEMEDICINE LICENSE.--

A. The board shall issue a licensed physician a telemedicine license to allow the practice of medicine across state lines to an applicant who holds a full and unrestricted license to practice medicine in another state or territory of the United States. The board shall establish by rule the requirements for licensure; provided the requirements shall not be more restrictive than those required for licensure by endorsement.

B. A telemedicine license shall be issued for a period not to exceed three years and may be renewed upon application, payment of fees as provided in Section 61-6-19 NMSA 1978 and compliance with other requirements established by rule of the board."

### **Chapter 54 Section 29 Laws 2021**

SECTION 29. Section 61-6-12 NMSA 1978 (being Laws 1974, Chapter 78, Section 15, as amended) is amended to read:

"61-6-12. CRIMINAL OFFENDER'S CHARACTER EVALUATION.--The provisions of the Criminal Offender Employment Act shall govern any consideration of criminal records required or permitted by the Medical Practice Act and to all health care practitioners over which the board has licensure authority."

### **Chapter 54 Section 30 Laws 2021**

SECTION 30. Section 61-12G-6 NMSA 1978 (being Laws 2019, Chapter 244, Section 6) is amended to read:

"61-12G-6. SCOPE OF PRACTICE.--

A. A licensee may practice naturopathic medicine only to provide primary care, as "primary care" is defined in rules of the board, as follows:



- (1) in collaboration with a physician licensed pursuant to the Medical Practice Act; and
- (2) in alignment with naturopathic medical education to:
- (a) perform physical examinations;
  - (b) order laboratory examinations;
  - (c) order diagnostic imaging studies;
  - (d) interpret the results of laboratory examinations for diagnostic purposes;
  - (e) order and, based on a radiologist's report, take action on diagnostic imaging studies in a manner consistent with naturopathic training;
  - (f) prescribe, administer, dispense and order the class of drugs that excludes the natural derivatives of opium, which are morphine and codeine, and related synthetic and semi-synthetic compounds that act upon opioid receptors;
  - (g) after passing a pharmacy examination authorized by rules of the board, prescribe, administer, dispense and order: 1) all legend drugs; and 2) testosterone products and all drugs within Schedules III, IV and V of the Controlled Substances Act, excluding all benzodiazapines, opioids and opioid derivatives;
  - (h) administer intramuscular, intravenous, subcutaneous, intra-articular and intradermal injections of substances appropriate to naturopathic medicine;
  - (i) use routes of administration that include oral, nasal, auricular, ocular, rectal, vaginal, transdermal, intradermal, subcutaneous, intravenous, intra-articular and intramuscular consistent with the education and training of a naturopathic doctor;

- (j) perform naturopathic physical medicine;
- (k) employ the use of naturopathic therapy; and
- (l) use therapeutic devices, barrier contraception, intrauterine devices, hormonal and pharmaceutical contraception and durable medical equipment.

B. As used in this section, "collaboration" means the process by which a licensed physician and a naturopathic doctor jointly contribute to the health care and medical treatment of patients; provided that:

- (1) each collaborator performs actions that the collaborator is licensed or otherwise authorized to perform; and
- (2) collaboration shall not be construed to require the physical presence of the licensed physician at the time and place services are rendered."

### **Chapter 54 Section 31 Laws 2021**

SECTION 31. Section 61-12G-7 NMSA 1978 (being Laws 2019, Chapter 244, Section 7) is amended to read:

"61-12G-7. REFERRAL REQUIREMENT.--A licensee shall refer to a physician authorized to practice in the state under the Medical Practice Act any patient whose medical condition should, at the time of evaluation or treatment, be determined to be beyond the scope of practice of the licensee."

### **Chapter 54 Section 32 Laws 2021**

SECTION 32. Section 61-6-13 NMSA 1978 (being Laws 1989, Chapter 269, Section 9, as amended) is amended to read:

"61-6-13. PHYSICIAN LICENSURE BY ENDORSEMENT.--

A. The board may grant a license by endorsement to a physician applicant who:

(1) has graduated from an accredited United States or Canadian medical or osteopathic medical school;

(2) is board certified in a specialty recognized by the American board of medical specialties, the American osteopathic association or other specialty boards as approved by the board;

(3) has been a licensed physician in the United States or Canada and has practiced medicine in the United States or Canada immediately preceding the application for at least three years;

(4) holds an unrestricted license in another state or Canada; and

(5) was not the subject of a disciplinary action in a state or province.

B. The board may grant a physician license by endorsement to an applicant who:

(1) has graduated from a medical or osteopathic medical school located outside the United States or Canada;

(2) is of good moral character;

(3) is board certified in a specialty recognized by the American board of medical specialties, the American osteopathic association or other boards as approved by the board;

(4) has been a licensed physician in the United States or Canada and has practiced medicine in the United States or Canada immediately preceding the application for at least three years;

(5) holds an unrestricted license in another state or Canada; and

(6) was not the subject of disciplinary action in a state or province.

C. An endorsement provided pursuant to this section shall certify that the applicant has passed an examination that meets with board approval and that the applicant is in good standing in that jurisdiction. In cases when the applicant is board certified, has not been the subject of disciplinary action that would be reportable to the national practitioner data bank or the healthcare integrity and protection data bank and has unusual skills and experience not generally available in this state, and patients residing in this state have a significant need for such skills and experience, the board may waive a requirement imposing time limits for examination completion that are different from requirements of the state where the applicant is licensed.

D. An applicant for licensure under this section may be required to personally appear before the board or a designated agent for an interview.

E. An applicant for licensure under this section shall pay an application fee as provided in Section 61-6-19 NMSA 1978.

F. The board may require fingerprints and other information necessary for a state and national criminal background check."

## **Chapter 54 Section 33 Laws 2021**

SECTION 33. Section 61-6-14 NMSA 1978 (being Laws 1953, Chapter 48, Section 2, as amended) is amended to read:

"61-6-14. ORGANIZED YOUTH CAMP OR SCHOOL TEMPORARY LICENSES AND TEMPORARY LICENSES FOR OUT-OF-STATE PHYSICIANS.--

A. The secretary-treasurer of the board or the board's designee may, either by examination or endorsement, approve a temporary license to practice medicine to an applicant qualified to practice medicine in this state who will be temporarily in attendance at an organized youth camp or school, provided that:

(1) the practice shall be confined to enrollees, leaders and employees of the camp or school;

(2) the temporary license shall be issued for a period not to exceed three months from date of issuance; and

(3) the temporary license may be issued upon written application of the applicant, accompanied by such proof of the qualifications of the applicant as specified by board rule.

B. The secretary-treasurer of the board or the board's designee may approve a temporary license to practice medicine under the supervision of a licensed physician to an applicant who is licensed to practice medicine in another state, territory of the United States or another country and who is qualified to practice medicine in this state. The following provisions shall apply:

(1) the temporary license may be issued upon written application of the applicant, accompanied by proof of qualifications as specified by rule of the board. A temporary license may be granted to allow the applicant to assist in teaching, conducting research, performing specialized diagnostic and treatment procedures, implementing new technology and for physician educational purposes. A licensee may engage in only the activities specified on the temporary license, and the temporary license shall identify the licensed physician who will supervise the applicant during the time the applicant practices medicine in New Mexico. The supervising licensed

physician shall submit an affidavit attesting to the qualifications of the applicant and activities the applicant will perform; and

(2) the temporary license shall be issued for a period not to exceed three months from date of issuance and may be renewed upon application and payment of fees as provided in Section 61-6-19 NMSA 1978.

C. The application for a temporary license under this section shall be accompanied by a license fee as provided in Section 61-6-19 NMSA 1978."

## **Chapter 54 Section 34 Laws 2021**

SECTION 34. Section 61-6-15 NMSA 1978 (being Laws 1969, Chapter 46, Section 6, as amended) is amended to read:

"61-6-15. LICENSE MAY BE REFUSED, REVOKED OR SUSPENDED--  
LICENSEE MAY BE FINED, CENSURED OR REPRIMANDED--PROCEDURE--  
PRACTICE AFTER SUSPENSION OR REVOCATION--PENALTY--  
UNPROFESSIONAL AND DISHONORABLE CONDUCT DEFINED--FEES AND  
EXPENSES.--

A. The board may refuse to license and may revoke or suspend a license that has been issued by the board or a previous board and may fine, censure or reprimand a licensee upon satisfactory proof being made to the board that the applicant for or holder of the license has been guilty of unprofessional or dishonorable conduct. The board may also refuse to license an applicant who is unable to practice as a physician, practice as a physician assistant, an anesthesiologist assistant, a genetic counselor, a naturopathic practitioner or naprapathic practitioner or practice polysomnography, pursuant to Section 61-7-3 NMSA 1978. All proceedings shall be as required by the Uniform Licensing Act or the Impaired Health Care Provider Act.

B. The board may, in its discretion and for good cause shown, place the licensee on probation on the terms and conditions it deems proper for protection of the public, for the purpose of rehabilitation of the probationer or both. Upon expiration of the term of probation, if a term is set, further proceedings may be abated by the board if the holder of the license furnishes the board with evidence that the licensee is competent to practice, is of good moral character and has complied with the terms of probation.

C. If evidence fails to establish to the satisfaction of the board that the licensee is competent and is of good moral character or if evidence shows that the licensee has not complied with the terms of probation, the board may revoke or suspend the license. If a license to practice in this state is suspended, the holder of the license may not practice during the term of suspension. A person whose license has been revoked or suspended by the board and who thereafter practices or attempts or offers to practice in New Mexico, unless the period of suspension has expired or been modified by the board or the license reinstated, is guilty of a felony and shall be punished as provided in Section 61-6-20 NMSA 1978.

D. "Unprofessional or dishonorable conduct", as used in this section, means, but is not limited to because of enumeration, conduct of a licensee that includes the following:

- (1) procuring, aiding or abetting an illegal procedure;
- (2) employing a person to solicit patients for the licensee;
- (3) representing to a patient that a manifestly incurable condition of sickness, disease or injury can be cured;
- (4) obtaining a fee by fraud or misrepresentation;
- (5) willfully or negligently divulging a professional confidence;

(6) conviction of an offense punishable by incarceration in a state penitentiary or federal prison or conviction of a misdemeanor associated with the practice of the licensee. A copy of the record of conviction, certified by the clerk of the court entering the conviction, is conclusive evidence;

(7) habitual or excessive use of intoxicants or drugs;

(8) fraud or misrepresentation in applying for or procuring a license to practice in this state or in connection with applying for or procuring renewal, including cheating on or attempting to subvert the licensing examinations;

(9) making false or misleading statements regarding the skill of the licensee or the efficacy or value of the medicine, treatment or remedy prescribed or administered by the licensee or at the direction of the licensee in the treatment of a disease or other condition of the human body or mind;

(10) impersonating another licensee, permitting or allowing a person to use the license of the licensee or practicing as a licensee under a false or assumed name;

(11) aiding or abetting the practice of a person not licensed by the board;

(12) gross negligence in the practice of a licensee;

(13) manifest incapacity or incompetence to practice as a licensee;

(14) discipline imposed on a licensee by another licensing jurisdiction, including denial, probation, suspension or revocation, based upon acts by the licensee similar to acts described in this section. A certified copy of the record of disciplinary action or sanction taken by another jurisdiction is conclusive evidence of the action;



(15) the use of a false, fraudulent or deceptive statement in a document connected with the practice of a licensee;

(16) fee splitting;

(17) the prescribing, administering or dispensing of narcotic, stimulant or hypnotic drugs for other than accepted therapeutic purposes;

(18) conduct likely to deceive, defraud or harm the public;

(19) repeated similar negligent acts or a pattern of conduct otherwise described in this section or in violation of a board rule;

(20) employing abusive billing practices;

(21) failure to report to the board any adverse action taken against the licensee by:

(a) another licensing jurisdiction;

(b) a peer review body;

(c) a health care entity;

(d) a professional or medical society or association;

(e) a governmental agency;

(f) a law enforcement agency; or

(g) a court for acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this section;

(22) failure to report to the board the denial of licensure, surrender of a license or other authorization to practice in another state or jurisdiction or surrender of membership on any medical staff or in any medical or professional association or society following, in lieu of and while under disciplinary investigation by any of those authorities or bodies for acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this section;

(23) failure to furnish the board, its investigators or representatives with information requested by the board;

(24) abandonment of patients;

(25) being found mentally incompetent or insane by a court of competent jurisdiction;

(26) injudicious prescribing, administering or dispensing of a drug or medicine;

(27) failure to adequately supervise, as provided by board rule, a medical or surgical assistant or technician or professional licensee who renders health care;

(28) sexual contact with a patient or person who has authority to make medical decisions for a patient, other than the spouse of the licensee;

(29) conduct unbecoming in a person licensed to practice or detrimental to the best interests of the public;

(30) the surrender of a license or withdrawal of an application for a license before another state licensing board while an investigation or disciplinary action is pending before that board for acts or conduct similar to acts or conduct that would constitute grounds for action pursuant to this section;

(31) sexual contact with a former mental health patient of the licensee, other than the spouse of the licensee, within one year from the end of treatment;

(32) sexual contact with a patient when the licensee uses or exploits treatment, knowledge, emotions or influence derived from the current or previous professional relationship;

(33) improper management of medical records, including failure to maintain timely, accurate, legible and complete medical records;

(34) failure to provide pertinent and necessary medical records to a physician or patient of the physician in a timely manner when legally requested to do so by the patient or by a legally designated representative of the patient;

(35) undertreatment of pain as provided by board rule;

(36) interaction with physicians, hospital personnel, patients, family members or others that interferes with patient care or could reasonably be expected to adversely impact the quality of care rendered to a patient;

(37) soliciting or receiving compensation by a physician assistant or anesthesiologist assistant from a person who is not an employer of the assistant;

(38) willfully or negligently divulging privileged information or a professional secret; or

(39) the use of conversion therapy on a minor.

E. As used in this section:

(1) "conversion therapy" means any practice or treatment that seeks to change a person's sexual orientation or gender identity, including any effort to change

behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward persons of the same sex. "Conversion therapy" does not mean:

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

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

(2) "fee splitting" includes offering, delivering, receiving or accepting any unearned rebate, refunds, commission preference, patronage dividend, discount or other unearned consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients or customers to a person, irrespective of any membership, proprietary interest or co-ownership in or with a person to whom the patients, clients or customers are referred;

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

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

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

F. Licensees whose licenses are in a probationary status shall pay reasonable expenses for maintaining probationary status, including laboratory costs when laboratory testing of biological fluids are included as a condition of probation."

## Chapter 54 Section 35 Laws 2021

SECTION 35. Section 61-6-17 NMSA 1978 (being Laws 1973, Chapter 361, Section 8, as amended) is amended to read:

"61-6-17. EXCEPTIONS TO ACT.--The Medical Practice Act shall not apply to or affect:

- A. gratuitous services rendered in cases of emergency;
- B. the domestic administration of family remedies;
- C. the practice of midwifery as regulated in this state;
- D. commissioned medical officers of the armed forces of the United States and medical officers of the commissioned corps of the United States public health service or the United States department of veterans affairs in the discharge of their official duties or within federally controlled facilities; provided that such persons who hold medical licenses in New Mexico shall be subject to the provisions of the Medical Practice Act; and provided further that all such persons shall be fully licensed to practice medicine in one or more jurisdictions of the United States;
- E. the practice of medicine by a physician, unlicensed in New Mexico, who performs emergency medical procedures in air or ground transportation on a patient from inside of New Mexico to another state or back; provided that the physician is duly licensed in that state;
- F. the practice, as defined and limited under their respective licensing laws, of:
  - (1) dentistry;

- (2) podiatry;
- (3) nursing;
- (4) optometry;
- (5) psychology;
- (6) chiropractic;
- (7) pharmacy;
- (8) acupuncture and oriental medicine; or
- (9) physical therapy;

G. an act, task or function of laboratory technicians or technologists, x-ray technicians, nurse practitioners, medical or surgical assistants or other technicians or qualified persons permitted by law or established by custom as part of the duties delegated to them by:

(1) a licensed physician or a hospital, clinic or institution licensed or approved by the public health division of the department of health or an agency of the federal government; or

(2) a health care program operated or financed by an agency of the state or federal government;

H. a properly trained medical or surgical assistant or technician or professional licensee performing under the physician's employment and direct supervision or a visiting physician or surgeon operating under the physician's direct supervision a medical act that a reasonable and prudent physician would find within the scope of sound medical judgment to delegate if, in the opinion of the delegating

physician, the act can be properly and safely performed in its customary manner and if the person does not hold the person's own self out to the public as being authorized to practice medicine in New Mexico. The delegating physician shall remain responsible for the medical acts of the person performing the delegated medical acts;

I. the practice of the religious tenets of a church in the ministrations to the sick or suffering by mental or spiritual means as provided by law; provided that the Medical Practice Act shall not be construed to exempt a person from the operation or enforcement of the sanitary and quarantine laws of the state;

J. the acts of a physician licensed under the laws of another state of the United States who is the treating physician of a patient and orders home health or hospice services for a resident of New Mexico to be delivered by a home and community support services agency licensed in this state; provided that a change in the condition of the patient shall be physically reevaluated by the treating physician in the treating physician's jurisdiction or by a licensed New Mexico physician;

K. a physician licensed to practice under the laws of another state who acts as a consultant to a New Mexico-licensed physician on an irregular or infrequent basis, as defined by rule of the board; and

L. a physician who engages in the informal practice of medicine across state lines without compensation or expectation of compensation; provided that the practice of medicine across state lines conducted within the parameters of a contractual relationship shall not be considered informal and is subject to licensure and rule by the board."

## **Chapter 54 Section 36 Laws 2021**

SECTION 36. Section 61-6-17.1 NMSA 1978 (being Laws 2019, Chapter 184, Section 1) is amended to read:

"61-6-17.1. TEMPORARY LICENSURE EXEMPTION--OUT-OF-STATE PHYSICIANS--OUT-OF-STATE SPORTS TEAMS.--

A. An individual who is licensed in good standing to practice medicine in another state, and whom the board has not previously found to have violated a provision of the Medical Practice Act, may practice medicine without a license granted by the board if the individual has a written agreement with an out-of-state sports team to provide care to team members and staff traveling with the team for a specific sporting event to take place in this state; provided that:

(1) the individual has a written agreement with the out-of-state sports team governing body to provide health care services to an out-of-state sports team athlete or staff member at a scheduled sporting event;

(2) the individual's practice is limited to medical care to assist injured and ill players and coordinate appropriate referral to in-state health care providers as needed;

(3) the services to be provided by the individual are within the scope of practice authorized pursuant to the Medical Practice Act and rules of the board;

(4) the individual has professional liability coverage for the duration of the sporting event;

(5) the individual shall not:

(a) provide care or consultation to a resident of this state, other than a member of the out-of-state sports team during a sporting event; or

(b) practice medicine in the state, outside of the sporting event;

(6) the authorization to practice without a board-issued license pursuant to this section shall be valid only during the time of the sporting event, while



the individual granted the authorization is providing care to the out-of-state sports team, and is limited to the duration of the sporting event;

(7) the individual or out-of-state sports team shall report to the board any potential:

(a) medical license violation;

(b) practice negligence; or

(c) unprofessional or dishonorable conduct, as those terms are defined in board rules;

(8) the individual's practice of medicine pursuant to this section shall be subject to board oversight, investigation and discipline in accordance with the provisions of the Medical Practice Act; and

(9) the board may report to a licensing board in a state in which an individual practicing medicine pursuant to this section is licensed to practice medicine any findings it makes pursuant to an investigation or disciplinary action that the board undertakes.

B. The board shall adopt and promulgate rules to implement the provisions of this section.

C. As used in this section:

(1) "out-of-state sports team" means an entity or organization:

(a) for which athletes engage in a sporting event;

(b) headquartered or organized under laws other than the laws of New Mexico; and

(c) a majority of whose staff and athletes are residents of another state; and

(2) "sporting event" means a scheduled sporting event involving an out-of-state sports team for which an admission fee is charged to the public, including any preparation or practice related to the activity."

## **Chapter 54 Section 37 Laws 2021**

SECTION 37. Section 61-6-18 NMSA 1978 (being Laws 1989, Chapter 269, Section 14, as amended) is amended to read:

"61-6-18. MEDICAL STUDENTS--INTERNS--RESIDENTS--FELLOWS.--

A. Nothing in the Medical Practice Act shall prevent a medical student properly registered or enrolled in a medical college or school in good standing from diagnosing or treating the sick or afflicted, provided that the medical student does not receive compensation for services and such services are rendered under the supervision of the school faculty as part of the student's course of study.

B. Any intern, resident or fellow who is appointed in a board-approved residency or fellowship training program may pursue such training after obtaining a postgraduate training license from the board. The board may adopt by rule specific education or examination requirements for a postgraduate training license.

C. Any person serving in the assigned rotations and performing the assigned duties in a board-approved residency or fellowship training program accredited in New Mexico may do so for an aggregate period not to exceed eight years or completion of the residency, whichever is shorter.

D. The board may require any applicant for a postgraduate training license required in Subsections B and C of this section to personally appear before the board or a designated member of the board for an interview.

E. Every applicant for a postgraduate training license under this section shall pay the fees required by Section 61-6-19 NMSA 1978.

F. Postgraduate training licenses shall be renewed annually and shall be effective during each year or part of a year of postgraduate training."

## **Chapter 54 Section 38 Laws 2021**

SECTION 38. Section 61-6-18.1 NMSA 1978 (being Laws 1994, Chapter 80, Section 10, as amended) is amended to read:

"61-6-18.1. PUBLIC SERVICE LICENSE.--

A. Applicants for a public service license shall meet all requirements for licensure and shall:

(1) be enrolled in a board-approved residency or fellowship training program either in New Mexico or in another jurisdiction;

(2) obtain written approval from the training program director of the applicant to pursue a public service practice opportunity outside the residency training program; and

(3) satisfy other reasonable requirements imposed by the board.

B. A physician with one year of postdoctoral training may apply for a public service license to practice under the direct supervision of a licensed physician or with

immediate access to a licensed physician by electronic means when the public service physician is employed in a medically underserved area.

C. A public service license shall expire on September 1 of each year and may be renewed by the board.

D. An applicant for a public service license shall pay the required fees set forth in Section 61-6-19 NMSA 1978."

## **Chapter 54 Section 39 Laws 2021**

SECTION 39. Section 61-6-19 NMSA 1978 (being Laws 1989, Chapter 269, Section 15, as amended) is amended to read:

"61-6-19. FEES.--

A. Except as provided in Section 61-1-34 NMSA 1978, the board shall impose the following fees:

(1) an application fee not to exceed five hundred dollars (\$500) for licensure by endorsement as provided in Section 61-6-13 NMSA 1978;

(2) an application fee not to exceed five hundred dollars (\$500) for licensure by examination as provided in Section 61-6-11 NMSA 1978;

(3) a triennial renewal fee not to exceed five hundred dollars (\$500);

(4) a fee of twenty-five dollars (\$25.00) for placing a physician's license or a physician assistant's license on inactive status;

(5) a late fee not to exceed one hundred dollars (\$100) for physicians who renew their license within forty-five days after the required renewal date;

(6) a late fee not to exceed two hundred dollars (\$200) for physicians who renew their licenses between forty-six and ninety days after the required renewal date;

(7) a reinstatement fee not to exceed seven hundred dollars (\$700) for reinstatement of a revoked, suspended or inactive license;

(8) a reasonable administrative fee for verification and duplication of license or registration and copying of records;

(9) a reasonable publication fee for the purchase of a publication containing the names of all practitioners licensed under the Medical Practice Act;

(10) an impaired physician fee not to exceed one hundred fifty dollars (\$150) for a three-year period;

(11) an interim license fee not to exceed one hundred dollars (\$100);

(12) a temporary license fee not to exceed one hundred dollars (\$100);

(13) a postgraduate training license fee not to exceed fifty dollars (\$50.00) annually;

(14) an application fee not to exceed one hundred fifty dollars (\$150) for physician assistants applying for initial licensure;

(15) a licensure fee not to exceed one hundred fifty dollars (\$150) for physician assistants biennial license renewal and registration of supervising or collaborating licensed physician;

(16) a late fee not to exceed fifty dollars (\$50.00) for physician assistants who renew their licensure within forty-five days after the required renewal date;

(17) a late fee not to exceed seventy-five dollars (\$75.00) for physician assistants who renew their licensure between forty-six and ninety days after the required renewal date;

(18) a reinstatement fee not to exceed one hundred dollars (\$100) for physician assistants who reinstate an expired license;

(19) a fee not to exceed three hundred dollars (\$300) annually for a physician supervising a clinical pharmacist;

(20) an application and renewal fee for a telemedicine license not to exceed nine hundred dollars (\$900);

(21) a reasonable administrative fee, not to exceed the current cost of application and license or renewal for a license, that may be charged for reprocessing applications and renewals that include minor but significant errors and that would otherwise be subject to investigation and possible disciplinary action; and

(22) a reasonable fee as established by the department of public safety for nationwide and statewide criminal history screening of applicants and licensees.

B. All fees are nonrefundable and shall be used by the board to carry out its duties efficiently."

## **Chapter 54 Section 40 Laws 2021**

SECTION 40. Section 61-6-21 NMSA 1978 (being Laws 1989, Chapter 269, Section 17, as amended) is amended to read:

"61-6-21. CONTINUING MEDICAL EDUCATION--PENALTY.--

A. For the purpose of protecting the health and well-being of the residents of this state and for maintaining and continuing informed professional knowledge and awareness, the board shall establish mandatory continuing educational requirements for licensees under its authority.

B. The board may suspend the license of a licensee who fails to comply with continuing medical education or continuing education requirements until the requirements are fulfilled and may take any further disciplinary action if the licensee fails to remediate the deficiencies, including revocation of license."

## **Chapter 54 Section 41 Laws 2021**

SECTION 41. Section 61-6-23 NMSA 1978 (being Laws 1989, Chapter 269, Section 19, as amended) is amended to read:

"61-6-23. INVESTIGATION--SUBPOENA.--To investigate a complaint against an applicant or a licensee, the board may issue investigative subpoenas prior to the issuance of a notice of contemplated action."

## **Chapter 54 Section 42 Laws 2021**

SECTION 42. Section 61-6-28 NMSA 1978 (being Laws 1945, Chapter 74, Section 3, as amended) is amended to read:

"61-6-28. LICENSED PHYSICIANS--CHANGING LOCATION.--A licensed physician or practitioner under licensure authority of the board or who applies for a license issued by the board who changes the location of the physician's or practitioner's office or residence shall promptly notify the board of the change. Applicants and licensees shall maintain a current address, phone number and email address with the board."

## Chapter 54 Section 43 Laws 2021

SECTION 43. Section 61-6-30 NMSA 1978 (being Laws 1969, Chapter 46, Section 15, as amended) is amended to read:

"61-6-30. RESTORATION OF GOOD STANDING--FEES AND OTHER REQUIREMENTS.--

A. Before restoring to good standing a license that has been in a revoked, suspended or inactive status for any cause for more than two years, the board may require the applicant to pass an oral or written examination, or both, to determine the current fitness and competence of the applicant to resume practice and may impose terms, conditions or restrictions in its discretion.

B. The authority of the board to impose terms, conditions or restrictions includes, but is not limited to, the following:

(1) requiring the applicant to obtain additional training and to pass an examination upon completion of such training; or

(2) restricting or limiting the extent, scope or type of practice of the applicant.

C. The board shall also consider the moral background and the activities of the applicant during the period of suspension or inactivity.

D. If the board in its discretion determines that the applicant is qualified to be reissued a license in good standing, the applicant shall pay to the board a reinstatement fee."



## Chapter 54 Section 44 Laws 2021

SECTION 44. Section 61-6-31 NMSA 1978 (being Laws 1989, Chapter 269, Section 27, as amended) is amended to read:

"61-6-31. DISPOSITION OF FUNDS--NEW MEXICO MEDICAL BOARD FUND CREATED--METHOD OF PAYMENTS.--

- A. There is created the "New Mexico medical board fund".
- B. All funds received by the board and money collected under the Medical Practice Act, the Physician Assistant Act, the Anesthesiologist Assistants Act, the Genetic Counseling Act, the Polysomnography Practice Act, the Impaired Health Care Provider Act, the Naturopathic Doctors' Practice Act and the Naprapathic Practice Act shall be deposited with the state treasurer, who shall place the same to the credit of the New Mexico medical board fund.
- C. All payments out of the fund shall be made on vouchers issued and signed by the secretary-treasurer of the board or the designee of the secretary-treasurer upon warrants drawn by the department of finance and administration in accordance with the budget approved by that department.
- D. All amounts in the New Mexico medical board fund shall be subject to the order of the board and shall be used only for the purpose of meeting necessary expenses incurred in:
  - (1) the performance of the provisions of the Medical Practice Act, the Physician Assistant Act, the Anesthesiologist Assistants Act, the Genetic Counseling Act, the Polysomnography Practice Act, the Impaired Health Care Provider Act, the Naturopathic Doctors' Practice Act and the Naprapathic Practice Act and the duties and powers imposed by those acts;

(2) the promotion of medical education and standards in this state within the budgetary limits; and

(3) efforts to recruit and retain medical and osteopathic physicians for practice in New Mexico.

E. All funds that may have accumulated to the credit of the board under any previous law shall be transferred to the New Mexico medical board fund and shall continue to be available for use by the board in accordance with the provisions of the Medical Practice Act, the Physician Assistant Act, the Anesthesiologist Assistants Act, the Genetic Counseling Act, the Polysomnography Practice Act, the Impaired Health Care Provider Act, the Naturopathic Doctors' Practice Act and the Naprapathic Practice Act. All money unused at the end of the fiscal year shall not revert, but shall remain in the fund for use in accordance with the provisions of the Medical Practice Act, the Physician Assistant Act, the Anesthesiologist Assistants Act, the Genetic Counseling Act, the Polysomnography Practice Act, the Impaired Health Care Provider Act, the Naturopathic Doctors' Practice Act and the Naprapathic Practice Act."

## **Chapter 54 Section 45 Laws 2021**

SECTION 45. Section 61-6-32 NMSA 1978 (being Laws 1961, Chapter 130, Section 3, as amended) is amended to read:

"61-6-32. TERMINATION OF SUSPENSION OF LICENSE FOR MENTAL ILLNESS--RESTORATION--TERMS AND CONDITIONS.--

A. A suspension under Paragraph (25) of Subsection D of Section 61-6-15 NMSA 1978 may, in the discretion of the board, be terminated, but the suspension shall continue and the board shall not restore to the former practitioner the privilege to practice medicine in this state until:

(1) the board receives competent evidence that the former practitioner is not mentally ill; and

(2) the board is satisfied, in the exercise of its discretion and with due regard for the public interest, that the practitioner's former privilege to practice medicine may be safely restored.

B. If the board, in the exercise of its discretion, determines that the practitioner's former privilege to practice medicine may be safely restored, it may restore the privilege upon whatever terms and conditions it deems advisable. If the practitioner fails, refuses or neglects to abide by the terms and conditions, the practitioner's license to practice medicine may, in the discretion of the board, be again suspended indefinitely."

## **Chapter 54 Section 46 Laws 2021**

SECTION 46. Section 61-6A-5 NMSA 1978 (being Laws 2008, Chapter 53, Section 5) is amended to read:

"61-6A-5. EXEMPTIONS.--

A. Nothing in the Genetic Counseling Act is intended to limit, interfere with or prevent a licensed health care professional from practicing within the scope of the professional license of that health care professional; however, a licensed health care professional shall not advertise to the public or any private group or business by using any title or description of services that includes the term "genetic counseling" unless the health care professional is licensed under the Genetic Counseling Act.

B. The Genetic Counseling Act shall not apply to or affect:

(1) a medical physician or an osteopathic physician licensed under the Medical Practice Act; or

(2) a commissioned physician or surgeon serving in the armed forces of the United States or a federal agency."

## **Chapter 54 Section 47 Laws 2021**

SECTION 47. Section 61-11B-3 NMSA 1978 (being Laws 1993, Chapter 191, Section 3, as amended) is amended to read:

"61-11B-3. PHARMACIST CLINICIAN PRESCRIPTIVE AUTHORITY.--

A. A pharmacist clinician planning to exercise prescriptive authority in practice shall have on file at the place of practice written guidelines or protocol. The guidelines or protocol shall authorize a pharmacist clinician to exercise prescriptive authority and shall be established and approved by a practitioner in accordance with regulations adopted by the board. A copy of the written guidelines or protocol shall be on file with the board. The practitioner who is a party to the guidelines or protocol shall be in active practice and the prescriptive authority that the practitioner grants to a pharmacist clinician shall be within the scope of the practitioner's current practice.

B. The guidelines or protocol required by Subsection A of this section shall include:

(1) a statement identifying the practitioner authorized to prescribe dangerous drugs and the pharmacist clinician who is a party to the guidelines or protocol;

(2) a statement of the types of prescriptive authority decisions that the pharmacist clinician is authorized to make, which may include:

(a) a statement of the types of diseases, dangerous drugs or dangerous drug categories involved and the type of prescriptive authority authorized in each case; and

(b) a general statement of the procedures, decision criteria or plan the pharmacist clinician is to follow when exercising prescriptive authority;

(3) a statement of the activities the pharmacist clinician is to follow in the course of exercising prescriptive authority, including documentation of decisions made and a plan for communication or feedback to the authorizing practitioner concerning specific decisions made. Documentation may occur on the prescriptive record, patient profile, patient medical chart or in a separate log book; and

(4) a statement that describes appropriate mechanisms for reporting to the practitioner monitoring activities and results.

C. The written guidelines or protocol shall be reviewed and shall be revised every two years if necessary.

D. A pharmacist clinician planning to exercise prescriptive authority in practice shall be authorized to monitor dangerous drug therapy.

E. The board shall adopt regulations to carry out the provisions of the Pharmacist Prescriptive Authority Act.

F. For the purpose of the Pharmacist Prescriptive Authority Act, the New Mexico medical board shall adopt rules concerning the guidelines and protocol for their respective practitioners defined in Subsection D of Section 61-11B-2 NMSA 1978."

## **Chapter 54 Section 48 Laws 2021**

SECTION 48. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS, PERSONNEL, MONEY, APPROPRIATIONS, PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES.--

A. On the effective date of this act, all functions, personnel, money, appropriations, records, furniture, equipment, supplies and other property of the board of osteopathic medicine are transferred to the New Mexico medical board.

B. On the effective date of this act, all contractual obligations of the board of osteopathic medicine are binding on the New Mexico medical board.

C. On the effective date of this act, all references in law to the board of osteopathic medicine shall be deemed to be references to the New Mexico medical board.

## **Chapter 54 Section 49 Laws 2021**

SECTION 49. REPEAL.--Sections 61-10-1.1 through 61-10-22 NMSA 1978 (being Laws 2016, Chapter 90, Sections 1 and 2, Laws 1974, Chapter 78, Section 16, Laws 1933, Chapter 117, Sections 2 and 3, Laws 2016, Chapter 90, Sections 5, 21 and 6 through 8, Laws 2019, Chapter 184, Section 2, Laws 1933, Chapter 117, Sections 6, 8 and 9, Laws 2016, Chapter 90, Sections 19 and 22 through 25, Laws 2019, Chapter 19, Section 9, Laws 1933, Chapter 117, Sections 10 and 12, Laws 2016, Chapter 90, Sections 12 and 20, Laws 1933, Chapter 117, Section 14, Laws 2016, Chapter 90, Section 18, Laws 1933, Chapter 117, Sections 15 and 16, Laws 1971, Chapter 140, Sections 1 and 2, Laws 1945, Chapter 79, Section 7 and Laws 1979, Chapter 36, Section 2, as amended) are repealed effective July 1, 2022.

## **LAWS 2021, CHAPTER 55**

**Senate Bill 146**  
**Approved April 5, 2021**

AN ACT

RELATING TO MILITARY AFFAIRS; AMENDING THE POWERS OF THE ADJUTANT GENERAL; AUTHORIZING ACTIVATION OF THE NATIONAL GUARD AND THE STATE DEFENSE FORCE IN THE CASE OF CERTAIN EVENTS; ESTABLISHING THE NEW MEXICO STATE DEFENSE FORCE; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NEW MEXICO MILITARY CODE.

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

## **Chapter 55 Section 1 Laws 2021**

SECTION 1. Section 20-1-4 NMSA 1978 (being Laws 1987, Chapter 318, Section 4) is amended to read:

"20-1-4. GOVERNOR TO BE COMMANDER-IN-CHIEF--ENFORCEMENT OF NEW MEXICO MILITARY CODE.--

A. The governor shall be the commander-in-chief of the military forces, except so much thereof as may be in the actual service of the United States, and may employ the military forces for the defense or relief of the state, the enforcement of its law and the protection of life and property therein.

B. The adjutant general shall be the commanding general of New Mexico, and the deputy adjutant general shall be the deputy commanding general of New Mexico.

C. Whenever the governor or acting governor is unable to personally perform the duties of commander-in-chief or whenever the governor so directs, the adjutant general or, in the adjutant general's absence, the senior line officer of the national guard present for duty with the troops shall command the military forces.

D. The governor may appoint a staff consisting of the adjutant general and aides-de-camp of field grade or higher who shall be detailed from the national guard or

the state defense force. The governor may designate honorarily other persons as colonels aide-de-camp.

E. The governor may, by executive orders, proclamations or regulations not inconsistent with law, enforce all the provisions of the New Mexico Military Code."

## **Chapter 55 Section 2 Laws 2021**

SECTION 2. Section 20-1-5 NMSA 1978 (being Laws 1987, Chapter 318, Section 5, as amended) is amended to read:

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

A. prepare and publish, by order of the governor, such orders, rules and regulations, consistent with law, as are necessary to maintain the military forces in a



state of efficiency in conformity with the needs of the state and the federal defense requirements;

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

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

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

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

F. have a seal of office."

## **Chapter 55 Section 3 Laws 2021**

SECTION 3. Section 20-2-6 NMSA 1978 (being Laws 1987, Chapter 318, Section 13) is amended to read:

"20-2-6. GOVERNOR--CALL FOR FEDERAL OR STATE SERVICE--POWERS.-

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A. When the national guard or a part thereof is called or ordered into active federal service under the constitution and laws of the United States and the numbers or composition of the national guard forces are insufficient to meet such call or order, the governor may order out and cause through the adjutant general to be enrolled into the organized militia such persons as may be required and expected to reasonably meet the federal call or order.

B. The governor may order out the organized militia when:

(1) the national guard or any significant portion thereof is called or ordered into active federal service and the remaining national guard forces are insufficient for the needs of the state; or

(2) the governor deems it necessary to meet a major disaster, experienced or anticipated. The governor is authorized to call into active state service the state defense force or any portion thereof as may be necessary for the protection and well being of the state. If the numbers or composition of the state defense force is inadequate to meet the need, the governor may call out and cause through the adjutant general to be enrolled from the unorganized militia such persons as are required to bring the organized militia up to strength."

## **Chapter 55 Section 4 Laws 2021**

SECTION 4. Section 20-3-2 NMSA 1978 (being Laws 1987, Chapter 318, Section 17, as amended) is amended to read:

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

A. The department of military affairs consists of:

(1) the office of the adjutant general;

(2) three subordinate military divisions:

(a) the army national guard division;

(b) the air national guard division; and

(c) the state defense force division; and

(3) five subordinate civil divisions:

(a) the selective service office;

(b) the state armory board;

(c) the civil air patrol division;

(d) the state programs division; and

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

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

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

D. The adjutant general may employ such administrative, technical, clerical and other personnel as the adjutant general deems necessary and may fix the compensation of exempt personnel subject to the concurrence of the department of finance and administration.

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

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

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

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

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

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

## **Chapter 55 Section 5 Laws 2021**

SECTION 5. Section 20-5-1 NMSA 1978 (being Laws 1987, Chapter 318, Section 32) is amended to read:

"20-5-1. NEW MEXICO STATE DEFENSE FORCE ESTABLISHED--NOT IN FEDERAL SERVICE--DEFINITIONS.--

A. The "New Mexico state defense force" is established as an element of the militia in the department of military affairs. The members and organizations of the former New Mexico state guard are transferred to the New Mexico state defense force on April 10, 1987.

B. Nothing in Chapter 20 NMSA 1978 shall be construed as authorizing the New Mexico state defense force or any part thereof to be called, ordered or in any manner drafted by federal authorities into the military service of the United States, but no person by reason of the person's enlistment or appointment in the state defense force shall be exempted from military service under any law of the United States.

C. The following definitions apply to the duty statuses under which members of the state defense force serve:

(1) "militia duty" means the performance of actual military service for the state in time of need when called by the governor or adjutant general following mobilization of the national guard. It may be performed by the standing cadre of the state defense force at any time so ordered upon mobilization of the national guard. It may be performed by the unorganized militia following its call by the governor pursuant to Subsection B of Section 20-2-6 NMSA 1978, in which case it shall include the post-call training of the New Mexico state defense force pursuant thereto; and

(2) "cadre duty" means the normal service and training performed by the standing cadre of the state defense force in anticipation and support of militia duty, including organization, administration and other pre-call matters."

## **Chapter 55 Section 6 Laws 2021**

SECTION 6. Section 20-5-3 NMSA 1978 (being Laws 1987, Chapter 318, Section 34) is amended to read:

"20-5-3. COMPOSITION--ENLISTMENT--APPOINTMENT.--

A. The state defense force shall consist of persons eighteen years or older voluntarily appointed or voluntarily enlisted therein and such additional members of the unorganized militia as therein may be appointed, enlisted, enrolled or inducted as provided by law.

B. The officers of the state defense force shall be appointed by the governor and serve at the governor's pleasure. They shall be chosen from the public and private leadership bases within local communities so as to best enable the community to efficiently muster and lead its people and protect its assets and well-being."

## **Chapter 55 Section 7 Laws 2021**

SECTION 7. Section 20-5-6 NMSA 1978 (being Laws 1987, Chapter 318, Section 37) is amended to read:

"20-5-6. UNIFORM--RANK PRECEDENCE AND COMMAND.--

A. The state defense force shall be uniformed. The adjutant general shall by regulation prescribe the uniform and insignia of the state defense force, which uniform and insignia shall include distinctive devices identifying it as the uniform of the state defense force and distinguishing it from the national guard. When in uniform, members of the state defense force will reasonably conform to the dress and appearance standards of the national guard. The wearing of permanent military decorations earlier awarded is authorized.

B. The grade structure of the state defense force shall to the extent practicable be the same as that prescribed for the army national guard.

C. The senior line officer without distinction as to component present in any organization or formation of the state defense force shall command, unless the adjutant general shall designate otherwise."

## **Chapter 55 Section 8 Laws 2021**

SECTION 8. Section 20-5-16 NMSA 1978 (being Laws 2003, Chapter 111, Section 1) is amended to read:

"20-5-16. STATE DEFENSE FORCE--WORKERS' COMPENSATION--CADRE DUTY.--

A. When a member of the state defense force is on state-ordered militia duty, the member is a worker under the Workers' Compensation Act and the department of military affairs is the member's employer.

B. Members of the state defense force, while performing cadre duty, may be utilized by the adjutant general to assist the national guard with training exercises or other cadre duties.

C. The average weekly wage of a member of the state defense force shall be computed at the pay earned in the member's civilian capacity. Disability benefits to a member of the state defense force shall be limited to medical benefits and two-thirds of the member's civilian pay if the member is unable to work.

D. A member of the state defense force shall not be considered a worker under the Workers' Compensation Act when performing cadre duty.

E. As used in this section:

(1) "cadre duty" means the normal service and training of the standing cadre of the state defense force in anticipation and support of militia duty, including organization, administration and other pre-call matters; and

(2) "militia duty" means the performance of actual military service for the state in time of need when called by the governor or adjutant general following mobilization of the national guard. If performed by the unorganized militia following its call by the governor pursuant to Section 20-2-6 NMSA 1978, it shall include the post-call training of the New Mexico state defense force as required by that call."

## **Chapter 55 Section 9 Laws 2021**

SECTION 9. Section 20-12-4 NMSA 1978 (being Laws 1987, Chapter 318, Section 89, as amended) is amended to read:



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

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

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

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

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

## **Chapter 55 Section 10 Laws 2021**

SECTION 10. A new section of the Code of Military Justice is enacted to read:

"PROHIBITED ACTIVITIES WITH MILITARY RECRUIT OR TRAINEE BY PERSON IN POSITION OF SPECIAL TRUST--CONSENT NOT A DEFENSE.--

A. Any person subject to Chapter 20 NMSA 1978 shall be punished as a court-martial may direct if the person:

(1) is an officer or noncommissioned officer;

(2) is in a training leadership position with respect to a specially protected junior member of the armed forces; and

(3) knew, or reasonably should have known, that the person was engaged in prohibited sexual activity with a specially protected junior member of the armed forces.

B. Any person subject to Chapter 20 NMSA 1978 shall be punished as a court-martial may direct if the person is a military recruiter and knew, or reasonably should have known, that the person was engaged in prohibited sexual activity with:

(1) an applicant for military service; or

(2) a specially protected junior member of the armed forces who is enlisted under a delayed entry program.

C. Any person subject to Chapter 20 NMSA 1978 shall be punished as a court-martial may direct if the person:

(1) is a commissioned, warrant or noncommissioned officer;

(2) is in a training leadership position with respect to a specially protected member of the armed forces; and

(3) engaged in prohibited sexual activity with a person that the person knew, or reasonably should have known, was a specially protected junior member of the armed forces.

D. Any person subject to Chapter 20 NMSA 1978 shall be punished as a court-martial may direct if the person:

- (1) is a commissioned, warrant or noncommissioned officer;
- (2) is performing duties as a military recruiter; and
- (3) engaged in prohibited sexual activity with a person that the person knew, or reasonably should have known, was an applicant for military service; or
- (4) engaged in prohibited sexual activity with a person that the person knew, or reasonably should have known, was a specially protected junior member of the armed forces who is enlisted under a delayed entry program.

E. Consent is not a defense to prosecution pursuant to this section.

F. The maximum punishment of prosecution pursuant to this section shall be a dishonorable discharge, forfeiture of all pay and allowances received on or after the effective date of the sentence and confinement for less than one year.

G. As used in this section:

(1) "applicant for military service" means a person who, under regulations prescribed by the secretary concerned, is an applicant for original enlistment or appointment in the armed forces;

(2) "military recruiter" means a person who, under regulations prescribed by the secretary concerned, has the primary duty to recruit persons for military service;

(3) "prohibited sexual activity" means, as specified in regulations prescribed by the secretary concerned, inappropriate physical intimacy under circumstances described in such regulations;

(4) "regulations prescribed by the secretary concerned" means rules, regulations, instructions and procedures prescribed by the secretary of the army or secretary of the air force with respect to soldiers or airmen of the national guard;

(5) "specially protected junior member of the armed forces" means a member of the armed forces who is:

(a) assigned to, or is awaiting assignment to, basic training or other initial active duty for training, including a member who is enlisted under a delayed entry program;

(b) a cadet, an officer candidate or a student in any other officer qualification program; or

(c) in any program that, by regulation prescribed by the secretary concerned, is identified as a training program for initial career qualification; and

(6) "training leadership position" means, with respect to a specially protected junior member of the armed forces, any drill instructor position or other leadership position in a basic training program, an officer candidate school, a reserve officers' training corps unit, a training program for entry into the armed forces or any program that, by regulation prescribed by the secretary concerned, is identified as a training program for initial career qualification."

## **Chapter 55 Section 11 Laws 2021**

SECTION 11. A new section of the Code of Military Justice is enacted to read:

"WEARING UNAUTHORIZED INSIGNIA, DECORATION, BADGE, RIBBON, DEVICE OR LAPEL BUTTON.--

A. Any person subject to Chapter 20 NMSA 1978 shall be punished as a court-martial may direct if the person:

(1) is not authorized to wear an insignia, decoration, badge, ribbon, device or lapel button; and

(2) wrongfully wears such insignia, decoration, badge, ribbon, device or lapel button upon the person's uniform or civilian clothing.

B. The maximum punishment of prosecution pursuant to this section shall be:

(1) for the wrongful wearing of the medal of honor, distinguished service cross, navy cross, air force cross, silver star, purple heart or a valor device on any personal award, a dishonorable discharge, forfeiture of all pay and allowances received on or after the effective date of the sentence and confinement for less than one year; or

(2) for all other violations of this section, a bad conduct discharge, forfeiture of all pay and allowances and confinement for no more than six months.

C. As used in this section, "wrongful" means that the conduct is done without legal justification or excuse. Actual knowledge that the person was or is not authorized to wear the item in question is required. Knowledge may be proved by circumstantial evidence."

## **Chapter 55 Section 12 Laws 2021**

SECTION 12. REPEAL.--Sections 20-4-12, 20-12-57 and 20-12-68 NMSA 1978 (being Laws 1987, Chapter 318, Section 29 and Laws 1989, Chapter 337, Sections 56 and 67) are repealed.

# **LAWS 2021, CHAPTER 56**

**Senate Bill 152**  
**Approved April 5, 2021**

AN ACT

RELATING TO AGING; REQUIRING PROVIDERS TO INCLUDE CLOSURE PLAN DESCRIPTIONS IN CONTINUING CARE CONTRACTS; REQUIRING THE ATTORNEY GENERAL TO ACCEPT AND REVIEW ALLEGED VIOLATIONS OF THE CONTINUING CARE ACT REPORTED FROM ANY SOURCE.

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

## **Chapter 56 Section 1 Laws 2021**

SECTION 1. 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) a summary of a comprehensive actuarial analysis within the last five years; and



(b) 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 its 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, its sole member and the 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, its sole member 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 56 Section 2 Laws 2021**

SECTION 2. 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) contain a provision describing the community's plan for resident relocation upon closure or circumstances that necessitate relocation;

(31) 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

(32) 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 56 Section 3 Laws 2021**

SECTION 3. Section 24-17-7 NMSA 1978 (being Laws 1985, Chapter 102, Section 7) is amended to read:

"24-17-7. DISCLOSURE STATEMENTS FILED WITH THE AGING AND LONG-TERM SERVICES DEPARTMENT FOR PUBLIC INSPECTION.--No later than July 1, 2022 and each year thereafter, within one hundred eighty days after the end of a community's fiscal year, a provider shall provide a copy of the disclosure statement and any amendments to that statement to the aging and long-term services department for public inspection during regular working hours."

### **Chapter 56 Section 4 Laws 2021**

SECTION 4. Section 24-17-16 NMSA 1978 (being Laws 1991, Chapter 263, Section 5) is amended to read:



"24-17-16. IDENTIFICATION AND PROCEDURES FOR CORRECTION OF VIOLATIONS.--

A. The aging and long-term services department shall review disclosure statements filed pursuant to the Continuing Care Act for compliance with that act.

B. If the aging and long-term services department determines that a person or an organization has engaged in or is about to engage in an act or practice constituting a violation of the Continuing Care Act or any rule adopted pursuant to that act, the aging and long-term services department shall issue a notice of violation in writing to that person or organization and send copies to the resident association of any facility affected by the notice.

C. The notice of violation shall state the following:

(1) a description of a violation at issue;

(2) the action that, in the judgment of the aging and long-term services department, the provider should take to conform to the law or the assurances that the aging and long-term services department requires to establish that no violation is about to occur;

(3) the compliance date by which the provider shall correct any violation or submit assurances;

(4) the requirements for filing a report of compliance; and

(5) the applicable sanctions for failure to correct the violation or failure to file the report of compliance according to the terms of the notice of violation.

D. At any time after receipt of a notice of violation, the person or organization to which the notice is addressed or the aging and long-term services department may

request a conference. The aging and long-term services department shall schedule a conference within thirty days of a request.

E. The purpose of the conference is to discuss the contents of the notice of violation and to assist the addressee to comply with the requirements of the Continuing Care Act. Subject to rules that the aging and long-term services department may promulgate, a representative of the resident association at any facility affected by the notice shall have a right to attend the conference.

F. A person receiving a notice of violation shall submit a signed report of compliance as provided by the notice. The aging and long-term services department shall send a copy to the resident association of any facility affected by the notice.

G. Upon receipt of the report of compliance, the aging and long-term services department shall take steps to determine that compliance has been achieved."

### **Chapter 56 Section 5 Laws 2021**

SECTION 5. Section 24-17-17 NMSA 1978 (being Laws 1991, Chapter 263, Section 6, as amended) 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."

### **Chapter 56 Section 6 Laws 2021**

SECTION 6. Section 24-17-18 NMSA 1978 (being Laws 1991, Chapter 263, Section 7) is amended to read:

"24-17-18. REPORT TO ATTORNEY GENERAL--CIVIL ACTION--CIVIL PENALTIES.--

A. A person may report an alleged violation of the Continuing Care Act or rules promulgated pursuant to that act to the attorney general or to the aging and long-term services department.

B. Any time after the aging and long-term services department issues a notice of violation, the department may send the attorney general a written report alleging a possible violation of the Continuing Care Act or any rule adopted pursuant to that act.

C. Upon receipt of a report from any source alleging a violation of the Continuing Care Act or rules promulgated pursuant to that act, the attorney general shall promptly review the allegation. Upon finding that an allegation received pursuant to this subsection is credible, the attorney general shall file an appropriate action against the alleged violator in a court of competent jurisdiction.

D. Upon finding violations of any provisions of the Continuing Care Act or any rule adopted pursuant to that act, the court may impose a civil penalty in the amount of five dollars (\$5.00) per resident or up to five hundred dollars (\$500), in the discretion of the court, for each day that the violation remains uncorrected after the compliance date stipulated in a notice of violation issued pursuant to the Continuing Care Act."

## **LAWS 2021, CHAPTER 57**

**Senate Bill 160, aa**  
**Approved April 5, 2021**

AN ACT

RELATING TO ELECTIONS; INCLUDING CANDIDATES FOR THE OFFICE OF DISTRICT JUDGE IN THE VOTER ACTION ACT; PRESCRIBING DISTRIBUTION AMOUNTS AND QUALIFYING CONTRIBUTIONS BASED ON THE NUMBER OF

VOTERS IN A DISTRICT; MAKING CONFORMING CHANGES; AMENDING AND REPEALING SECTIONS OF THE VOTER ACTION ACT.

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

## **Chapter 57 Section 1 Laws 2021**

SECTION 1. Section 1-19A-2 NMSA 1978 (being Laws 2003, Chapter 14, Section 2, as amended) is amended to read:

"1-19A-2. DEFINITIONS.--As used in the Voter Action Act:

A. "applicant candidate" means a candidate who is running for a covered office and who is seeking to be a certified candidate in a primary or general election;

B. "certified candidate" means a candidate running for a covered office who chooses to obtain financing pursuant to the Voter Action Act and is certified as a Voter Action Act candidate;

C. "contested" means there are more candidates for a position than the number to be elected to that position;

D. "contribution" means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made or received for the purpose of supporting or opposing the nomination for election or election of a candidate for public office, including payment of a debt incurred in an election campaign and also including a coordinated expenditure, but "contribution" does not include:

(1) a qualifying contribution;

(2) the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate; or

(3) the value of the incidental use of the candidate's personal property, home or business office for campaign purposes;

E. "coordinated expenditure" means an expenditure that is made:

(1) by a person other than a candidate or campaign committee;

(2) at the request or suggestion of, or in cooperation, consultation or concert with, a candidate, campaign committee or political party or any agent or representative of such a candidate, campaign committee or political party; and

(3) for the purpose of:

(a) supporting or opposing the nomination or election of a candidate; or

(b) paying for an advertisement that refers to a clearly identified candidate and that is published and disseminated to the relevant electorate in New Mexico within thirty days before the primary election or sixty days before the general election in which the candidate is on the ballot;

F. "covered office" means any office of the judicial department subject to statewide elections and the office of district judge;

G. "expenditure" means a payment, transfer or distribution of, or a promise to pay, transfer or distribute, any money or other thing of value for the purpose of supporting or opposing the nomination or election of a candidate;

H. "fund" means the public election fund;

I. "qualifying contribution" means a donation of five dollars (\$5.00) in the form of cash, a check, a money order or an electronic form of payment, as prescribed by the secretary, and payable to the fund in support of an applicant candidate that is:

(1) made by a voter who is eligible to vote for the covered office that the applicant candidate is seeking;

(2) made during the designated qualifying period and obtained through efforts made with the knowledge and approval of the applicant candidate; and

(3) acknowledged by a receipt that identifies the contributor's name and residential address on forms provided by the bureau of elections and that is signed by the contributor, one copy of which is attached to the list of contributors and sent to the bureau of elections;

J. "qualifying period" means:

(1) for candidates who are seeking public financing for a primary election or for both a primary and a general election, the period beginning October 1 immediately preceding the election year and ending at 5:00 p.m. on the third Tuesday of March of the election year; and

(2) for candidates who are seeking public financing only for a general election, the period beginning January 1 of the election year and ending that year at 5:00 p.m. on the twenty-third day following the primary election for the office for which the candidate is running; and

K. "secretary" means the secretary of state or the office of the secretary of state."

## Chapter 57 Section 2 Laws 2021

SECTION 2. Section 1-19A-4 NMSA 1978 (being Laws 2003, Chapter 14, Section 4, as amended) is amended to read:

"1-19A-4. QUALIFYING CONTRIBUTIONS.--

A. Applicant candidates shall obtain qualifying contributions as follows:

(1) for all statewide judicial elective offices, the number of qualifying contributions equal to one-tenth percent of the number of voters in the state; and

(2) for the office of district judge:

(a) four hundred qualifying contributions in a district with four hundred thousand or more voters;

(b) three hundred qualifying contributions in a district with two hundred thousand or more but fewer than four hundred thousand voters;

(c) two hundred qualifying contributions in a district with one hundred thousand or more but fewer than two hundred thousand voters; and

(d) one hundred qualifying contributions in a district with fewer than one hundred thousand voters.

B. Applicant candidates may accept qualifying contributions from persons who become registered within the statutory time frame that would enable those persons to vote in the primary election.

C. Voters registered as independent are not excluded from making qualifying contributions but shall be registered within the statutory time frame as independent.

D. A payment, gift or anything of value shall not be given in exchange for a qualifying contribution."

### **Chapter 57 Section 3 Laws 2021**

SECTION 3. Section 1-19A-10 NMSA 1978 (being Laws 2003, Chapter 14, Section 10, as amended) is amended to read:

"1-19A-10. PUBLIC ELECTION FUND--CREATION--USE.--

A. There is created in the state treasury the "public election fund" solely for the purposes of:

- (1) financing the election campaigns of certified candidates for covered offices;
- (2) paying administrative and enforcement costs of the Voter Action Act; and
- (3) carrying out all other specified provisions of the Voter Action Act.

B. The state treasurer shall invest the funds as other state funds are invested, and all income derived from the fund shall be credited directly to the fund. Remaining balances at the end of a fiscal year shall remain in the fund and not revert to the general fund.

C. Money received from the following sources shall be deposited directly into the fund:

- (1) qualifying contributions that have been submitted to the secretary;



(2) any recurring balance of unspent fund money distributed to a certified candidate who does not remain a candidate through the primary or general election period for which the money was distributed;

(3) money that remains unspent or unencumbered by a certified candidate following the date of the primary election;

(4) money that remains unspent or unencumbered by a certified candidate following the date of the general election;

(5) unspent contributions to a candidate;

(6) money distributed to the fund from funds received pursuant to the Uniform Unclaimed Property Act (1995); and

(7) money appropriated by the legislature or as otherwise provided by law."

## **Chapter 57 Section 4 Laws 2021**

SECTION 4. Section 1-19A-13 NMSA 1978 (being Laws 2003, Chapter 14, Section 13, as amended) is amended to read:

"1-19A-13. AMOUNT OF FUND DISTRIBUTION.--

A. By September 1 of each odd-numbered year, the secretary shall determine the amount of money to be distributed to each certified candidate for the election cycle ending with the next general election, based on the type of election and the provisions of Subsections B through G of this section.

B. For contested primary elections, the amount of money to be distributed to a certified candidate is equal to the following:

(1) for the office of district judge, for each voter of the candidate's party in the district of the office for which the candidate is running:

(a) fifteen cents (\$.15) in a district with four hundred thousand or more voters;

(b) twenty-five cents (\$.25) in a district with two hundred thousand or more but fewer than four hundred thousand voters;

(c) forty cents (\$.40) in a district with one hundred thousand or more but fewer than two hundred thousand voters; and

(d) fifty-five cents (\$.55) in a district with fewer than one hundred thousand voters; and

(2) for the office of justice of the supreme court or judge of the court of appeals, fifteen cents (\$.15) for each voter of the candidate's party in the state.

C. For uncontested primary elections in which another candidate has filed a declaration of candidacy for nomination in another party's primary for the same office and that candidate's primary is contested, the amount of money to be distributed to a certified candidate is equal to twenty percent of the amount specified in Subsection B of this section.

D. For uncontested primary elections in which another candidate has filed a declaration of candidacy for nomination in another party's primary for the same office, but no primary for the office is contested, the amount of money to be distributed to a certified candidate is equal to the average of the amount each candidate would receive pursuant to Subsection B of this section.

E. For contested general elections, the amount of money to be distributed to a certified candidate is equal to the following:

(1) for the office of district judge, for each voter in the district of the office for which the candidate is running:

(a) fifteen cents (\$.15) in a district with four hundred thousand or more voters;

(b) twenty-five cents (\$.25) in a district with two hundred thousand or more but fewer than four hundred thousand voters;

(c) forty cents (\$.40) in a district with one hundred thousand or more but fewer than two hundred thousand voters; and

(d) fifty-five cents (\$.55) in a district with fewer than one hundred thousand voters; and

(2) for the office of justice of the supreme court or judge of the court of appeals, fifteen cents (\$.15) for each voter in the state.

F. If a general election race that is initially uncontested later becomes contested because of the qualification of a candidate for that race, an amount of money shall be distributed to the certified candidate to make that candidate's distribution amount equal to the amount distributed pursuant to Subsection E of this section.

G. Once the certification for candidates for the primary election has been completed, the secretary shall calculate the total amount of money to be distributed in the primary election cycle, based on the number of certified candidates and the allocations specified in this section. The secretary shall also prepare an estimate of the total amount of money that might be distributed in the general election cycle. If the total amount to be distributed in the primary election cycle and the estimated total amount to be distributed in the general election cycle taken together exceed the amount expected to be available in the fund, the secretary shall allocate the amount available between the primary and general election cycles. This allocation shall be based on the ratio of the two total amounts.

H. If the allocation specified in Subsection G of this section is greater than the total amount available for distribution, then the amounts to be distributed to individual candidates, specified in Subsections B through F of this section, shall each be reduced by the same percentage as the reduction by which the total amount needed has been reduced relative to the total amount available.

I. At least every two years, the secretary shall evaluate and modify as necessary the dollar values originally determined by Subsections B through F of this section and shall increase the amounts by the percentage of the preceding two calendar years' increase of the consumer price index for all urban consumers, United States city average for all items, published by the United States department of labor.

J. No money shall be distributed to candidates in judicial retention elections, and except as provided in Subsections C, D and F of this section, no money shall be distributed to a candidate in an uncontested election."

## **Chapter 57 Section 5 Laws 2021**

SECTION 5. REPEAL.--Laws 2020, Chapter 9, Sections 10 through 13 are repealed.

# **LAWS 2021, CHAPTER 58**

**Senate Bill 183**  
**Approved April 5, 2021**

AN ACT

RELATING TO CRIMINAL JUSTICE; ENACTING THE UNIFORM COLLATERAL CONSEQUENCES OF CONVICTION ACT.

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

## **Chapter 58 Section 1 Laws 2021**

SECTION 1. SHORT TITLE.--This act may be cited as the "Uniform Collateral Consequences of Conviction Act".

## **Chapter 58 Section 2 Laws 2021**

### SECTION 2. DEFINITIONS.—

As used in the Uniform Collateral Consequences of Conviction Act:

- A. "collateral consequence" means a collateral sanction or a disqualification;
- B. "collateral sanction" means a penalty, disability or disadvantage, however denominated, imposed on an individual as a result of the individual's conviction of an offense that applies by operation of law, whether or not the penalty, disability or disadvantage is included in the judgment or sentence. "Collateral sanction" does not include imprisonment, probation, parole, supervised release, forfeiture, restitution, fine, assessment or costs of prosecution;
- C. "convicted" and "conviction" include an adjudication as a youthful offender or serious youthful offender that results in an adult sentence;
- D. "decision-maker" means the state acting through the following entities or their employees:
  - (1) a department;
  - (2) an agency;
  - (3) an officer; or

(4) an instrumentality, including a political subdivision, an educational institution, a board or a commission or a government contractor, including a subcontractor, made subject to the Uniform Collateral Consequences of Conviction Act by contract, by law other than the Uniform Collateral Consequences of Conviction Act or by ordinance;

E. "disqualification" means a penalty, disability or disadvantage, however denominated, that an administrative agency, governmental official or court in a civil proceeding is authorized, but not required, to impose on an individual on grounds relating to the individual's conviction of an offense;

F. "identification agency" means the New Mexico sentencing commission, acting in conjunction with the district attorneys of New Mexico and the attorney general;

G. "offense" means a felony pursuant to the law of New Mexico, another state or the United States;

H. "person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality or any other legal or commercial entity; and

I. "state" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

## **Chapter 58 Section 3 Laws 2021**

### **SECTION 3. LIMITATION ON SCOPE.--**

A. The Uniform Collateral Consequences of Conviction Act does not provide a basis for:

- (1) invalidating a plea, conviction or sentence;
- (2) a cause of action for money damages; or
- (3) a claim for relief from or defense to the application of a collateral consequence based on a failure to comply with the Uniform Collateral Consequences of Conviction Act.

B. The Uniform Collateral Consequences of Conviction Act does not affect:

- (1) the duty an individual's attorney owes to the individual, except as provided in Section 5 of the Uniform Collateral Consequences of Conviction Act;
- (2) a claim or right of a victim of an offense; or
- (3) a right or remedy pursuant to law other than the Uniform Collateral Consequences of Conviction Act available to an individual convicted of an offense.

## **Chapter 58 Section 4 Laws 2021**

### **SECTION 4. IDENTIFICATION, COLLECTION AND PUBLICATION OF LAWS REGARDING COLLATERAL CONSEQUENCES.--**

A. The identification agency:

- (1) shall identify or cause to be identified:
  - (a) any provision in the constitution of New Mexico and New Mexico's statutes published in the New Mexico Statutes Annotated that imposes a collateral sanction or authorizes the imposition of a disqualification; and

(b) any provision of law that may afford relief from a collateral consequence;

(2) not later than six months after the effective date of the Uniform Collateral Consequences of Conviction Act, shall prepare or cause to be prepared a collection of citations to, and the text or short descriptions of, the provisions identified pursuant to Paragraph (1) of this subsection;

(3) shall update or cause to be updated the collection provided for in Paragraph (2) of this subsection within three months after the laws enacted during each session of the legislature are published in the New Mexico Statutes Annotated; and

(4) in complying with Paragraphs (1) and (2) of this subsection, may rely on the study of New Mexico's collateral sanctions, disqualifications and relief provisions prepared by the national institute of justice described in Section 510 of the federal Court Security Improvement Act of 2007, Pub. L. 110-177.

B. As required by Subsection A of this section, the identification agency shall include or cause to be included the following statements in a prominent manner at the beginning of the collection:

(1) "This collection has not been enacted into law and does not have the force of law.";

(2) "An error or omission in this collection, or in any reference work cited in this collection, is not a reason for invalidating a plea, conviction or sentence or for not imposing a collateral sanction or authorizing a disqualification.";

(3) "The laws of other jurisdictions and New Mexico counties and municipalities and the New Mexico Administrative Code are not included in this collection and may impose additional collateral sanctions and authorize additional disqualifications."; and



(4) "This collection does not include any law or other provision regarding the imposition of or relief from a collateral sanction or a disqualification enacted or adopted after [*insert date the collection was prepared or last updated*].".

C. The identification agency shall publish or cause to be published in the manner provided in Subsection D of this section the collection prepared and updated as required by Subsection A of this section. If available, the identification agency shall publish or cause to be published, as part of the collection, the title and internet address of:

(1) the most recent collection of collateral consequences imposed by federal law; and

(2) any provision of federal law that may afford relief from a collateral consequence.

D. The collection provided for in Subsection C of this section shall be published on the website of the identification agency and shall be available to the public on the internet without charge not later than three weeks after it is created or updated.

## **Chapter 58 Section 5 Laws 2021**

### **SECTION 5. NOTICE OF COLLATERAL CONSEQUENCES IN PRETRIAL PROCEEDING AND AT GUILTY PLEA.--**

A. Except as provided in Subsection C of this section, counsel representing an individual charged with an offense shall cause written notice substantially similar to the following to be communicated to the individual:

"NOTICE OF ADDITIONAL LEGAL CONSEQUENCES

If you plead guilty or no contest to an offense, or are convicted of an offense, you may suffer additional legal consequences beyond jail or prison, probation, periods of parole and fines. These consequences may include:

1. being unable to get or keep some licenses, permits or jobs;
2. being unable to get or keep benefits such as public housing or education;
3. receiving a harsher sentence if you are convicted of another offense in the future;
4. having the government take your property; and
5. being unable to vote or possess a firearm.

If you are not a United States citizen, a guilty plea or no contest plea or conviction may also result in your deportation, removal or exclusion from admission to the United States or denial of citizenship.

The law may provide ways to obtain some relief from these consequences.

Further information about the consequences of conviction is available on the internet at [*insert internet address of the collection of laws published pursuant to Subsections C and D of Section 4 of the Uniform Collateral Consequences of Conviction Act*]."

B. Before a court accepts a plea of guilty or no contest from an individual, the court shall confirm that the individual received and understands the notice required by Subsection A of this section and has had an opportunity to discuss the notice with counsel.

C. The notice required pursuant to Subsection A of this section need not be given until six months have elapsed after the collection of laws required pursuant to

Section 4 of the Uniform Collateral Consequences of Conviction Act is first available on the internet pursuant to Subsections C and D of Section 4 of that act.

D. This section does not limit the duty that an individual's counsel otherwise owes to the individual.

## **Chapter 58 Section 6 Laws 2021**

### **SECTION 6. NOTICE OF COLLATERAL CONSEQUENCES AT SENTENCING AND UPON RELEASE.--**

A. An individual convicted of an offense shall be given notice as provided in Subsections B and C of this section:

- (1) that collateral consequences may apply because of the conviction;
- (2) of the internet address of the collection of laws published pursuant to Subsections C and D of Section 4 of the Uniform Collateral Consequences of Conviction Act;
- (3) that there may be ways to obtain relief from collateral consequences;
- (4) of contact information for government or nonprofit agencies, groups or organizations, if any, offering assistance to individuals seeking relief from collateral consequences; and
- (5) of when an individual convicted of an offense may vote pursuant to New Mexico law.

B. Except as provided in Subsection D of this section, the court shall provide the notice set forth in Subsection A of this section as a part of sentencing.

C. Except as provided in Subsection D of this section, if an individual is sentenced to imprisonment or other incarceration, the officer or agency releasing the individual shall provide the notice set forth in Subsection A of this section not more than thirty and, if practicable, at least five days before release.

D. The notice required pursuant to Subsection A of this section need not be given until six months have elapsed after the collection of laws required pursuant to Section 4 of the Uniform Collateral Consequences of Conviction Act is first available on the internet pursuant to Subsections C and D of Section 4 of that act.

## **Chapter 58 Section 7 Laws 2021**

### **SECTION 7. AUTHORIZATION REQUIRED FOR COLLATERAL SANCTION-- AMBIGUITY.--**

A. A collateral sanction may be imposed only by statute or ordinance or by a rule authorized by law and adopted in accordance with applicable law.

B. A law creating a collateral consequence that is ambiguous as to whether it imposes a collateral sanction or authorizes a disqualification shall be construed as authorizing a disqualification.

## **Chapter 58 Section 8 Laws 2021**

**SECTION 8. DECISION TO DISQUALIFY.--**In deciding whether to impose a disqualification, a decision-maker shall undertake an individualized assessment to determine whether the benefit or opportunity at issue should be denied the individual. In making that decision, the decision-maker may consider, if substantially related to the benefit or opportunity at issue, the particular facts and circumstances involved in the offense and the essential elements of the offense. A conviction itself shall not be considered except as having established the elements of the offense. The decision-maker shall also consider other relevant information, including the effect on third parties

of granting the benefit or opportunity and whether the individual has been granted relief such as an order of limited relief.

## **Chapter 58 Section 9 Laws 2021**

### **SECTION 9. EFFECT OF CONVICTION BY ANOTHER STATE OR THE UNITED STATES--RELIEVED OR PARDONED CONVICTION.--**

A. For purposes of authorizing or imposing a collateral consequence in New Mexico, a conviction of an offense in a court of another state or the United States is deemed a conviction of the offense in New Mexico with the same elements. If there is no offense in New Mexico with the same elements, the conviction is deemed a conviction of the most serious offense in New Mexico that is established by the elements of the offense. A misdemeanor in the jurisdiction of conviction shall not be deemed a felony in New Mexico, and an offense lesser than a misdemeanor in the jurisdiction of conviction shall not be deemed a conviction of a felony or misdemeanor in New Mexico.

B. For purposes of authorizing or imposing a collateral consequence in New Mexico, a juvenile adjudication in another state or the United States shall not be deemed a conviction of a felony, misdemeanor or offense lesser than a misdemeanor in New Mexico.

C. A conviction that is reversed, overturned or otherwise vacated by a court of competent jurisdiction of New Mexico, another state or the United States on grounds other than rehabilitation or good behavior shall not serve as the basis for authorizing or imposing a collateral consequence in New Mexico.

D. A pardon issued by another state or the United States has the same effect for purposes of authorizing, imposing and relieving a collateral consequence in New Mexico as it has in the issuing jurisdiction.

E. A conviction that has been relieved by expungement, sealing, annulment, set-aside or vacation by a court of competent jurisdiction of another state or the United States on grounds of rehabilitation or good behavior, or for which civil rights are restored pursuant to statute, has the same effect for purposes of authorizing or imposing collateral consequences in New Mexico as it has in the jurisdiction of conviction; provided, however, that such relief or restoration of civil rights does not relieve collateral consequences applicable pursuant to the law of New Mexico for which relief could not be granted pursuant to Section 11 of the Uniform Collateral Consequences of Conviction Act or for which relief was expressly withheld by the court order or by the law of the jurisdiction that relieved the conviction. An individual convicted in another jurisdiction may seek relief pursuant to Section 10 of the Uniform Collateral Consequences of Conviction Act from any collateral consequence for which relief was not granted in the issuing jurisdiction except those consequences listed in Section 11 of that act.

F. A charge or prosecution in any jurisdiction that has been finally terminated without a conviction and imposition of sentence based on participation in a deferred adjudication or diversion program shall not serve as the basis for authorizing or imposing a collateral consequence in New Mexico. This subsection does not affect the validity of any restriction or condition imposed by law as part of participation in the deferred adjudication or diversion program before or after the termination of the charge or prosecution.

## **Chapter 58 Section 10 Laws 2021**

### **SECTION 10. ORDER OF LIMITED RELIEF.--**

A. An individual convicted of an offense may petition for an order of limited relief from one or more collateral sanctions related to employment, education, housing, public benefits or occupational licensing. The petition shall be presented to the sentencing court before sentencing.

B. Except as otherwise provided in Section 11 of the Uniform Collateral Consequences of Conviction Act, the court may issue an order of limited relief relieving one or more of the collateral sanctions described in Subsection A of this section only if, after reviewing the petition, the individual's criminal history, any filing by a victim pursuant to Section 14 of the Uniform Collateral Consequences of Conviction Act or a prosecutor and any other relevant evidence, the court finds the individual has established by a preponderance of the evidence that:

(1) granting the petition will materially assist the individual in obtaining or maintaining employment, education, housing, public benefits or occupational licensing;

(2) the individual has substantial need for the relief requested in order to live a law-abiding life; and

(3) granting the petition would not pose an unreasonable risk to the safety or welfare of the public or any individual.

C. An order of limited relief may be issued as a part of sentencing. The order of limited relief shall specify:

(1) the collateral sanction from which relief is granted; and

(2) any restriction imposed pursuant to Subsection A of Section 12 of the Uniform Collateral Consequences of Conviction Act.

D. An order of limited relief relieves a collateral sanction to the extent provided in the order.

E. If a collateral sanction has been relieved pursuant to this section, a decision-maker may consider the conduct underlying a conviction as provided in Section 8 of the Uniform Collateral Consequences of Conviction Act.

## **Chapter 58 Section 11 Laws 2021**

SECTION 11. COLLATERAL SANCTIONS NOT SUBJECT TO ORDER OF LIMITED RELIEF.--An order of limited relief shall not be issued to relieve the following collateral sanctions:

- A. requirements imposed by the Sex Offender Registration and Notification Act;
- B. a motor vehicle license suspension, revocation, limitation or ineligibility pursuant to the Motor Vehicle Code, for which restoration or relief is available pursuant to law other than the Uniform Collateral Consequences of Conviction Act;
- C. ineligibility for certification as a law enforcement officer pursuant to the Law Enforcement Training Act or for employment as a correctional officer pursuant to the Corrections Act; or
- D. prohibitions imposed pursuant to Section 30-7-16 NMSA 1978 making it unlawful for felons to receive, transport or possess a firearm or destructive device while in this state.

## **Chapter 58 Section 12 Laws 2021**

SECTION 12. ISSUANCE OF ORDER OF LIMITED RELIEF.--

- A. The prosecutor shall be notified of a request for an order of limited relief. The court may issue an order of limited relief subject to restriction, condition or additional requirement.
- B. The court shall order any test, report, investigation or disclosure by the individual it reasonably believes necessary to its decision to issue an order of limited relief. If there are disputed issues of material fact or law, the individual and any



prosecutor notified pursuant to Subsection A of this section or another prosecutorial agency designated by a prosecutor notified pursuant to Subsection A of this section may submit evidence and be heard on those issues.

### **Chapter 58 Section 13 Laws 2021**

SECTION 13. RELIANCE ON ORDER AS EVIDENCE OF DUE CARE.--In a judicial or administrative proceeding alleging negligence or other fault, an order of limited relief may be introduced as evidence of a person's due care in hiring, retaining, licensing, leasing to, admitting to a school or program or otherwise transacting business or engaging in activity with the individual to whom the order was issued if the person knew of the order at the time of the alleged negligence or other fault.

### **Chapter 58 Section 14 Laws 2021**

SECTION 14. VICTIM'S RIGHTS.--A victim of an offense may participate in a proceeding for issuance of an order of limited relief in the same manner as at a sentencing proceeding pursuant to the Victims of Crime Act.

### **Chapter 58 Section 15 Laws 2021**

SECTION 15. UNIFORMITY OF APPLICATION AND CONSTRUCTION.--In applying and construing the Uniform Collateral Consequences of Conviction Act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

### **Chapter 58 Section 16 Laws 2021**

SECTION 16. SAVING AND TRANSITIONAL PROVISIONS.--

A. Except as provided in Subsection B of this section, the Uniform Collateral Consequences of Conviction Act applies to collateral consequences whenever enacted

or imposed unless the law creating the collateral consequence expressly states that the Uniform Collateral Consequences of Conviction Act does not apply.

B. The Uniform Collateral Consequences of Conviction Act does not apply to the imposition of a collateral sanction on an individual until the date that is six months after the collection of laws required pursuant to Section 4 of the Uniform Collateral Consequences of Conviction Act is first available on the internet pursuant to Subsections C and D of Section 4 of that act, but a collateral sanction validly imposed before that date may be the subject of relief pursuant to that act.

## **Chapter 58 Section 17 Laws 2021**

SECTION 17. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2022.

## **LAWS 2021, CHAPTER 59**

**Senate Bill 186, aa**  
**Approved April 5, 2021**

AN ACT

RELATING TO TRANSPORTATION; TRANSFERRING CERTAIN AUTHORITY AND ADMINISTRATIVE DUTIES FROM THE DEPARTMENT OF PUBLIC SAFETY TO THE DEPARTMENT OF TRANSPORTATION.

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

## **Chapter 59 Section 1 Laws 2021**

SECTION 1. Section 7-15-2.1 NMSA 1978 (being Laws 1988, Chapter 73, Section 23, as amended) is amended to read:

"7-15-2.1. DEFINITIONS.--As used in the Trip Tax Act:

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

B. "commercial motor carrier vehicle" means any motor vehicle with a gross weight of twelve thousand pounds or more used or reserved for use in the transportation of persons, property or merchandise for hire, compensation or profit or in the furtherance of a commercial enterprise or any vehicle used or maintained primarily for the transportation of property or merchandise or for drawing other vehicles so used or maintained;

C. "department" means the department of transportation, the secretary of transportation and any employee of the department of transportation exercising authority lawfully delegated to that employee by the secretary;

D. "gross vehicle weight" means the weight of a vehicle without load, plus the weight of any load;

E. "motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from batteries or from overhead trolley wires, but not operated upon rails;

F. "registrant" means the person who has registered the vehicle pursuant to the laws of this state or another state;

G. "trip tax" means the use fee imposed under the Trip Tax Act; and

H. "vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including any frame, chassis or body of any vehicle or motor vehicle, except devices moved by human power or used exclusively upon stationary rails or tracks."

## **Chapter 59 Section 2 Laws 2021**

SECTION 2. Section 7-15A-12 NMSA 1978 (being Laws 2003 (1st S.S.), Chapter 3, Section 6) is amended to read:

"7-15A-12. WEIGHT DISTANCE TAX IDENTIFICATION PERMITS--  
SUSPENSION AND RENEWAL.--

A. An operator of a motor vehicle registered in this state and subject to the weight distance tax shall display a weight distance tax identification permit issued for that vehicle to an enforcement officer of the department of public safety upon demand of that employee and when the vehicle passes through a port of entry.

B. The department may suspend or decline to renew a weight distance tax identification permit for a motor vehicle if the owner or operator of the vehicle does not comply with the provisions of the Weight Distance Tax Act.

C. The department of transportation may collect delinquent weight distance tax on behalf of the taxation and revenue department at ports of entry operated by the department of transportation."

## **Chapter 59 Section 3 Laws 2021**

SECTION 3. Section 7-15A-14 NMSA 1978 (being Laws 2003 (1st S.S.), Chapter 3, Section 8, as amended) is amended to read:

"7-15A-14. WEIGHT DISTANCE TAX IDENTIFICATION PERMIT FUND.--The "weight distance tax identification permit fund" is created in the state treasury. The purpose of the fund is to provide an account from which the department and the department of transportation may pay the costs of issuing and administering weight distance tax identification permits and of enforcing weight distance tax compliance. The fund shall consist of administrative fees collected pursuant to the Weight Distance Tax

Act. Money in the fund shall be appropriated to the department and the department of transportation to pay for the cost of issuance and administration of weight distance tax identification permits and of enforcement by the department and the department of transportation of weight distance tax compliance for motor carriers with the provisions of the Weight Distance Tax Act. Disbursements from the fund shall be by warrant of the secretary of finance and administration upon vouchers signed by the secretary or the secretary's authorized representative. Money in the fund shall not revert to the general fund at the end of a fiscal year."

## **Chapter 59 Section 4 Laws 2021**

SECTION 4. Section 7-16A-19 NMSA 1978 (being Laws 1992, Chapter 51, Section 19, as amended) is amended to read:

"7-16A-19. SPECIAL FUEL USER PERMITS--VIOLATION.--

A. A special fuel user whose vehicle is not registered with the department shall acquire from the department of transportation, before operating the vehicle on New Mexico highways:

(1) a temporary special fuel user permit valid for one calendar day only or for one entry into and one exit out of New Mexico; or

(2) a border crossing special fuel user permit, as provided for in Section 7-16A-19.1 NMSA 1978.

B. A special fuel user applying for a temporary special fuel user permit shall apply for the permit on a form approved by the department.

C. The fee for a temporary special fuel user permit is five dollars (\$5.00) for each motor vehicle.

D. It is a violation of the Special Fuels Supplier Tax Act for a person to act as a temporary special fuel user without possessing a valid temporary special fuel user permit issued by the department of transportation.

E. It is a violation of the Special Fuels Supplier Tax Act for a person holding a valid border crossing special fuel user permit to travel in the motor carrier vehicle for which the permit was issued on New Mexico highways outside the area in which the permit authorizes travel, unless the person may otherwise under law engage in that travel. In addition to any other penalty that may apply, a person who violates this provision is subject to a fine of three hundred dollars (\$300)."

## **Chapter 59 Section 5 Laws 2021**

SECTION 5. Section 7-16A-19.1 NMSA 1978 (being Laws 2018, Chapter 77, Section 1) is amended to read:

### "7-16A-19.1. BORDER CROSSING SPECIAL FUEL USER PERMIT.--

A. A special fuel user who operates a commercial motor carrier vehicle registered or titled in Mexico, who is engaged primarily in movement across the New Mexico-Mexico border and into or from an international border commercial zone and whose exclusive use of New Mexico highways is limited to an area within ten miles of the New Mexico-Mexico border may apply for, on a form approved by the department of transportation, a quarterly, semi-annual or annual border crossing special fuel user permit. The department of transportation shall issue the permit if it approves the application and upon payment of the fee for the permit.

B. The department of transportation shall establish by rule the amount, which shall not exceed the following, of fees for border crossing special fuel user permits:

- (1) for a quarterly permit, one hundred twenty-five dollars (\$125);

- (2) for a semi-annual permit, two hundred dollars (\$200); and
- (3) for an annual permit, three hundred fifty dollars (\$350).

C. As used in this section, "international border commercial zone" means that part of a commercial zone established by a law of the United States that extends into New Mexico."

## **Chapter 59 Section 6 Laws 2021**

SECTION 6. Section 65-1-11 NMSA 1978 (being Laws 1967, Chapter 97, Section 13, as amended) is amended to read:

"65-1-11. PORTS OF ENTRY.--The department of transportation shall designate the main highways upon which motor carriers shall enter and leave the state and shall designate stations or establish places, either temporary or permanent, where inspection, registration and permit services shall be maintained and shall provide the necessary right of way, approach roads, ramps and other road facilities required for ports of entry."

## **Chapter 59 Section 7 Laws 2021**

SECTION 7. Section 65-1-28 NMSA 1978 (being Laws 1987, Chapter 128, Section 1, as amended) is amended to read:

"65-1-28. PAYMENT BY CREDIT CARD--OPTIONAL SERVICES--FEES--APPROPRIATIONS.--

A. Notwithstanding any other provision of law, the department is authorized to enter into agreements with financial institutions and credit card companies under which the department may accept payment by credit card from motor carriers of the taxes, fees or other charges due pursuant to the Motor Transportation Act, Motor

Vehicle Code, Trip Tax Act or Weight Distance Tax Act. Any fee payable to the financial institution or credit card company for a payment by credit card authorized under this section may be deducted from the proceeds of the taxes, fees or other charges paid on a pro-rata basis prior to any other distribution of the proceeds required by law. The necessary portion of the proceeds of the taxes, fees and other charges collected under this subsection is appropriated for the purpose of paying the fee payable to the financial institution or credit card company.

B. The secretary is authorized to establish by regulation fees to cover the expense of providing additional services for the convenience of the motoring public. Any service established for which a fee is adopted under this section shall be optional, with the fee not being charged to any person not taking advantage of the service. Amounts collected pursuant to this subsection are appropriated to the department for the purpose of defraying the expense of providing the service.

C. Notwithstanding any other provision of law, the department of transportation is authorized to enter into agreements with financial institutions and credit card companies under which the department of transportation may accept payment by credit card from motor carriers of the taxes, fees or other charges due pursuant to the Trip Tax Act or the Weight Distance Tax Act. Any fee payable to the financial institution or credit card company for a payment by credit card authorized under this section may be deducted from the proceeds of the taxes, fees or other charges paid on a pro-rata basis prior to any other distribution of the proceeds required by law. The necessary portion of the proceeds of the taxes, fees and other charges collected under this subsection is hereby appropriated for the purpose of paying the fee payable to the financial institution or credit card company."

## **Chapter 59 Section 8 Laws 2021**

SECTION 8. Section 65-1-28.1 NMSA 1978 (being Laws 1992, Chapter 106, Section 12) is amended to read:



"65-1-28.1. SPECIAL METHODS OF PAYMENT.--The department and the department of transportation may require the motor carriers specified in this section to make payment of taxes, fees and other charges due under the Motor Transportation Act, Motor Vehicle Code, Trip Tax Act or Weight Distance Tax Act by credit card, certified check or other method of guaranteed payment. The provisions of this section apply to any motor carrier whose check in payment of any amount due under any act administered by the department has been dishonored upon presentment on two or more occasions within the previous two years."

## **Chapter 59 Section 9 Laws 2021**

SECTION 9. Section 66-3-302 NMSA 1978 (being Laws 1978, Chapter 35, Section 78, as amended) is amended to read:

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

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

- (1) a valid New Mexico registration plate;
- (2) a valid dealer's plate issued by the department;
- (3) a special permit for the use of the highways of this state for the transportation of the vehicle in the manner in which the vehicle is being transported, which has first been obtained and the fee paid as specified in this section; or

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

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

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

## **Chapter 59 Section 10 Laws 2021**

SECTION 10. Section 66-7-404 NMSA 1978 (being Laws 1978, Chapter 35, Section 475, as amended) is amended to read:

"66-7-404. HEIGHT AND LENGTH OF VEHICLES AND LOADS.--

A. A vehicle shall not exceed a height of fourteen feet.

B. A vehicle shall not exceed a length of forty feet extreme overall dimension and no motor home shall exceed a length of forty-five feet extreme overall dimension, exclusive of front and rear bumpers, except when operated in combination with another vehicle as provided in this section. A bus may exceed a length of forty-five feet when operating on national network highways. A combination of vehicles, unless otherwise exempted in this section, shall not exceed an overall length of sixty-five feet, exclusive of front and rear bumpers.

C. A combination of vehicles coupled together shall not consist of more than two units, except:

(1) a truck tractor and semitrailer shall be permitted to pull one trailer;

(2) a vehicle shall be permitted to pull two units, provided that the middle unit is equipped with brakes and has a weight equal to or greater than the last unit and the total combined gross weight of the towed units does not exceed the manufacturer's stated gross weight of the towing units;

(3) a double or triple saddle-mount or fifth wheel mount of vehicles in transit by driveaway-towaway methods shall be permitted;

(4) vehicles and trailers operated by or under contract for municipal refuse systems;

(5) farm trailers, implements of husbandry and fertilizer trailers operated by or under contract to a farmer or rancher in farming or ranching operations; and

(6) as provided in Subsections D through G of this section.

D. Exclusive of safety and energy conservation devices, refrigeration units and other devices such as coupling devices, vehicles operating a truck tractor semitrailer or truck tractor semitrailer-trailer combinations on the interstate highway system and those qualifying federal aid primary system highways designated by the secretary of the United States department of transportation, pursuant to the federal Surface Transportation Assistance Act of 1982, Public Law 97-424, Section 411, and on those highways designated by the department of transportation by rule may exceed an overall length limitation of sixty-five feet, provided that the length of the semitrailer in a truck tractor semitrailer combination does not exceed fifty-seven feet six inches and the length of the semitrailer or trailer in a truck tractor semitrailer-trailer combination does not exceed twenty-eight feet six inches. The department of transportation shall adopt rules and regulations granting reasonable access to terminals, facilities for food, fuel, repairs and rest and points of loading and unloading for household goods carriers to vehicles operating in combination pursuant to this subsection. As used in this subsection, "truck tractor" means a non-cargo carrying power unit designed to operate in combination with a semitrailer or trailer, except that a truck tractor and semitrailer engaged in the transportation of automobiles may transport motor vehicles on part of the truck tractor.

E. The following combination vehicles are specialized equipment and may exceed an overall length of sixty-five feet pursuant to the Code of Federal Regulations, Title 23, Section 658.13:

- (1) automobile transporters;
- (2) boat transporters;
- (3) beverage semitrailers; and
- (4) munitions carriers using dromedary equipment.

F. A saddle-mount vehicle is specialized equipment and may not exceed an overall length of ninety-seven feet pursuant to the Code of Federal Regulations, Title 23, Section 658.13.

G. Notwithstanding any other subsection of this section, a trailer or semitrailer combination of such dimensions as those that were in actual and lawful use in this state on December 1, 1982 may be lawfully operated on the highways of this state."

## **Chapter 59 Section 11 Laws 2021**

SECTION 11. Section 66-7-411 NMSA 1978 (being Laws 1978, Chapter 35, Section 482, as amended) is amended to read:

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

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

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

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

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

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

## **Chapter 59 Section 12 Laws 2021**

SECTION 12. Section 66-7-412 NMSA 1978 (being Laws 1959, Chapter 247, Section 1, as amended) is amended to read:

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

## **Chapter 59 Section 13 Laws 2021**

SECTION 13. Section 66-7-413 NMSA 1978 (being Laws 1978, Chapter 35, Section 484, as amended) is amended to read:

"66-7-413. PERMITS FOR EXCESSIVE SIZE AND WEIGHT--SPECIAL NOTIFICATION REQUIRED ON MOVEMENT OF MANUFACTURED HOMES.--

A. The department of transportation and local highway authorities may, in their discretion, upon application in writing and good cause being shown, issue a special permit in writing authorizing the applicant to operate or move a vehicle or load of a size or weight exceeding the maximum specified in Sections 66-7-401 through 66-7-416 NMSA 1978 on a highway under the jurisdiction of the state transportation commission or local authorities. Except for the movement of manufactured homes, a permit may be granted, in cases of emergency, for the transportation of loads on a certain unit or combination of equipment for a specified period of time not to exceed one year, and the permit shall contain the route to be traversed, the type of load to be transported and any other restrictions or conditions deemed necessary by the body granting the permit. In every other case, the permit shall be issued for a single trip and may designate the route to be traversed and contain any other restrictions or conditions deemed necessary by the body granting the permit. Every permit shall be carried in the vehicle to which it refers and shall be opened for inspection to any peace officer. It is a misdemeanor for a person to violate a condition or term of the special permit.

B. The department of transportation shall promulgate rules in accordance with the State Rules Act pertaining to safety practices, liability insurance and equipment for escort vehicles provided by the motor carrier and for escort vehicles provided by a private business in this state.

(1) The department of public safety or the department of transportation shall provide the escort personnel with a copy of applicable rules and shall inspect the escort vehicles for the safety equipment required by the rules. If the escort vehicles and personnel meet the requirements set forth in the rules, the department of public safety shall issue the special permit.

(2) The movement of vehicles upon the highways of this state requiring a special permit and required to use an escort of the type noted in Paragraph (1) of this

subsection is subject to the authority of the department of transportation and the department of public safety and to inspection at all times.

(3) The department of transportation shall conduct engineering investigations and engineering inspections to determine which four-lane highways are safe for the operation or movement of manufactured homes without an escort. After making that determination, the department of transportation shall hold public hearings in the area of the state affected by the determination, after which it may adopt rules designating those four-lane highways as being safe for the operation or movement of manufactured homes without an escort. If a portion of such a four-lane highway lies within the boundaries of a municipality, the department of transportation, after obtaining the approval of the municipal governing body, shall include such portions in its rules.

C. Except for the movement of manufactured homes, special permits may be issued for a single vehicle or combination of vehicles by the department of transportation for a period not to exceed one year for a fee of two hundred fifty dollars (\$250). The special permits may allow excessive height, length and width for a vehicle or combination of vehicles or load thereon and may include a provision for excessive weight if the weight of the vehicle or combination of vehicles is not greater than one hundred forty thousand pounds. Utility service vehicles, operating with special permits pursuant to this subsection, shall be exempt from prohibitions or restrictions relating to hours or days of operation or restrictions on movement because of poor weather conditions.

D. Special permits for a single trip for a vehicle or combination of vehicles or load thereon of excessive weight, width, length and height may be issued by the department of transportation for a single vehicle for a fee of twenty-five dollars (\$25.00) plus the product of two and one-half cents (\$.025) for each two thousand pounds in excess of eighty-six thousand four hundred pounds or major fraction thereof multiplied by the number of miles to be traveled by the vehicle or combination of vehicles on the highways of this state.



E. If a vehicle for which a permit is issued pursuant to this section is a manufactured home, the department of transportation or local highway authority issuing the permit shall furnish the following information to the property tax division of the taxation and revenue department, which shall forward the information:

(1) to the county assessor of a county from which a manufactured home is being moved, the date the permit was issued, the location being moved from, the location being moved to if within the same county, the name of the owner of the manufactured home and the identification and registration numbers of the manufactured home;

(2) to the county assessor of any county in this state to which a manufactured home is being moved, the date the permit was issued, the location being moved from, the location being moved to, the name of the owner of the manufactured home and the registration and identification numbers of the manufactured home; and

(3) to the owner of a manufactured home having a destination in this state, notification that the information required in Paragraphs (1) and (2) of this subsection is being given to the respective county assessors and that manufactured homes are subject to property taxation.

F. Except as provided in Subsection G of this section, if the movement of a manufactured home originates in this state, a permit shall not be issued pursuant to Subsection E of this section until the owner of the manufactured home or the authorized agent of the owner obtains and presents to the department of transportation proof that a certificate has been issued by the county assessor or treasurer of the county in which the manufactured home movement originates showing that either:

(1) all property taxes due or to become due on the manufactured home for the current tax year or any past tax years have been paid, except for manufactured homes located on an Indian reservation; or

(2) liability for property taxes on the manufactured home does not exist for the current tax year or a past tax year, except for manufactured homes located on an Indian reservation.

G. The movement of a manufactured home from the lot or business location of a manufactured home dealer to its destination designated by an owner-purchaser is not subject to the requirements of Subsection F of this section if the manufactured home movement originates from the lot or business location of the dealer and the manufactured home was part of the dealer's inventory prior to the sale to the owner-purchaser; however, the movement of a manufactured home by a dealer or the dealer's authorized agent as a result of a sale or trade-in from a nondealer-owner is subject to the requirements of Subsection F of this section whether the destination is the business location of a dealer or some other destination.

H. A permit shall not be issued pursuant to this section for movement of a manufactured home whose width exceeds eighteen feet with no more than a six-inch roof overhang on the left side or twelve inches on the right side in addition to the eighteen-foot width of the manufactured home. Manufactured homes exceeding the limitations of this section shall only be moved on dollies placed on the front and the rear of the structure.

I. The secretary of transportation may by rule provide for movers of manufactured homes to self-issue permits for certain sizes of manufactured homes over specific routes. The cost of a permit shall not be less than twenty-five dollars (\$25.00).

J. The secretary of transportation may provide by rule for dealers of implements of husbandry to self-issue permits for the movement of certain sizes of implements of husbandry from the lot or business location of the dealer over specific routes with specific escort requirements, if necessary, to a destination designated by an owner-purchaser or for purposes of a working demonstration on the property of a proposed owner-purchaser. The department of transportation shall charge a fee for each self-issued permit not to exceed fifteen dollars (\$15.00).

K. A private motor carrier requesting an oversize or overweight permit shall provide proof of insurance in at least the following amounts:

(1) bodily injury liability, providing:

(a) fifty thousand dollars (\$50,000) for each person; and

(b) one hundred thousand dollars (\$100,000) for each accident;

and

(2) property damage liability, providing twenty-five thousand dollars (\$25,000) for each accident.

L. A motor carrier requesting an oversize permit shall produce a copy of a warrant or a single state registration receipt as evidence that the motor carrier maintains the insurance minimums prescribed by the public regulation commission.

M. The department of transportation may provide by rule the time periods during which a vehicle or load of a size or weight exceeding the maximum specified in Sections 66-7-401 through 66-7-416 NMSA 1978 may be operated or moved by a motor carrier on a highway under the jurisdiction of the state transportation commission or local authorities.

N. An applicant for a special permit to operate a vehicle or combination of vehicles with a gross weight not exceeding ninety-six thousand pounds within six miles of the port of entry at the border with Mexico at Santa Teresa or within a circular quadrant starting at that port of entry with an east boundary line running due north twelve miles from the Santa Teresa port of entry to a point, then along an arc to the west with a twelve-mile radius and central angle of approximately ninety degrees to a point on the international boundary with Mexico, then returning due east twelve miles to the starting point at that port of entry, and twelve miles of other ports of entry on the border with Mexico shall not be required to demonstrate to the department of

transportation that the load cannot be reduced as a condition of the issuance of the permit.

O. Revenue from fees for special permits authorizing vehicles and loads of excessive size or weight to operate or move upon a highway under the jurisdiction of the state transportation commission or local authorities shall be collected for the department of transportation and transferred to the state road fund."

## **Chapter 59 Section 14 Laws 2021**

SECTION 14. Section 66-7-413.2 NMSA 1978 (being Laws 1989, Chapter 291, Section 1, as amended) is amended to read:

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

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

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

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

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

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

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

B. The department of transportation shall adopt the necessary rules for the development of data for an investigation to determine whether to issue any special permit pursuant to Section 66-7-413 NMSA 1978.

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

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

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

## **Chapter 59 Section 15 Laws 2021**

SECTION 15. Section 66-7-413.4 NMSA 1978 (being Laws 2001, Chapter 20, Section 2, as amended) is amended to read:

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

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

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

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

## Chapter 59 Section 16 Laws 2021

SECTION 16. Section 66-7-413.5 NMSA 1978 (being Laws 2003, Chapter 333, Section 1) is amended to read:

"66-7-413.5. EXEMPTION--VEHICLES USED TO TRANSPORT SEED COTTON MODULES--LIMITATIONS.--

A. A seed cotton module transport vehicle may transport loads without securing a permit or escort if:

- (1) the vehicle is:
  - (a) no wider than nine feet;
  - (b) no longer than forty-eight feet; and
  - (c) no higher than fourteen feet six inches;
- (2) the load is not transported for a distance greater than one hundred miles;
- (3) the gross vehicle weight of the vehicle is less than fifty-nine thousand four hundred pounds;
- (4) the vehicle is marked on the front and the rear with "OVERSIZED LOAD" signs; and
- (5) the vehicle is not operated on highways for which a more strict size or weight limitation is required by federal law.

B. If the owner of a seed cotton module transport vehicle transports a load of more than fifty-nine thousand four hundred pounds, the owner is liable to the state, county or municipality for damage to a highway, street, road or bridge caused by the weight of the load and transport.

C. If the seed cotton module transport vehicle is not operated on routes identified by the department of transportation as having deficient bridge structures, the owner or operator shall obtain and have in possession the deficient bridge information from the department on an annual basis.

D. As used in this section, "seed cotton module transport vehicle" means a motor vehicle, trailer or combination of motor vehicle with trailer used exclusively to transport a seed cotton module."

## **Chapter 59 Section 17 Laws 2021**

SECTION 17. Section 66-7-413.7 NMSA 1978 (being Laws 2008, Chapter 63, Section 2) is amended to read:

"66-7-413.7. MULTIPLE TRIP SPECIAL PERMIT ALLOWANCE--FEE--  
VEHICLES USED TO TRANSPORT AGRICULTURAL PRODUCTS--LIMITATIONS.--

A. An agricultural product transport vehicle may be issued a special permit for an annual fee of two hundred fifty dollars (\$250) to transport loads for multiple trips pursuant to Section 66-7-413 NMSA 1978. The area covered by the special permit shall be specified on the permit.

B. The multiple trip special permits for agricultural product transport vehicles may be issued for up to five thousand pounds over the gross vehicle weight pursuant to Section 66-7-410 NMSA 1978.



C. An agricultural product transport vehicle shall not be operated on highways for which a more strict size or weight limitation is required by federal law.

D. An agricultural product transport vehicle shall not be operated on routes identified by the department of transportation as having deficient bridge structures. The owner or operator of the agricultural product transport vehicle shall obtain and have in the owner's or operator's possession a copy of the restrictions imposed by the state transportation commission pursuant to Section 66-7-415 NMSA 1978 regarding the size and weight of vehicles operated on a highway under the jurisdiction of that commission.

E. As used in this section, "agricultural product transport vehicle" means a motor vehicle, freight trailer or utility trailer or a combination thereof used exclusively for hauling agricultural products harvested in an agricultural area that lies within New Mexico or within New Mexico and in an adjacent state."

## **LAWS 2021, CHAPTER 60**

**Senate Bill 187**  
**Approved April 5, 2021**

AN ACT

RELATING TO THE TOBACCO SETTLEMENT PERMANENT FUND; REQUIRING THE REMAINING FIFTY PERCENT OF DISTRIBUTIONS TO THE TOBACCO SETTLEMENT PERMANENT FUND FOR FISCAL YEAR 2022 TO BE DISTRIBUTED TO THE TOBACCO SETTLEMENT PROGRAM FUND.

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

## Chapter 60 Section 1 Laws 2021

SECTION 1. Section 6-4-9 NMSA 1978 (being Laws 1999, Chapter 207, Section 1, as amended by Laws 2017, Chapter 2, Section 6 and by Laws 2017, Chapter 80, Section 1) 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 Section 6-4-13 NMSA 1978, enacted pursuant to the master settlement agreement or as otherwise authorized by law. Money in the fund shall be invested by the state investment officer in accordance with the limitations in Article 12, Section 7 of the constitution of New Mexico. Income from investment of the fund shall be credited to the fund. Money in the fund shall not be expended for any purpose, except as provided in this section.

B. In fiscal year 2007 and in each fiscal year thereafter, an annual distribution shall be made from the tobacco settlement permanent fund to the tobacco settlement program fund of an amount equal to fifty percent of the total amount of money distributed to the tobacco settlement permanent fund in that fiscal year until that amount is less than an amount equal to four and seven-tenths percent of the average of the year-end market values of the tobacco settlement permanent fund for the immediately preceding five calendar years. Thereafter, the amount of the annual distribution shall be four and seven-tenths percent of the average of the year-end market values of the tobacco settlement permanent fund for the immediately preceding five calendar years. In the event that the actual amount distributed to the tobacco settlement program fund in a fiscal year is insufficient to meet appropriations from that fund for that fiscal year,

the secretary of finance and administration shall proportionately reduce each appropriation accordingly.

C. In addition to the distribution made pursuant to Subsection B of this section, in fiscal years 2009 through 2013, 2016, 2018 and 2022, the remaining fifty percent of the total amount of money distributed to the tobacco settlement permanent fund in that fiscal year shall be distributed from the tobacco settlement permanent fund to the tobacco settlement program fund.

D. In addition to the distribution made pursuant to Subsections B and E of this section, in fiscal year 2014, twenty-five percent of the total amount of money distributed pursuant to the master settlement agreement to the tobacco settlement permanent fund in that fiscal year shall be distributed from the tobacco settlement permanent fund to the lottery tuition fund.

E. In addition to the distribution made pursuant to Subsections B and D of this section, in fiscal year 2014, twenty-five percent of the total amount of money distributed to the tobacco settlement permanent fund in that fiscal year shall be distributed from the tobacco settlement permanent fund to the tobacco settlement program fund for appropriation for direct services provided by early childhood care and education programs administered by the children, youth and families department.

F. The tobacco settlement permanent fund is a reserve fund of the state. Money in the tobacco settlement permanent fund may be expended:

(1) 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; or

(2) as provided in Laws 2016 (2nd S.S.), Chapter 4, Section 2 and in Laws 2017, Chapter 2, Section 7."

## **LAWS 2021, CHAPTER 61**

**SJC/SHPAC/Senate Bill 190, aa**  
**Approved April 5, 2021**

AN ACT

RELATING TO DISABILITY; AMENDING AND ENACTING SECTIONS OF THE DEVELOPMENTAL DISABILITIES ACT TO MAKE CHANGES TO THE DEVELOPMENTAL DISABILITIES PLANNING COUNCIL MEMBERSHIP, AUTHORIZATION AND DUTIES; RENAMING THE DEVELOPMENTAL DISABILITIES PLANNING COUNCIL AS THE DEVELOPMENTAL DISABILITIES COUNCIL.

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

### **Chapter 61 Section 1 Laws 2021**

SECTION 1. Section 28-16A-1 NMSA 1978 (being Laws 1993, Chapter 50, Section 1) is amended to read:

"28-16A-1. SHORT TITLE.--Chapter 28, Article 16A NMSA 1978 may be cited as the "Developmental Disabilities Act"."

### **Chapter 61 Section 2 Laws 2021**

SECTION 2. Section 28-16A-2 NMSA 1978 (being Laws 1993, Chapter 50, Section 2) is amended to read:

"28-16A-2. LEGISLATIVE AUTHORIZATION.--The Developmental Disabilities Act authorizes the department to plan, provide and coordinate support and services to persons with developmental disabilities."

## **Chapter 61 Section 3 Laws 2021**

SECTION 3. Section 28-16A-3 NMSA 1978 (being Laws 1993, Chapter 50, Section 3) is amended to read:

"28-16A-3. DEFINITIONS.--As used in the Developmental Disabilities Act:

A. "assessment" means a process for measuring and determining a person's strengths, needs and preferences to determine eligibility for support and services and to develop or modify an individual support and service plan;

B. "case management" means a process that:

(1) assists a person with a developmental disability to know and understand the person's choices and rights and to obtain support and services that the person is eligible to receive and that are reflected in the individual support and service plan; and

(2) monitors the provision of support and services received by a person with a developmental disability;

C. "comprehensive review and analysis" means the comprehensive review and analysis conducted pursuant to Subsection A of Section 28-16A-7 NMSA 1978;

D. "council" means the developmental disabilities council;

E. "department" means the department of health;

F. "diagnostic evaluation" means an empirical process that determines if, and to what degree, a person has a developmental deficiency and the type of intervention and services that are needed for the person and that person's family;

G. "inclusive" means using the same community resources that are used by and available to all citizens and developing relationships with nonpaid caregivers or recipients of support and services for persons with developmental disabilities;

H. "individual support and service plan" means a plan developed by an interdisciplinary team and agreed to by a person with a developmental disability, or by a parent of a minor or a legal guardian, as appropriate, that describes the combination and sequence of special, interdisciplinary or generic care, treatment or other support and services that are needed and desired by a person with a developmental disability;

I. "interdisciplinary team" means a group of persons drawn from or representing professions that are relevant to identifying the needs of a person with a developmental disability and designing a program to meet that person's needs. The team shall include the person with a developmental disability, the parent of a minor child or a legal guardian, as appropriate;

J. "self-determination" means having:

(1) the ability and opportunity to:

(a) communicate and make personal decisions;

(b) communicate choices and exercise control over the type and intensity of services, supports and other assistance that an individual receives; and

(c) participate in, and contribute to, an individual's community;

(2) the authority to control resources to obtain needed services, supports and other assistance; and

(3) support, including financial support, to advocate for oneself and others, develop leadership skills through training in self-advocacy, participate in coalitions, educate policymakers and play a role in the development of public policies that affect individuals with developmental disabilities; and

K. "service provider" means a nonprofit corporation, tribal government or tribal organization, unit of local government or other organization that has entered into a contract or provider agreement with the department for the purpose of providing developmental disabilities support and services."

## **Chapter 61 Section 4 Laws 2021**

SECTION 4. Section 28-16A-4 NMSA 1978 (being Laws 1993, Chapter 50, Section 4) is amended to read:

"28-16A-4. DEVELOPMENTAL DISABILITIES COUNCIL--CREATION--MEMBERSHIP--TERMS.--

A. The "developmental disabilities council" is created in accordance with the federal Developmental Disabilities Assistance and Bill of Rights Act. The council shall be an adjunct agency as provided in the Executive Reorganization Act.

B. The council shall consist of no fewer than twenty-five members, at least sixty percent of whom shall be:

(1) individuals with developmental disabilities;

(2) parents or legal guardians of children with developmental disabilities; or

(3) immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves.

C. Of the sixty percent of members described in Subsection B of this section, one-third shall be individuals with developmental disabilities, one-third shall be members described in Paragraphs (2) and (3) of Subsection B of this section and one-third shall be a combination of members described in Subsection B of this section. At least one member described in Subsection B of this section shall be an immediate relative or guardian of an individual who resides or previously resided in an institution or shall be an individual with a developmental disability who resides or previously resided in an institution. No member of the council shall be an employee, or someone who manages employees, of a state agency that receives funds to provide developmental disabilities supports and services.

D. The council shall also include:

- (1) the secretary of health, or the secretary's designee;
- (2) the secretary of human services, or the secretary's designee;
- (3) the secretary of children, youth and families, or the secretary's designee;
- (4) the secretary of aging and long-term services, or the secretary's designee;
- (5) the secretary of public education, or the secretary's designee;
- (6) the director of the vocational rehabilitation division of the public education department, or the director's designee;
- (7) the director of the state protection and advocacy system established pursuant to the federal Developmental Disabilities Assistance and Bill of Rights Act of 1990, or the director's designee;



(8) the director of an entity within a state institution of higher education designated as a university center for excellence in developmental disabilities education, research and service; and

(9) at all times, representatives of local and nongovernmental agencies and private nonprofit groups concerned with services for individuals with developmental disabilities in New Mexico.

E. The governor shall select the members of the council for appointment pursuant to Subsection B and Paragraph (9) of Subsection D of this section after soliciting recommendations from organizations representing a broad range of individuals with developmental disabilities and individuals interested in individuals with developmental disabilities. The council may, at the initiative of the council or at the request of the governor, coordinate council and public input to the governor regarding all recommendations.

F. The membership of the council shall be geographically representative of the state and reflect the diversity of the state with respect to race and ethnicity.

G. Members, except for ex-officio members, shall be appointed by the governor for terms of three years.

H. The governor shall provide for rotation of the membership of the council. These provisions shall allow members to continue to serve on the council until those members' successors are appointed.

I. The council shall notify the governor regarding membership requirements of the council and shall notify the governor when vacancies on the council remain unfilled for a significant period of time.

J. Council members shall recuse themselves from any discussion of grants or contracts for which such members' departments, agencies or programs are grantees, contractors or applicants. The council shall ensure that no council member casts a vote

on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest."

## **Chapter 61 Section 5 Laws 2021**

SECTION 5. Section 28-16A-5 NMSA 1978 (being Laws 1993, Chapter 50, Section 5) is amended to read:

"28-16A-5. POWERS AND DUTIES.--

A. The council shall:

- (1) provide statewide advocacy for persons with developmental disabilities;
- (2) develop and submit to the federal government the five-year plan for council activities and any amendments to the plan;
- (3) to the maximum extent feasible, review and comment on all state plans that relate to programs affecting persons with developmental disabilities;
- (4) submit to the secretary of the United States department of health and human services, through the office of the governor, periodic reports that the secretary may request;
- (5) advise the governor and the legislature about the needs of persons with developmental disabilities;
- (6) hold all council meetings with a video conference option; and

(7) carry out any other activities authorized or required by the provisions of the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000.

B. The council is authorized to:

(1) award grants and enter into contracts to carry out its duties;

(2) seek funding from sources other than the state;

(3) create and support regional county or local advisory councils; and

(4) provide training to persons with developmental disabilities, their families and providers of support and services through traineeships, sponsoring training opportunities and by other means determined appropriate by the council."

## **Chapter 61 Section 6 Laws 2021**

SECTION 6. Section 28-16A-6 NMSA 1978 (being Laws 1993, Chapter 50, Section 6) is amended to read:

"28-16A-6. ELIGIBILITY.--

A. For purposes of eligibility for support and services, "developmental disability" means a severe chronic disability of an individual, which disability:

(1) is attributable to a mental or physical impairment, including the result from trauma to the brain, or combination of mental and physical impairments;

(2) is manifested before the person reaches the age of twenty-two years;

(3) is expected to continue indefinitely;

(4) results in substantial functional limitations in three or more of the following areas of major life activity:

(a) self-care;

(b) receptive and expressive language;

(c) learning;

(d) mobility;

(e) self-direction;

(f) capacity for independent living; and

(g) economic self-sufficiency; and

(5) reflects the person's need for a combination and sequence of special, interdisciplinary or generic care treatment or other support and services that are of life-long or extended duration and are individually planned and coordinated.

B. A child, from birth through two years of age, who is at risk for or who has a developmental delay as defined by rules of the department is eligible for early intervention services.

C. An individual who is eligible for developmental disability supports and services based on any previous definition of developmental disability used by the state and was receiving services on June 15, 1993 shall remain eligible for developmental disability supports and services. However, a child, from birth through age two who is determined to be at risk for or who has a developmental delay shall be eligible for early

intervention services only, unless the child meets the criteria set forth in Subsection A of this section."

## **Chapter 61 Section 7 Laws 2021**

SECTION 7. Section 28-16A-7 NMSA 1978 (being Laws 1993, Chapter 50, Section 7) is amended to read:

"28-16A-7. COMPREHENSIVE REVIEW AND ANALYSIS.--

A. The council shall conduct a comprehensive review and analysis of the extent to which services, supports and other assistance are available to individuals with developmental disabilities and their families and the extent of unmet need for services, supports and all other assistance for those individuals and their families in the state. The results of the comprehensive review and analysis shall include:

- (1) the number of individuals with developmental disabilities residing in New Mexico;
- (2) the range and degree of severity of the disabilities of individuals with developmental disabilities in New Mexico; and
- (3) such other information and analysis required under federal law.

B. The findings of the comprehensive review and analysis shall be utilized in the development of the council's five-year plan.

C. The council shall:

- (1) repeat the comprehensive review and analysis at least every five years, with a summary of the findings; and

(2) distribute the comprehensive review and analysis and the summary of findings to relevant organizations, programs and agencies in the state."

## **Chapter 61 Section 8 Laws 2021**

SECTION 8. Section 28-16A-8 NMSA 1978 (being Laws 1993, Chapter 50, Section 8) is amended to read:

"28-16A-8. REPORTING ON COMMUNITY SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES.--The department of health, the human services department, the public education department, the vocational rehabilitation division of the public education department, the children, youth and families department, the New Mexico school for the blind and visually impaired and the New Mexico school for the deaf shall provide to the council, on an annual basis, information and data with respect to the actual or estimated number of individuals with developmental disabilities served by the agency, the type of services provided, any major changes in policies adopted in the previous year or anticipated in the coming year that have had or are expected to have a beneficial or deleterious effect on persons with developmental disabilities and any gaps in eligibility or services that pose a barrier to the provision of services needed by persons with developmental disabilities."

## **Chapter 61 Section 9 Laws 2021**

SECTION 9. Section 28-16A-9 NMSA 1978 (being Laws 1993, Chapter 50, Section 9) is amended to read:

"28-16A-9. INFORMATION AND REFERRAL SYSTEM--COORDINATION AND CONTINUATION.--In order to coordinate information and referral services and eliminate the duplication of effort, the council shall provide information and referral services for persons with disabilities, their families, providers of support and services and local and state agencies, including:

- A. the human services department;
- B. the department of health;
- C. the public education department and its vocational rehabilitation division;
- D. the New Mexico school for the deaf;
- E. the New Mexico school for the blind and visually impaired;
- F. the Carrie Tingley crippled children's hospital; and
- G. the children, youth and families department."

### **Chapter 61 Section 10 Laws 2021**

SECTION 10. Section 28-16A-10 NMSA 1978 (being Laws 1993, Chapter 50, Section 10) is amended to read:

"28-16A-10. DEVELOPMENTAL DISABILITIES COUNCIL--STAFF.--The council shall employ an executive director, who is the administrative officer of the council. The executive director shall employ other necessary employees pursuant to the provisions of the Personnel Act."

### **Chapter 61 Section 11 Laws 2021**

SECTION 11. Section 28-16A-11 NMSA 1978 (being Laws 1993, Chapter 50, Section 11) is amended to read:

"28-16A-11. DEVELOPMENTAL DISABILITIES COUNCIL--REPORTS.--The council shall submit reports on its preceding year's work to the governor and the interim legislative health and human services committee by November 1 of each year. The

reports shall contain recommendations, if any, for legislation or other appropriate action."

## **Chapter 61 Section 12 Laws 2021**

SECTION 12. Section 28-16A-12 NMSA 1978 (being Laws 1993, Chapter 50, Section 12) is amended to read:

"28-16A-12. DEVELOPMENTAL DISABILITIES COUNCIL--COMPENSATION.-- Council members shall be reimbursed as provided in the Per Diem and Mileage Act and the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000. Reasonable accommodations shall be made available to permit full participation in council activities by its members, including personal assistance to members with developmental disabilities and respite care for members that are parents, immediate relatives or legal guardians of persons with developmental disabilities. Other than what is required in the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, council members shall receive no other compensation, perquisite or allowance for their service on the council."

## **Chapter 61 Section 13 Laws 2021**

SECTION 13. Section 28-16A-13 NMSA 1978 (being Laws 1993, Chapter 50, Section 13) is amended to read:

"28-16A-13. AUTHORIZATION FOR PROVIDING SUPPORT AND SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES.--

A. Subject to the availability of appropriations provided expressly for this purpose, the department may:

(1) acquire, provide or coordinate support and services for persons with developmental disabilities;



(2) enter into contracts and provider agreements with agencies and individuals capable of providing support and services to persons with developmental disabilities; and

(3) establish advisory councils and task forces as necessary to guide the development and review of support and services to persons with developmental disabilities.

B. Support and services shall be provided based on individual support and service plans developed by an interdisciplinary team. The team is responsible for collectively evaluating the child's or adult's needs and developing an individual support and service plan to meet the needs.

C. The department shall:

(1) solicit the involvement of consumers, providers, parents, professional organizations and other governmental organizations prior to the adoption or revision of any policies or regulations concerning the provision of support, services, standards or funding systems. Participants shall be selected in a manner that reflects geographical, cultural, organizational and professional representation across the state;

(2) develop policies, procedures, rules and regulations that, to the extent possible, will promote uniformity in reimbursement and quality assurance systems regardless of the source of funding; and

(3) convene and maintain a family infant toddler inter-agency coordinating council and a statewide adult support and services task force that shall, at a minimum, address quality assurance."

## **Chapter 61 Section 14 Laws 2021**

SECTION 14. Section 28-16A-18 NMSA 1978 (being Laws 1993, Chapter 50, Section 18) is amended to read:

"28-16A-18. DEVELOPMENTAL DISABILITIES EARLY CHILDHOOD EVALUATION SYSTEM.--The state shall have a timely, comprehensive, multidisciplinary system for evaluating infants, toddlers and preschool-age children suspected of having developmental delays. Diagnostic evaluations for infants and toddlers shall address family service needs and shall include training capabilities to educate community providers and parents in the understanding and application of the evaluations. This diagnostic evaluation system shall be jointly provided through a coordinated system by the children's medical services bureau of the public health division or the developmental disabilities supports division of the department, the university of New Mexico's center for development and disability and the public education department."

## **Chapter 61 Section 15 Laws 2021**

SECTION 15. Section 28-16A-19 NMSA 1978 (being Laws 2003, Chapter 323, Section 1) is amended to read:

"28-16A-19. INFORMATION AND REFERRAL TASK FORCE CREATION.-- There is created an information and referral task force located in the council to develop a statewide, comprehensive "211" information and referral plan for use as a telephone dialing code for access to health and human services. The plan shall include a tariff structure based on existing agreements, a common taxonomy of terms, coordination between public and private systems and standardized statewide training and exploration of a centralized information repository. The task force shall include representation from the department of health; the human services department; the children, youth and families department; the workforce solutions department; the aging and long-term services department; the internet long-term care link program; the governor's

commission on disability; the New Mexico commission for the blind; the commission for deaf and hard-of-hearing persons; a statewide organization that raises money for health and human service purposes; and other interested parties."

## **Chapter 61 Section 16 Laws 2021**

SECTION 16. A new section of the Developmental Disabilities Act is enacted to read:

"REPORTING--DEPARTMENT OF HEALTH--INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES--INDEPENDENT REVIEW.--Within thirty days of the date on which reporting pursuant to each review is available, the department shall provide the council with each report issued pursuant to the independent reviews of intermediate care facilities for individuals with intellectual disabilities that are performed pursuant to the requirements of federal law."

## **LAWS 2021, CHAPTER 62**

**Senate Bill 193, aa**  
**Approved April 5, 2021**

AN ACT

RELATING TO RURAL COMMUNITIES; PROVIDING FOR A RURAL EQUITY OMBUD IN THE LOCAL GOVERNMENT DIVISION OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION; PROVIDING POWERS AND DUTIES; MAKING AN APPROPRIATION.

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

## Chapter 62 Section 1 Laws 2021

### SECTION 1. RURAL EQUITY OMBUD--LOCAL GOVERNMENT DIVISION OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION.--

A. The local government division of the department of finance and administration shall employ at least one "rural equity ombud", whose job it is to work on issues of concern to rural and frontier communities with:

- (1) the governor's office, the legislature and all state agencies;
- (2) counties and municipalities in the state;
- (3) federal agencies, including the rural utilities service and the rural development agency of the United States department of agriculture, the United States department of the interior, the United States department of housing and urban development and other appropriate federal agencies; and
- (4) nonprofit organizations that address issues faced by rural and frontier communities or provide services to residents of those communities.

B. The rural equity ombud shall be employed solely on the basis of education and experience.

C. The rural equity ombud shall:

- (1) provide technical assistance to federal, state and local governments on issues of concern for rural and frontier communities;
- (2) provide planning assistance to the state and counties to ensure that concerns of residents of rural and frontier communities are being addressed as part of the state's or a county's planning processes in:

- (a) health;
- (b) human services;
- (c) educational services;
- (d) economic development;
- (e) infrastructure planning, funding and improvements, including water and wastewater, utilities, roads and highways, broadband and other infrastructure;
- (f) public safety;
- (g) transportation;
- (h) land use and land development;
- (i) tourism;
- (j) energy;
- (k) natural resource management, including game and fish resources;
- (l) community development block grant projects;
- (m) state or local planning in conjunction with federal agencies and funding; and
- (n) any other planning processes that affect rural and frontier communities;

- (3) serve as an advocate for rural and frontier communities and work to ensure that those communities' needs are met and that residents of rural and frontier communities have a voice in state and local government;
- (4) take and resolve complaints from rural and frontier communities;
- (5) provide bill analyses and provide testimony to the legislature on legislation that positively or negatively affects rural and frontier communities;
- (6) make annual reports to the governor and the legislature on:
  - (a) activities of the ombud, including interactions with governmental agencies and the outcome of those interactions;
  - (b) complaints received and resolved;
  - (c) structural barriers to providing needed services to rural and frontier communities and recommendations for eliminating or ameliorating those barriers; and
  - (d) other information that may inform executive and legislative decisions affecting rural and frontier communities; and
- (7) perform other duties as assigned by the director of the local government division of the department of finance and administration, the secretary of finance and administration, the governor or the legislature.

## **Chapter 62 Section 2 Laws 2021**

SECTION 2. APPROPRIATION.--Ninety-five thousand dollars (\$95,000) is appropriated from the general fund to the local government division of the department of finance and administration for expenditure in fiscal year 2022 to carry out the purposes

of Section 1 of this act. Any unexpended or unencumbered balance remaining at the end of fiscal year 2022 shall revert to the general fund.

## **LAWS 2021, CHAPTER 63**

**Senate Bill 200, aa**  
**Approved April 5, 2021**

AN ACT

RELATING TO HEALTH CARE; AMENDING THE DEFINITION OF "TELEDENTISTRY"; CLARIFYING THAT A DENTIST, DENTAL HYGIENIST OR DENTAL THERAPIST PRACTICING TELEDENTISTRY IS SUBJECT TO DISCIPLINARY PROCEEDINGS PERTAINING TO LICENSURE.

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

### **Chapter 63 Section 1 Laws 2021**

SECTION 1. Section 61-5A-3 NMSA 1978 (being Laws 1994, Chapter 55, Section 3, as amended) is amended to read:

"61-5A-3. DEFINITIONS.--As used in the Dental Health Care Act:

- A. "assessment" means the review and documentation of the oral condition, and the recognition and documentation of deviations from the healthy condition, without a diagnosis to determine the cause or nature of disease or its treatment;
- B. "board" means the New Mexico board of dental health care;
- C. "certified dental assistant" means an individual certified by the dental assisting national board;

D. "collaborative dental hygiene practice" means a New Mexico licensed dental hygienist practicing according to Subsections D through G of Section 61-5A-4 NMSA 1978;

E. "committee" means the New Mexico dental hygienists committee;

F. "community dental health coordinator" means a dental assistant, a dental hygienist or other trained personnel certified by the board as a community dental health coordinator to provide educational, preventive and limited palliative care and assessment services working collaboratively under the general supervision of a licensed dentist in settings other than traditional dental offices and clinics;

G. "consulting dentist" means a dentist who has entered into an approved agreement to provide consultation and create protocols with a collaborating dental hygienist and, when required, to provide diagnosis and authorization for services, in accordance with the rules of the board and the committee;

H. "dental hygiene-focused assessment" means the documentation of existing oral and relevant system conditions and the identification of potential oral disease to develop, communicate, implement and evaluate a plan of oral hygiene care and treatment;

I. "dental assistant certified in expanded functions" means a dental assistant who meets specific qualifications set forth by rule of the board;

J. "dental hygienist" means an individual who has graduated and received a degree from a dental hygiene educational program that is accredited by the commission on dental accreditation, that provides a minimum of two academic years of dental hygiene curriculum and that is an institution of higher education; and "dental hygienist" means, except as the context otherwise requires, an individual who holds a license to practice dental hygiene in New Mexico;



K. "dental laboratory" means any place where dental restorative, prosthetic, cosmetic and therapeutic devices or orthodontic appliances are fabricated, altered or repaired by one or more persons under the orders and authorization of a dentist;

L. "dental technician" means an individual, other than a licensed dentist, who fabricates, alters, repairs or assists in the fabrication, alteration or repair of dental restorative, prosthetic, cosmetic and therapeutic devices or orthodontic appliances under the orders and authorization of a dentist;

M. "dental therapist" means an individual who:

(1) is licensed as a dental hygienist;

(2) has provided, in accordance with board rules, evidence to the board that the individual has graduated and received a degree from a dental therapy education program that is accredited by the commission on dental accreditation; and

(3) except as the context otherwise requires, is licensed to practice dental therapy in the state;

N. "dental therapy post-graduate clinical experience" means advanced training in patient management and technical competency:

(1) that is approved by the board, based on educational and supervisory criteria developed by the board and established by board rule;

(2) that is sanctioned by a regionally accredited educational institution with a program accredited by the commission on dental accreditation;

(3) that consists of two thousand hours of advanced training or, if the dental therapy educational program graduate has five years of experience as a dental hygienist, one thousand five hundred hours of advanced training; and

(4) for which the dental therapist may have been compensated;

O. "dental therapy practice agreement" means a contract between a supervising dentist and a dental therapist that outlines the parameters of care, level of supervision and protocols to be followed while performing dental therapy procedures on patients under the supervising dentist's and dental therapist's care;

P. "dentist" means an individual who has graduated and received a degree from a school of dentistry that is accredited by the commission on dental accreditation and, except as the context otherwise requires, who holds a license to practice dentistry in New Mexico;

Q. "direct supervision" means the process under which an act is performed when a dentist licensed pursuant to the Dental Health Care Act:

(1) is physically present throughout the performance of the act;

(2) orders, controls and accepts full professional responsibility for the act performed; and

(3) evaluates and approves the procedure performed before the patient departs the care setting;

R. "expanded-function dental auxiliary" means a dental assistant, dental hygienist or other dental practitioner that has received education beyond that required for licensure or certification in that individual's scope of practice and that has been certified by the board as an expanded-function dental auxiliary who works under the direct supervision of a dentist;

S. "federally qualified health center" means a health facility that the United States department of health and human services has deemed to qualify for federal funds as a federally qualified health center;

T. "federally qualified health center look-alike facility" means a health facility that the federal centers for medicare and medicaid services certifies as a federally qualified health center look-alike facility;

U. "general supervision" means the authorization by a dentist of the procedures to be used by a dental therapist, community dental health coordinator, dental hygienist, dental assistant or dental student and the execution of the procedures in accordance with a dentist's diagnosis and treatment plan at a time the dentist is not physically present and in facilities as designated by rule of the board;

V. "indirect supervision" means that a dentist, or in certain settings, a dental therapist, dental hygienist or dental assistant certified in expanded functions, is present in the treatment facility while authorized treatments are being performed by a dental therapist, dental hygienist, dental assistant or dental student;

W. "long-term care facility" means a nursing home licensed by the department of health to provide intermediate or skilled nursing care;

X. "non-dentist owner" means an individual not licensed as a dentist in New Mexico or a corporate entity not owned by a majority interest of a New Mexico licensed dentist that employs or contracts with a dentist or dental hygienist to provide dental or dental hygiene services;

Y. "nonprofit community dental organization" means a community-supported entity that:

(1) provides clinical dental services primarily to low-income patients or medicaid recipients; and

(2) has demonstrated to the taxation and revenue department that it has been granted exemption from the federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended or renumbered;

Z. "palliative procedures" means nonsurgical, reversible procedures that are meant to alleviate pain and stabilize acute or emergent problems; and

AA. "teledentistry" means a dentist's, dental hygienist's or dental therapist's use of electronic information, imaging and communication technologies, including interactive audio, video and data communications as well as store-and-forward technologies, to provide and support dental health care delivery, diagnosis, consultation, treatment, transfer of dental data and education."

## **Chapter 63 Section 2 Laws 2021**

SECTION 2. Section 61-5A-21 NMSA 1978 (being Laws 1994, Chapter 55, Section 21, as amended) is amended to read:

"61-5A-21. DISCIPLINARY PROCEEDINGS--APPLICATION OF UNIFORM LICENSING ACT.--

A. In accordance with the Uniform Licensing Act and rules of the board, the board and, as relates to dental hygienist licensure, committee may fine and may deny, revoke, suspend, stipulate or otherwise limit any license or certificate, including those of licensed non-dentist owners, held or applied for under the Dental Health Care Act, upon findings by the board or the committee that the licensee, certificate holder or applicant:

(1) is guilty of fraud or deceit in procuring or attempting to procure a license or certificate;

(2) has been convicted of a crime punishable by incarceration in a federal prison or state penitentiary; provided a copy of the record of conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence of such conviction;

(3) is guilty of gross incompetence or gross negligence, as defined by rules of the board, in the practice of dentistry, dental therapy, dental hygiene or dental assisting;

(4) is habitually intemperate or is addicted to the use of habit-forming drugs or is addicted to any vice to such degree as to render the licensee unfit to practice;

(5) is guilty of unprofessional conduct as defined by rule;

(6) is guilty of any violation of the Controlled Substances Act;

(7) has violated any provisions of the Dental Health Care Act or rule or regulation of the board or, as relates to the practice of dental hygiene, the committee;

(8) is guilty of willfully or negligently practicing beyond the scope of licensure;

(9) is guilty of practicing dentistry, dental therapy or dental hygiene without a license or aiding or abetting the practice of dentistry, dental therapy or dental hygiene by a person not licensed under the Dental Health Care Act;

(10) is guilty of obtaining or attempting to obtain any fee by fraud or misrepresentation or has otherwise acted in a manner or by conduct likely to deceive, defraud or harm the public;

(11) is guilty of patient abandonment;

(12) is guilty of failing to report to the board any adverse action taken against the licensee by a licensing authority, peer review body, malpractice insurance carrier or other entity as defined in rules of the board and the committee;

(13) has had a license, certificate or registration to practice as a dentist, dental therapist or dental hygienist revoked, suspended, denied, stipulated or otherwise limited in any jurisdiction, territory or possession of the United States or another country for actions of the licensee similar to acts described in this subsection. A certified copy of the decision of the jurisdiction taking such disciplinary action will be conclusive evidence; or

(14) has failed to furnish the board, its investigators or its representatives with information requested by the board or the committee in the course of an official investigation.

B. Disciplinary proceedings may be instituted by sworn complaint by any person, including a board or committee member, and shall conform with the provisions of the Uniform Licensing Act.

C. Licensees and certificate holders shall bear the costs of disciplinary proceedings unless exonerated.

D. Any person filing a sworn complaint shall be immune from liability arising out of civil action if the complaint is filed in good faith and without actual malice.

E. Licensees whose licenses are in a probationary status shall pay reasonable expenses for maintaining probationary status, including laboratory costs when laboratory testing of biological fluids or accounting costs when audits are included as a condition of probation.

F. A dentist, dental hygienist or dental therapist practicing teledentistry is subject to the provisions of this section."

## **LAWS 2021, CHAPTER 64**

**House Bill 200**

**Approved April 5, 2021**

AN ACT

RELATING TO WATER; AMENDING THE NEW MEXICO UNIT FUND; DIRECTING THE INTERSTATE STREAM COMMISSION TO CONSULT WITH THE WATER TRUST BOARD ON FUNDING WATER UTILIZATION PROJECTS IN THE SOUTHWEST WATER PLANNING REGION OF NEW MEXICO; DIRECTING THE WATER TRUST BOARD TO EVALUATE AND RECOMMEND PROJECTS TO THE INTERSTATE STREAM COMMISSION; DISALLOWING THE USE OF FUNDS FOR THE NEW MEXICO UNIT.

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

**Chapter 64 Section 1 Laws 2021**

SECTION 1. Section 72-14-45 NMSA 1978 (being Laws 2011, Chapter 99, Section 1) is amended to read:

"72-14-45. NEW MEXICO UNIT FUND--PURPOSE-- APPROPRIATION.--

A. The "New Mexico unit fund" is created in the state treasury. The fund shall consist of money distributed to the state pursuant to Paragraphs (2)(D)(I) and (ii) of Section 403(f) of the federal Colorado River Basin Project Act of 1968, as amended by Section 107(a) of the federal Arizona Water Settlements Act, Public Law 108-451, December 10, 2004; other money made available to the fund pursuant to Section 212 of the federal Arizona Water Settlements Act, Public Law 108-451, December 10, 2004; appropriations; grants; and donations or bequests to the fund.

B. Income from the fund shall be credited to the fund. Any unexpended or unencumbered balance remaining in the fund at the end of a fiscal year shall not revert

to the general fund. Money in the fund shall not be transferred, other than through an intra-agency transfer, to any other fund.

C. Money in the fund shall be administered by the interstate stream commission and is appropriated to the interstate stream commission for expenditure in fiscal year 2012 and subsequent fiscal years to comply with the provisions of the federal laws cited in Subsection A of this section. Money in the fund shall be used to pay the costs of water utilization projects to meet water supply demands in the southwest water planning region of New Mexico that encompasses Catron, Grant, Hidalgo and Luna counties, as determined by the interstate stream commission in consultation with the water trust board, which shall be the successor to the southwest New Mexico water study group. Money in the fund shall not be used to evaluate, plan or construct the New Mexico unit. The water trust board shall evaluate projects, including their environmental impacts, proposed within the southwest water planning region of New Mexico and shall recommend projects to the interstate stream commission, which shall have final decision-making authority over which projects are funded. Money in the fund shall not be expended for any purpose other than the purpose provided in this section. The interstate stream commission may adopt rules it deems necessary to carry out the purpose of this section.

D. On or before November 15 of each year, the interstate stream commission shall report to the appropriate legislative interim committee dealing with water and natural resources and to the legislative finance committee on:

- (1) the status of the New Mexico unit fund;
- (2) the distribution of money from the New Mexico unit fund to implement the purpose of the fund pursuant to Subsection C of this section; and
- (3) proposed uses and levels of funding projected for the following fiscal year.



E. Expenditures from the fund shall be made on warrants signed by the secretary of finance and administration pursuant to vouchers signed by the director of the interstate stream commission upon the delegation of authority by the interstate stream commission."

## **Chapter 64 Section 2 Laws 2021**

SECTION 2. Section 72-4A-5 NMSA 1978 (being Laws 2001, Chapter 164, Section 5, as amended) is amended to read:

"72-4A-5. BOARD--DUTIES.--The board shall:

A. adopt rules governing terms and conditions of grants or loans recommended by the board for appropriation by the legislature from the water project fund, giving priority to projects that have been identified as being urgent to meet the needs of a regional water planning area that has a completed regional water plan that has been accepted by the interstate stream commission; that have matching contributions from federal or local funding sources available; and that have obtained all requisite state and federal permits and authorizations necessary to initiate the project;

B. authorize qualifying water projects to the authority that are for:

- (1) storage, conveyance or delivery of water to end users;
- (2) implementation of federal Endangered Species Act of 1973 collaborative programs;
- (3) restoration and management of watersheds;
- (4) flood prevention; or

(5) water conservation or recycling, treatment or reuse of water as provided by law;

C. create a drought strike team to coordinate responses to emergency water shortages caused by drought conditions; and

D. evaluate projects, including their environmental impacts, and recommend projects to the interstate stream commission pursuant to the provisions of Section 72-14-45 NMSA 1978."

## **LAWS 2021, CHAPTER 65**

**HTRC/House Bill 98, aa, w/cc**  
**Approved April 5, 2021**

### AN ACT

RELATING TO TAXATION; AMENDING PROVISIONS OF THE TAX ADMINISTRATION ACT, THE INCOME TAX ACT, THE CORPORATE INCOME AND FRANCHISE TAX ACT, THE RURAL JOB TAX CREDIT, THE UNIFORM UNCLAIMED PROPERTY ACT (1995), THE GROSS RECEIPTS AND COMPENSATING TAX ACT, THE OIL AND GAS SEVERANCE TAX ACT, THE OIL AND GAS CONSERVATION TAX ACT, THE OIL AND GAS EMERGENCY SCHOOL TAX ACT, THE OIL AND GAS AD VALOREM PRODUCTION TAX ACT, THE INSURANCE PREMIUM TAX ACT AND THE TAXATION AND REVENUE DEPARTMENT ACT; REPEALING SECTION 52-6-13 NMSA 1978 (BEING LAWS 1986, CHAPTER 22, SECTION 87, AS AMENDED).

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

## **Chapter 65 Section 1 Laws 2021**

SECTION 1. Section 7-1-4.3 NMSA 1978 (being Laws 2003, Chapter 398, Section 3) is amended to read:

"7-1-4.3. NEW MEXICO TAXPAYER BILL OF RIGHTS--NOTICE TO THE PUBLIC.--The department shall develop a publication that states the rights of taxpayers in simple, nontechnical terms and shall disseminate the publication to taxpayers, at a minimum, with tax forms periodically issued by the department."

## **Chapter 65 Section 2 Laws 2021**

SECTION 2. Section 7-1-6 NMSA 1978 (being Laws 1978, Chapter 55, Section 1, as amended) is amended to read:

"7-1-6. RECEIPTS--DISBURSEMENTS--FUNDS CREATED.--

A. All money received by the department with respect to laws administered pursuant to the provisions of the Tax Administration Act shall be deposited with the state treasurer before the close of the next succeeding business day after receipt of the money, except that money received with respect to the Income Tax Act and the Corporate Income and Franchise Tax Act during the period starting with the fifth day prior to the due date for payment of the taxes for the year and ending on the tenth day following that due date shall be deposited before the close of the tenth business day after receipt of the money.

B. Money received or disbursed by the department shall be accounted for by the department as required by law or rule of the secretary of finance and administration.

C. Disbursements for tax credits, tax rebates, refunds, the payment of interest, the payment of fees charged by attorneys or collection agencies for collection of accounts as agent for the department, attorney fees and costs awarded by a court or

hearing officer, as the result of oil and gas litigation, the payment of credit card service charges on payments of taxes by use of credit cards, distributions and transfers shall be made by the department of finance and administration upon request and certification of their appropriateness by the secretary or the secretary's delegate.

D. There are hereby created in the state treasury the "tax administration suspense fund", the "extraction taxes suspense fund" and the "workers' compensation collections suspense fund" for the purpose of making the disbursements authorized by the Tax Administration Act.

E. All revenues collected or received by the department pursuant to the provisions of the taxes and tax acts set forth in Subsection A of Section 7-1-2 NMSA 1978 shall be credited to the tax administration suspense fund and are appropriated for the purpose of making the disbursements authorized in this section or otherwise authorized or required by law to be made from the tax administration suspense fund.

F. All revenues collected or received by the department pursuant to the taxes or tax acts set forth in Subsection B of Section 7-1-2 NMSA 1978 shall be credited to the extraction taxes suspense fund and are appropriated for the purpose of making the disbursements authorized in this section or otherwise authorized or required by law to be made from the extraction taxes suspense fund.

G. All revenues collected or received by the department pursuant to the taxes or tax acts set forth in Subsection C of Section 7-1-2 NMSA 1978 may be credited to the tax administration suspense fund, unless otherwise directed by law to be credited to another fund or agency, and are appropriated for the purpose of making disbursements authorized in this section or otherwise authorized or required by law.

H. All revenues collected or received by the department pursuant to the provisions of Section 52-5-19 NMSA 1978 shall be credited to the workers' compensation collections suspense fund and are appropriated for the purpose of making the disbursements authorized in this section or otherwise authorized or required by law to be made from the workers' compensation collections suspense fund.

I. Disbursements to cover expenditures of the department shall be made only upon approval of the secretary or the secretary's delegate.

J. Miscellaneous receipts from charges made by the department to defray expenses pursuant to the provisions of Section 9-11-6.1 NMSA 1978 and similar charges are appropriated to the department for its use.

K. From the tax administration suspense fund, there may be disbursed each month amounts approved by the secretary or the secretary's delegate necessary to maintain a fund hereby created and to be known as the "income tax suspense fund". The income tax suspense fund shall be used for the payment of income tax refunds."

## **Chapter 65 Section 3 Laws 2021**

SECTION 3. Section 7-1-17.1 NMSA 1978 (being Laws 2003, Chapter 398, Section 15) is amended to read:

### **"7-1-17.1. TAX LIABILITY--SPOUSE OR FORMER SPOUSE.--**

A. If the secretary or the secretary's delegate determines that, taking into account the facts and circumstances in Subsections F and G of this section, it is inequitable to hold a spouse liable for payment of all or part of any unpaid tax, assessment or other deficiency for a tax, the secretary may decline to bring an action or proceeding to collect such taxes from the spouse, including collection from the spouse's interest in community property.

B. The secretary or the secretary's delegate may grant innocent spouse relief to a spouse who files a joint tax return and all or part of the spouse's portion of any overpayment was, or is expected to be, applied to the tax liability for which the spouse is not liable because the liability is determined to be separate debt, as defined in Subsection A of Section 40-3-9 NMSA 1978.

C. If on review it is determined that the information relied on to make the innocent spouse relief determination was incorrect or fraudulent, the department may rescind the innocent spouse relief and proceed to collect the affected taxes from the spouse.

D. Innocent spouse relief does not authorize the abatement of taxes or enforcement of any provisions of the Tax Administration Act against the taxpayer.

E. A lien or levy imposed on a spouse or property of a spouse who qualifies for innocent spouse relief may be released as to taxes deemed inequitable to collect pursuant to this section.

F. If the federal internal revenue service granted the spouse relief pursuant to 26 U.S.C. Section 6015, the spouse may request similar relief from the department on a form prescribed by the department, regardless of whether the spouse is a joint or separate filer for New Mexico income tax. The spouse shall provide a copy of the federal internal revenue service's determination with the request that the secretary or the secretary's delegate cease collection activity against the spouse to the extent relief was allowed by the federal internal revenue service. The department shall grant innocent spouse relief for the same tax periods and tax programs granted relief by the federal internal revenue service; provided that the request for relief is submitted on the form prescribed by the department. The secretary or the secretary's delegate may decline to pursue collection activity against a spouse while an application for relief is pending before the federal internal revenue service, but the failure to seek or obtain relief shall not preclude the secretary or secretary's delegate from declining to collect tax from a spouse when collection would be inequitable. An item giving rise to a deficiency on a joint return shall be allocated to an individual filing the return in the same manner as it would have been allocated if the individual had filed separate returns for the taxable year.

G. The secretary or the secretary's delegate shall consider at least the following facts and circumstances when determining whether to grant innocent spouse

relief if the federal internal revenue service has not granted the spouse personal income tax relief pursuant to 26 U.S.C. Section 6015:

(1) whether the spouse had knowledge of the tax liability at the time the liability arose;

(2) whether the spouse had a meaningful opportunity to contest the assessment of tax at the time the assessment was made;

(3) whether the spouse cooperated with the department in collection and compliance efforts, to the extent the spouse had knowledge of collection and compliance efforts;

(4) whether the state can protect its interests without pursuing active collection efforts against the spouse, including collection efforts against the taxpayer;

(5) whether the spouse benefited from the transfer of income, receipts or significant amounts of property from the taxpayer;

(6) whether the spouse participated in the business and financial decisions of the household during the periods when the tax liability arose;

(7) whether the spouse participated in operating a business with the taxpayer;

(8) whether the spouse had responsibility for the finances of a business for which the spouse participated;

(9) whether the spouse had responsibility for payment of taxes for a business for which the spouse participated; and

(10) whether the spouse knew that the taxpayer engaged in business.

H. No one factor contemplated to Subsection G of this section shall be considered determinative in considering whether tax collection from a spouse would be inequitable. Each factor may be given different relative weight, depending on the facts and circumstances presented; therefore, the presence of a majority of factors considered tending to support innocent spouse relief in a particular case may not necessarily indicate that the spouse in question qualifies for innocent spouse relief for New Mexico tax purposes.

I. The secretary shall adopt and promulgate regulations as necessary for making the determinations pursuant to this section.

J. As used in this section:

(1) "innocent spouse relief" means the relief from collection of tax liabilities pursuant to this section;

(2) "spouse" means a current or former spouse of a taxpayer; and

(3) "taxpayer" means a taxpayer who is or was married to a spouse who is seeking innocent spouse relief pursuant to this section."

## **Chapter 65 Section 4 Laws 2021**

SECTION 4. Section 7-1-36 NMSA 1978 (being Laws 1965, Chapter 248, Section 38, as amended) is amended to read:

"7-1-36. PROPERTY EXEMPT FROM LEVY.--

A. There shall be exempt from levy the money or property of a delinquent taxpayer in a total amount or value not in excess of one thousand dollars (\$1,000).



B. In addition to the property exempt under Subsection A of this section, there shall also be exempt from levy on an employer of the taxpayer the greater of the following portions of the taxpayer's disposable earnings:

(1) seventy-five percent of the taxpayer's disposable earnings for any pay period; or

(2) an amount each week equal to forty times the minimum wage rate pursuant to Subsection A of Section 50-4-22 NMSA 1978. The superintendent of regulation and licensing shall provide a table giving equivalent exemptions for pay periods of other than one week.

C. As used in this section, "disposable earnings" means that part of a taxpayer's wages or salary remaining after deducting the amounts that are required by law to be withheld."

## **Chapter 65 Section 5 Laws 2021**

SECTION 5. Section 7-1-69 NMSA 1978 (being Laws 1965, Chapter 248, Section 70, as amended) is amended to read:

"7-1-69. CIVIL PENALTY FOR FAILURE TO PAY TAX OR FILE A RETURN.--

A. Except as provided in Subsection C of this section, in the case of failure due to negligence or disregard of department rules and regulations, but without intent to evade or defeat a tax, to pay when due the amount of tax required to be paid, to pay in accordance with the provisions of Section 7-1-13.1 NMSA 1978 when required to do so or to file by the date required a return regardless of whether a tax is due, there shall be added to the amount assessed a penalty in an amount equal to the greater of:

(1) two percent per month or any fraction of a month from the date the tax was due multiplied by the amount of tax due but not paid, not to exceed twenty percent of the tax due but not paid;

(2) two percent per month or any fraction of a month from the date the return was required to be filed multiplied by the tax liability established in the late return, not to exceed twenty percent of the tax liability established in the late return; or

(3) a minimum of five dollars (\$5.00), but the five-dollar (\$5.00) minimum penalty shall not apply to taxes levied under the Income Tax Act, Corporate Income and Franchise Tax Act or taxes administered by the department pursuant to Subsection B of Section 7-1-2 NMSA 1978.

B. No penalty shall be assessed against a taxpayer if the failure to pay an amount of tax when due results from a mistake of law made in good faith and on reasonable grounds.

C. If a different penalty is specified in a compact or other interstate agreement to which New Mexico is a party, the penalty provided in the compact or other interstate agreement shall be applied to amounts due under the compact or other interstate agreement at the rate and in the manner prescribed by the compact or other interstate agreement.

D. In the case of failure, with willful intent to evade or defeat a tax, to pay when due the amount of tax required to be paid, there shall be added to the amount fifty percent of the tax or a minimum of twenty-five dollars (\$25.00), whichever is greater, as penalty.

E. If demand is made for payment of a tax, including penalty imposed pursuant to this section, and if the tax is paid within ten days after the date of such demand, no penalty shall be imposed for the period after the date of the demand with respect to the amount paid.

F. If a taxpayer makes electronic payment of a tax but the payment does not include all of the information required by the department pursuant to the provisions of Section 7-1-13.1 NMSA 1978 and if the department does not receive the required information within five business days from the later of the date a request by the department for that information is received by the taxpayer or the due date, the taxpayer shall be subject to a penalty of two percent per month or any fraction of a month from the fifth day following the date the request is received. If a penalty is imposed under Subsection A of this section with respect to the same transaction for the same period, no penalty shall be imposed under this subsection.

G. No penalty shall be imposed on:

(1) tax due in excess of tax paid in accordance with an approved estimated basis pursuant to Section 7-1-10 NMSA 1978;

(2) tax due as the result of a managed audit; or

(3) tax that is deemed paid by crediting overpayments found in an audit or managed audit of multiple periods pursuant to Section 7-1-29 NMSA 1978."

## **Chapter 65 Section 6 Laws 2021**

SECTION 6. Section 7-2-18.18 NMSA 1978 (being Laws 2007, Chapter 204, Section 2) is amended to read:

"7-2-18.18. RENEWABLE ENERGY PRODUCTION TAX CREDIT.--

A. The tax credit provided in this section may be referred to as the "renewable energy production tax credit". The tax credit provided in this section may not be claimed with respect to the same electricity production for which a tax credit pursuant to Section 7-2A-19 NMSA 1978 has been claimed.

B. A taxpayer who files an individual New Mexico income tax return and who is not a dependent of another taxpayer is eligible for the renewable energy production tax credit if the taxpayer:

(1) holds title to a qualified energy generator that first produced electricity on or before January 1, 2018; or

(2) leases property upon which a qualified energy generator operates from a county or municipality under authority of an industrial revenue bond and if the qualified energy generator first produced electricity on or before January 1, 2018.

C. The amount of the tax credit shall equal one cent (\$.01) per kilowatt-hour of the first four hundred thousand megawatt-hours of electricity produced by the qualified energy generator in the taxable year using a wind- or biomass-derived qualified energy resource; provided that the total amount of tax credits claimed by all taxpayers for a single qualified energy generator using a wind- or biomass-derived qualified energy resource shall not exceed one cent (\$.01) per kilowatt-hour of the first four hundred thousand megawatt-hours of electricity produced by the qualified energy generator in a taxable year.

D. The amount of the tax credit for electricity produced by a qualified energy generator in the taxable year using a solar-light-derived or solar-heat-derived qualified energy resource shall be at the amounts specified in Paragraphs (1) through (11) of this subsection; provided that the total amount of tax credits claimed by all taxpayers in a taxable year for a single qualified energy generator using a solar-light-derived or solar-heat-derived qualified energy resource shall be limited to the first two hundred thousand megawatt-hours of electricity produced by the qualified energy generator in the taxable year:

(1) one and one-half cents (\$.015) per kilowatt-hour in the first taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(2) two cents (\$.02) per kilowatt-hour in the second taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(3) two and one-half cents (\$.025) per kilowatt-hour in the third taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(4) three cents (\$.03) per kilowatt-hour in the fourth taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(5) three and one-half cents (\$.035) per kilowatt-hour in the fifth taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(6) four cents (\$.04) per kilowatt-hour in the sixth taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(7) three and one-half cents (\$.035) per kilowatt-hour in the seventh taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(8) three cents (\$.03) per kilowatt-hour in the eighth taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(9) two and one-half cents (\$.025) per kilowatt-hour in the ninth taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(10) two cents (\$.02) per kilowatt-hour in the tenth taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource; and

(11) one and one-half cents (\$.015) per kilowatt-hour in the eleventh taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource.

E. A taxpayer eligible for a renewable energy production tax credit pursuant to Subsection B of this section shall be eligible for the renewable energy production tax credit for one hundred twenty consecutive months, beginning on the date the qualified energy generator begins producing electricity.

F. As used in this section:

(1) "biomass" means organic material that is available on a renewable or recurring basis, including:

(a) forest-related materials, including mill residues, logging residues, forest thinnings, slash, brush, low-commercial-value materials or undesirable species, salt cedar and other phreatophyte or woody vegetation removed from river basins or watersheds and woody material harvested for the purpose of forest fire fuel reduction or forest health and watershed improvement;

(b) agricultural-related materials, including orchard trees, vineyard, grain or crop residues, including straws and stover, aquatic plants and agricultural processed co-products and waste products, including fats, oils, greases, whey and lactose;

(c) animal waste, including manure and slaughterhouse and other processing waste;

(d) solid woody waste materials, including landscape or right-of-way tree trimmings, rangeland maintenance residues, waste pallets, crates and manufacturing, construction and demolition wood wastes, excluding pressure-treated, chemically treated or painted wood wastes and wood contaminated with plastic;

(e) crops and trees planted for the purpose of being used to produce energy;

(f) landfill gas, wastewater treatment gas and biosolids, including organic waste byproducts generated during the wastewater treatment process; and

(g) segregated municipal solid waste, excluding tires and medical and hazardous waste;

(2) "qualified energy generator" means an electric generating facility with at least one megawatt generating capacity located in New Mexico that produces electricity using a qualified energy resource and the electricity produced is sold to an unrelated person; and

(3) "qualified energy resource" means a resource that generates electrical energy by means of a fluidized bed technology or similar low-emissions technology or a zero-emissions generation technology that has substantial long-term production potential and that uses only the following energy sources:

(a) solar light;

(b) solar heat;

(c) wind; or

(d) biomass.

G. A person that holds title to a facility generating electricity from a qualified energy resource or a person that leases such a facility from a county or municipality pursuant to an industrial revenue bond may request certification of eligibility for the renewable energy production tax credit from the energy, minerals and natural resources department, which shall determine if the facility is a qualified energy generator. The energy, minerals and natural resources department may certify the eligibility of an energy generator only if the total amount of electricity that may be produced annually by all qualified energy generators that are certified pursuant to this section and pursuant to Section 7-2A-19 NMSA 1978 will not exceed a total of two million megawatt-hours plus an additional five hundred thousand megawatt-hours produced by qualified energy generators using a solar-light-derived or solar-heat-derived qualified energy resource. Applications shall be considered in the order received. The energy, minerals and natural resources department may estimate the annual power-generating potential of a generating facility for the purposes of this section. The energy, minerals and natural resources department shall issue a certificate to the applicant stating whether the facility is an eligible qualified energy generator and the estimated annual production potential of the generating facility, which shall be the limit of that facility's energy production eligible for the tax credit for the taxable year. The energy, minerals and natural resources department may issue rules governing the procedure for administering the provisions of this subsection and shall report annually to the appropriate interim legislative committee information that will allow the legislative committee to analyze the effectiveness of the renewable energy production tax credit, including the identity of qualified energy generators, the energy production means used, the amount of energy produced by those qualified energy generators and whether any applications could not be approved due to program limits.

H. A taxpayer may be allocated all or a portion of the right to claim a renewable energy production tax credit without regard to proportional ownership interest if:

(1) the taxpayer owns an interest in a business entity that is taxed for federal income tax purposes as a partnership;



(2) the business entity:

(a) would qualify for the renewable energy production tax credit pursuant to Paragraph (1) or (2) of Subsection B of this section;

(b) owns an interest in a business entity that is also taxed for federal income tax purposes as a partnership and that would qualify for the renewable energy production tax credit pursuant to Paragraph (1) or (2) of Subsection B of this section; or

(c) owns, through one or more intermediate business entities that are each taxed for federal income tax purposes as a partnership, an interest in the business entity described in Subparagraph (b) of this paragraph;

(3) the taxpayer and all other taxpayers allocated a right to claim the renewable energy production tax credit pursuant to this subsection own collectively at least a five percent interest in a qualified energy generator;

(4) the business entity provides notice of the allocation and the taxpayer's interest to the energy, minerals and natural resources department on forms prescribed by that department for the taxable year to be claimed; and

(5) the energy, minerals and natural resources department certifies the allocation for the taxable year to be claimed in writing to the taxpayer.

I. Upon receipt of notice of an allocation of the right to claim all or a portion of the renewable energy production tax credit, the energy, minerals and natural resources department shall promptly certify the allocation in writing to the recipient of the allocation.

J. Married individuals who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the credit that would have been allowed on a joint return.

K. A taxpayer may claim the renewable energy production tax credit by submitting to the taxation and revenue department the certificate issued by the energy, minerals and natural resources department, pursuant to Subsection G or H of this section, documentation showing the taxpayer's interest in the facility, documentation of the amount of electricity produced by the facility in the taxable year and any other information the taxation and revenue department may require to determine the amount of the tax credit due the taxpayer.

L. If the requirements of this section have been complied with, the department shall approve payment of the renewable energy production tax credit. The credit may be deducted from a taxpayer's New Mexico income tax liability for the taxable year for which the credit is claimed. If the amount of tax credit exceeds the taxpayer's income tax liability for the taxable year:

(1) the excess may be carried forward for a period of five taxable years; or

(2) if the tax credit was issued with respect to a qualified energy generator that first produced electricity using a qualified energy resource on or after October 1, 2007, the excess shall be refunded to the taxpayer.

M. Once a taxpayer has been granted a renewable energy production tax credit for a given facility, that taxpayer shall be allowed to retain the facility's original date of application for tax credits for that facility until either the facility goes out of production for more than six consecutive months in a year or until the facility's ten-year eligibility has expired."

## **Chapter 65 Section 7 Laws 2021**

SECTION 7. Section 7-2A-19 NMSA 1978 (being Laws 2002, Chapter 59, Section 1, as amended) is amended to read:

"7-2A-19. RENEWABLE ENERGY PRODUCTION TAX CREDIT--

LIMITATIONS--DEFINITIONS--CLAIMING THE CREDIT.--

A. The tax credit provided in this section may be referred to as the "renewable energy production tax credit". The tax credit provided in this section may not be claimed with respect to the same electricity production for which the renewable energy production tax credit provided in the Income Tax Act has been claimed.

B. A person is eligible for the renewable energy production tax credit if the person:

(1) holds title to a qualified energy generator that first produced electricity on or before January 1, 2018; or

(2) leases property upon which a qualified energy generator operates from a county or municipality under authority of an industrial revenue bond and if the qualified energy generator first produced electricity on or before January 1, 2018.

C. The amount of the tax credit shall equal one cent (\$.01) per kilowatt-hour of the first four hundred thousand megawatt-hours of electricity produced by the qualified energy generator in the taxable year using a wind- or biomass-derived qualified energy resource; provided that the total amount of tax credits claimed by all taxpayers for a single qualified energy generator using a wind- or biomass-derived qualified energy resource shall not exceed one cent (\$.01) per kilowatt-hour of the first four hundred thousand megawatt-hours of electricity produced by the qualified energy generator in a taxable year.

D. The amount of the tax credit for electricity produced by a qualified energy generator in the taxable year using a solar-light-derived or solar-heat-derived qualified energy resource shall be at the amounts specified in Paragraphs (1) through (11) of this subsection; provided that the total amount of tax credits claimed by all taxpayers in a taxable year for a single qualified energy generator using a solar-light-derived or solar-

heat-derived qualified energy resource shall be limited to the first two hundred thousand megawatt-hours of electricity produced by the qualified energy generator in the taxable year:

(1) one and one-half cents (\$.015) per kilowatt-hour in the first taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(2) two cents (\$.02) per kilowatt-hour in the second taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(3) two and one-half cents (\$.025) per kilowatt-hour in the third taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(4) three cents (\$.03) per kilowatt-hour in the fourth taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(5) three and one-half cents (\$.035) per kilowatt-hour in the fifth taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(6) four cents (\$.04) per kilowatt-hour in the sixth taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(7) three and one-half cents (\$.035) per kilowatt-hour in the seventh taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(8) three cents (\$.03) per kilowatt-hour in the eighth taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(9) two and one-half cents (\$.025) per kilowatt-hour in the ninth taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(10) two cents (\$.02) per kilowatt-hour in the tenth taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource; and

(11) one and one-half cents (\$.015) per kilowatt-hour in the eleventh taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource.

E. A taxpayer eligible for a renewable energy production tax credit pursuant to Subsection B of this section shall be eligible for the renewable energy production tax credit for one hundred twenty consecutive months, beginning on the date the qualified energy generator begins producing electricity.

F. As used in this section:

(1) "biomass" means organic material that is available on a renewable or recurring basis, including:

(a) forest-related materials, including mill residues, logging residues, forest thinnings, slash, brush, low-commercial-value materials or undesirable species, salt cedar and other phreatophyte or woody vegetation removed from river basins or watersheds and woody material harvested for the purpose of forest fire fuel reduction or forest health and watershed improvement;

(b) agricultural-related materials, including orchard trees, vineyard, grain or crop residues, including straws and stover, aquatic plants and agricultural processed co-products and waste products, including fats, oils, greases, whey and lactose;

(c) animal waste, including manure and slaughterhouse and other processing waste;

(d) solid woody waste materials, including landscape or right-of-way tree trimmings, rangeland maintenance residues, waste pallets, crates and manufacturing, construction and demolition wood wastes, excluding pressure-treated, chemically treated or painted wood wastes and wood contaminated with plastic;

(e) crops and trees planted for the purpose of being used to produce energy;

(f) landfill gas, wastewater treatment gas and biosolids, including organic waste byproducts generated during the wastewater treatment process; and

(g) segregated municipal solid waste, excluding tires and medical and hazardous waste;

(2) "qualified energy generator" means an electric generating facility with at least one megawatt generating capacity located in New Mexico that produces electricity using a qualified energy resource and the electricity produced is sold to an unrelated person; and

(3) "qualified energy resource" means a resource that generates electrical energy by means of a fluidized bed technology or similar low-emissions technology or a zero-emissions generation technology that has substantial long-term production potential and that uses only the following energy sources:

- (a) solar light;
- (b) solar heat;
- (c) wind; or
- (d) biomass.

G. A person that holds title to a facility generating electricity from a qualified energy resource or a person that leases such a facility from a county or municipality pursuant to an industrial revenue bond may request certification of eligibility for the renewable energy production tax credit from the energy, minerals and natural resources department, which shall determine if the facility is a qualified energy generator. The energy, minerals and natural resources department may certify the eligibility of an energy generator only if the total amount of electricity that may be produced annually by all qualified energy generators that are certified pursuant to this section and pursuant to the Income Tax Act will not exceed a total of two million megawatt-hours plus an additional five hundred thousand megawatt-hours produced by qualified energy generators using a solar-light-derived or solar-heat-derived qualified energy resource. Applications shall be considered in the order received. The energy, minerals and natural resources department may estimate the annual power-generating potential of a generating facility for the purposes of this section. The energy, minerals and natural resources department shall issue a certificate to the applicant stating whether the facility is an eligible qualified energy generator and the estimated annual production potential of the generating facility, which shall be the limit of that facility's energy production eligible for the tax credit for the taxable year. The energy, minerals and natural resources department may issue rules governing the procedure for administering the provisions of this subsection and shall report annually to the appropriate interim legislative committee information that will allow the legislative committee to analyze the effectiveness of the renewable energy production tax credit, including the identity of qualified energy generators, the energy production means used, the amount of energy produced by those qualified energy generators and whether any applications could not be approved due to program limits.

H. A taxpayer may be allocated all or a portion of the right to claim a renewable energy production tax credit without regard to proportional ownership interest if:

(1) the taxpayer owns an interest in a business entity that is taxed for federal income tax purposes as a partnership;

(2) the business entity:

(a) would qualify for the renewable energy production tax credit pursuant to Paragraph (1) or (2) of Subsection B of this section;

(b) owns an interest in a business entity that is also taxed for federal income tax purposes as a partnership and that would qualify for the renewable energy production tax credit pursuant to Paragraph (1) or (2) of Subsection B of this section; or

(c) owns, through one or more intermediate business entities that are each taxed for federal income tax purposes as a partnership, an interest in the business entity described in Subparagraph (b) of this paragraph;

(3) the taxpayer and all other taxpayers allocated a right to claim the renewable energy production tax credit pursuant to this subsection own collectively at least a five percent interest in a qualified energy generator;

(4) the business entity provides notice of the allocation and the taxpayer's interest to the energy, minerals and natural resources department on forms prescribed by that department for the taxable year to be claimed; and

(5) the energy, minerals and natural resources department certifies the allocation for the taxable year to be claimed in writing to the taxpayer.



I. Upon receipt of notice of an allocation of the right to claim all or a portion of the renewable energy production tax credit, the energy, minerals and natural resources department shall promptly certify the allocation in writing to the recipient of the allocation.

J. A taxpayer may claim the renewable energy production tax credit by submitting to the taxation and revenue department the certificate issued by the energy, minerals and natural resources department, pursuant to Subsection G or H of this section, documentation showing the taxpayer's interest in the facility, documentation of the amount of electricity produced by the facility in the taxable year and any other information the taxation and revenue department may require to determine the amount of the tax credit due the taxpayer.

K. If the requirements of this section have been complied with, the department shall approve payment of the renewable energy production tax credit. The credit may be deducted from a taxpayer's New Mexico corporate income tax liability for the taxable year for which the credit is claimed. If the amount of tax credit exceeds the taxpayer's corporate income tax liability for the taxable year:

(1) the excess may be carried forward for a period of five taxable years; or

(2) if the tax credit was issued with respect to a qualified energy generator that first produced electricity using a qualified energy resource on or after October 1, 2007, the excess shall be refunded to the taxpayer.

L. Once a taxpayer has been granted a renewable energy production tax credit for a given facility, that taxpayer shall be allowed to retain the facility's original date of application for tax credits for that facility until either the facility goes out of production for more than six consecutive months in a year or until the facility's ten-year eligibility has expired."

## Chapter 65 Section 8 Laws 2021

SECTION 8. Section 7-2A-30 NMSA 1978 (being Laws 2019, Chapter 270, Section 20) is amended to read:

"7-2A-30. DEDUCTION TO OFFSET MATERIAL FINANCIAL EFFECTS OF CHANGES IN DEFERRED TAX AMOUNTS DUE TO CERTAIN CHANGES MADE TO SECTIONS 7-2A-2, 7-2A-3, 7-2A-8.3, 7-4-10 AND 7-4-18 NMSA 1978.--

A. For each of ten consecutive taxable years beginning on or after January 1, 2026, a filing group subject to the corporate income tax whose members are part of a publicly traded company may claim a deduction, as provided by Subsection B of this section, from taxable income before net operating losses are deducted.

B. The deduction for each taxable year shall not exceed one-tenth of the amount necessary to offset the aggregate increase in net deferred tax liabilities, the aggregate decrease in net deferred tax assets or an aggregate change from a net deferred tax asset to a net deferred tax liability, as measured under generally accepted accounting principles, that resulted from the changes to Sections 7-2A-2, 7-2A-3, 7-2A-8.3, 7-4-10 and 7-4-18 NMSA 1978 made by this 2019 act; provided that:

(1) the amount of the aggregate change in deferred tax assets and deferred tax liabilities is properly included in the calculation of the deferred tax asset or deferred tax liability reported as part of the consolidated financial statements, as required by the federal Securities Exchange Act of 1934, for the first reporting period affected by the changes to Sections 7-2A-2, 7-2A-3, 7-2A-8.3, 7-4-10 and 7-4-18 NMSA 1978 made by this 2019 act but for the deduction provided by this section; and

(2) if the deduction provided by this section is greater than the taxpayer's net income, any excess amount shall be carried forward and applied as a deduction to the taxpayer's net income in future income years until fully utilized.

C. A filing group shall not claim a deduction pursuant to this section unless the filing group files a preliminary notice with the secretary prior to January 1, 2023 and provides necessary information to show the calculation of the deduction expected to be claimed, as the secretary may require."

## **Chapter 65 Section 9 Laws 2021**

SECTION 9. Section 7-2E-1.1 NMSA 1978 (being Laws 2007, Chapter 172, Section 2, as amended) is amended to read:

### **"7-2E-1.1. TAX CREDIT--RURAL JOB TAX CREDIT.--**

A. The tax credit created by this section may be referred to as the "rural job tax credit". Every eligible employer may apply for, and the taxation and revenue department may approve, a tax credit for each qualifying job the employer creates. The maximum tax credit amount with respect to each qualifying job is equal to:

(1) twenty-five percent of the first sixteen thousand dollars (\$16,000) in wages paid for the qualifying job if the job is performed or based at a location in a tier one area; or

(2) twelve and one-half percent of the first sixteen thousand dollars (\$16,000) in wages paid if the qualifying job is performed or based at a location in a tier two area.

B. The purpose of the rural job tax credit is to encourage businesses to start new businesses or expand existing businesses in rural areas of the state.

C. The amount of the rural job tax credit shall be six and one-fourth percent of the first sixteen thousand dollars (\$16,000) in wages paid for the qualifying job in a qualifying period. The rural job tax credit may be claimed for each qualifying job for a maximum of:

(1) four qualifying periods for each qualifying job performed or based at a location in a tier one area; and

(2) two qualifying periods for each qualifying job performed or based at a location in a tier two area.

D. With respect to each qualifying job for which an eligible employer seeks the rural job tax credit, the employer shall certify:

(1) the amount of wages paid to each eligible employee during each qualifying period;

(2) the number of weeks during the qualifying period the position was occupied;

(3) whether the qualifying job was in a tier one or tier two area;

(4) whether the application pertains to the first, second, third or fourth qualifying period, depending on whether the taxpayer is in a tier one or tier two area;

(5) the total number of employees employed by the employer at the job location on the day prior to the qualifying period and on the last day of the qualifying period;

(6) whether the eligible employer is receiving or is eligible to receive development training program assistance pursuant to Section 21-19-7 NMSA 1978; and

(7) whether the eligible employer has ceased business operations at any of its business locations in New Mexico.

E. The economic development department shall determine which employers are eligible employers and shall report the listing of eligible businesses to the taxation and revenue department in a manner and at times the departments shall agree upon.

F. To receive a rural job tax credit with respect to any qualifying period, an eligible employer shall apply to the taxation and revenue department once per calendar year on forms and in the manner the department may prescribe. The annual application shall include a certification made pursuant to Subsection D of this section and contain all qualifying periods that closed during the calendar year for which the application is made. Any qualifying period that did not close in the calendar year for which the application is made shall be denied by the department. The application for a calendar year shall be filed no later than December 31 of the following calendar year. If a taxpayer fails to file the annual application within the time limits provided in this section, the department shall deny the application. If all the requirements of this section have been complied with, the taxation and revenue department shall issue to the applicant a document granting a tax credit for the appropriate qualifying period. The tax credit document shall be numbered for identification and declare its date of issuance and the amount of rural job tax credit allowed for the respective jobs created. The tax credit documents may be sold, exchanged or otherwise transferred and may be carried forward for a period of three years from the date of issuance. The parties to such a transaction to sell, exchange or transfer a rural job tax credit document shall notify the department of the transaction within ten days of the sale, exchange or transfer.

G. The holder of the tax credit document may claim all or a portion of the rural job tax credit granted by the document against the holder's modified combined tax liability, personal income tax liability or corporate income tax liability. Any balance of rural job tax credit granted by the document may be carried forward for up to three years from the date of issuance of the tax credit document. No amount of rural job tax credit may be applied against a gross receipts tax or compensating tax imposed by a municipality or county.

H. Notwithstanding the provisions of Section 7-1-8 NMSA 1978, the taxation and revenue department may disclose to any person the balance of rural job tax credit remaining on any tax credit document and the balance of credit remaining on that document for any period.

I. The secretary of economic development, the secretary of taxation and revenue and the secretary of workforce solutions or their designees shall annually evaluate the effectiveness of the rural job tax credit in stimulating economic development in the rural areas of New Mexico and make a joint report of their findings to each session of the legislature so long as the rural job tax credit is in effect.

J. A qualifying job shall not be eligible for a rural job tax credit pursuant to this section if:

(1) the job is created due to a business merger, acquisition or other change in organization;

(2) the eligible employee was terminated from employment in New Mexico by another employer involved in the merger, acquisition or other change in organization; or

(3) the job is performed by:

(a) the person who performed the job or its functional equivalent prior to the business merger, acquisition or other change in organization; or

(b) a person replacing the person who performed the job or its functional equivalent prior to the business merger, acquisition or other change in organization.

K. Notwithstanding Subsection J of this section, a qualifying job that was created by another employer and for which the rural job tax credit application was received by the taxation and revenue department prior to July 1, 2013 and is under review or has been approved shall remain eligible for the rural job tax credit for the balance of the qualifying periods for which the job qualifies by the new employer that results from a business merger, acquisition or other change in the organization.

L. A job shall not be eligible for a rural job tax credit pursuant to this section if the job is created due to an eligible employer entering into a contract or becoming a subcontractor to a contract with a governmental entity that replaces one or more entities performing functionally equivalent services for the governmental entity in New Mexico unless the job is a qualifying job that was not being performed by an employee of the replaced entity.

M. As used in this section:

(1) "dependent" means "dependent" as defined in 26 U.S.C. 152(a), as that section may be amended or renumbered;

(2) "eligible employee" means any individual other than an individual who:

(a) is a dependent of the employer;

(b) if the employer is an estate or trust, is a grantor, beneficiary or fiduciary of the estate or trust or is a dependent of a grantor, beneficiary or fiduciary of the estate or trust;

(c) if the employer is a corporation, is a dependent of an individual who owns, directly or indirectly, more than fifty percent in value of the outstanding stock of the corporation;

(d) if the employer is an entity other than a corporation, estate or trust, is a dependent of an individual who owns, directly or indirectly, more than fifty percent of the capital and profits interests in the entity; or

(e) is working or has worked as an employee or as an independent contractor for an entity that, directly or indirectly, owns stock in a corporation of the eligible employer or other interest of the eligible employer that represents fifty percent or

more of the total voting power of that entity or has a value equal to fifty percent or more of the capital and profits interests in the entity;

(3) "eligible employer" means an employer who is eligible for in-plant training assistance pursuant to Section 21-19-7 NMSA 1978;

(4) "metropolitan statistical area" means a metropolitan statistical area in New Mexico as determined by the United States bureau of the census;

(5) "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 that 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 rural job tax credit applied against any or all of these taxes or surcharges; but "modified combined tax liability" excludes all amounts collected with respect to a gross receipts tax or compensating tax imposed by a municipality or county;

(6) "new job" means a job that is occupied by an employee who has not been employed in New Mexico by the eligible employer in the three years prior to the date of hire;

(7) "qualifying job" means a new job that was created after July 1, 2000 and that was not created due to a change in organizational structure established by the employer that is occupied by an eligible employee for at least forty-four weeks of a qualifying period;

(8) "qualifying period" means the period of twelve months beginning on the day an eligible employee begins working in a qualifying job or the period of twelve months beginning on the anniversary of the day an eligible employee began working in a qualifying job;



(9) "rural area" means any part of the state other than:

(a) an H class county;

(b) the state fairgrounds;

(c) an incorporated municipality within a metropolitan statistical area if the municipality's population is thirty thousand or more according to the most recent federal decennial census; and

(d) any area within ten miles of the exterior boundaries of a municipality described in Subparagraph (c) of this paragraph;

(10) "tier one area" means:

(a) any municipality within the rural area if the municipality's population according to the most recent federal decennial census is fifteen thousand or less; or

(b) any part of the rural area that is not within the exterior boundaries of a municipality;

(11) "tier two area" means any municipality within the rural area if the municipality's population according to the most recent federal decennial census is more than fifteen thousand; and

(12) "wages" means all compensation paid by an eligible employer to an eligible employee through the employer's payroll system, including those wages the employee elects to defer or redirect, such as the employee's contribution to 401(k) or cafeteria plan programs, but not including benefits or the employer's share of payroll taxes."

## **Chapter 65 Section 10 Laws 2021**

SECTION 10. Section 7-8A-9 NMSA 1978 (being Laws 1997, Chapter 25, Section 9) is amended to read:

"7-8A-9. NOTICE AND PUBLICATION OF LISTS OF ABANDONED PROPERTY.--The administrator shall publish a notice not later than November 30 of each year in which abandoned property has been paid or delivered to the administrator. The notice shall be published in a newspaper of general circulation in each county of this state. The advertisement must be in a form that, in the judgment of the administrator, is likely to attract the attention of the general public. The advertisement shall contain:

- A. the website on which to search for information about abandoned properties;
- B. the email address of the administrator;
- C. the telephone number and physical mailing address of the administrator;
- D. a statement explaining that property of the owner is presumed to be abandoned and has been taken into the protective custody of the administrator; and
- E. a statement providing information about the property and the return to the property's owner is available to a person having a legal or beneficial interest in the property, upon request to the administrator."

## **Chapter 65 Section 11 Laws 2021**

SECTION 11. Section 7-9-3 NMSA 1978 (being Laws 1978, Chapter 46, Section 1, as amended by Laws 2019, Chapter 270, Section 23 and by Laws 2019, Chapter 274, Section 11) is amended to read:

"7-9-3. DEFINITIONS.--As used in the Gross Receipts and Compensating Tax Act:

A. "buying" or "selling" means a transfer of property for consideration or the performance of service for consideration;

B. "department" means the taxation and revenue department, the secretary of taxation and revenue or an employee of the department exercising authority lawfully delegated to that employee by the secretary;

C. "digital good" means a digital product delivered electronically, including software, music, photography, video, reading material, an application and a ringtone;

D. "financial corporation" means a savings and loan association or an incorporated savings and loan company, trust company, mortgage banking company, consumer finance company or other financial corporation;

E. "initial use" or "initially used" means the first employment for the intended purpose and does not include the following activities:

(1) observation of tests conducted by the performer of services;

(2) participation in progress reviews, briefings, consultations and conferences conducted by the performer of services;

(3) review of preliminary drafts, drawings and other materials prepared by the performer of the services;

(4) inspection of preliminary prototypes developed by the performer of services; or

(5) similar activities;

F. "lease" or "leasing" means an arrangement whereby, for a consideration, the owner of property grants another person the exclusive right to possess and use the property for a definite term;

G. "licensing" or "license" means an arrangement whereby, for a consideration, the owner of property grants another person a revocable, non-exclusive right to use the property;

H. "local option gross receipts tax" means a tax authorized to be imposed by a county or municipality upon a taxpayer's gross receipts and required to be collected by the department at the same time and in the same manner as the gross receipts tax;

I. "manufactured home" means a movable or portable housing structure for human occupancy that exceeds either a width of eight feet or a length of forty feet constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation;

J. "manufacturing" means combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include construction;

K. "marketplace provider" means a person who facilitates the sale, lease or license of tangible personal property or services or licenses for use of real property on a marketplace seller's behalf, or on the marketplace provider's own behalf, by:

(1) listing or advertising the sale, lease or license, by any means, whether physical or electronic, including by catalog, internet website or television or radio broadcast; and

(2) either directly or indirectly, through agreements or arrangements with third parties collecting payment from the customer and transmitting that payment to the seller, regardless of whether the marketplace provider receives compensation or other consideration in exchange for the marketplace provider's services;

L. "marketplace seller" means a person who sells, leases or licenses tangible personal property or services or who licenses the use of real property through a marketplace provider;

M. "person" means:

(1) an individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, limited liability partnership, joint venture, syndicate or other entity, including any gas, water or electric utility owned or operated by a county, municipality or other political subdivision of the state; or

(2) a national, federal, state, Indian or other governmental unit or subdivision, or an agency, department or instrumentality of any of the foregoing;

N. "property" means:

(1) real property;

(2) tangible personal property, including electricity and manufactured homes;

(3) licenses, including licenses of digital goods, but not including the licenses of copyrights, trademarks or patents; and

(4) franchises;

O. "research and development services" means an activity engaged in for other persons for consideration, for one or more of the following purposes:

(1) advancing basic knowledge in a recognized field of natural science;

(2) advancing technology in a field of technical endeavor;

(3) developing a new or improved product, process or system with new or improved function, performance, reliability or quality, whether or not the new or improved product, process or system is offered for sale, lease or other transfer;

(4) developing new uses or applications for an existing product, process or system, whether or not the new use or application is offered as the rationale for purchase, lease or other transfer of the product, process or system;

(5) developing analytical or survey activities incorporating technology review, application, trade-off study, modeling, simulation, conceptual design or similar activities, whether or not offered for sale, lease or other transfer; or

(6) designing and developing prototypes or integrating systems incorporating the advances, developments or improvements included in Paragraphs (1) through (5) of this subsection;

P. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

Q. "service" means all activities engaged in for other persons for a consideration, which activities involve predominantly the performance of a service as distinguished from selling or leasing property. "Service" includes activities performed by a person for its members or shareholders. In determining what is a service, the intended use, principal objective or ultimate objective of the contracting parties shall not be controlling. "Service" includes construction activities and all tangible personal property that will become an ingredient or component part of a construction project. That tangible personal property retains its character as tangible personal property until it is installed as an ingredient or component part of a construction project in New Mexico. Sales of tangible personal property that will become an ingredient or component part of a construction project to persons engaged in the construction business are sales of tangible personal property; and

R. "use" or "using" includes use, consumption or storage other than storage for subsequent sale in the ordinary course of business or for use solely outside this state."

## **Chapter 65 Section 12 Laws 2021**

SECTION 12. Section 7-9-7 NMSA 1978 (being Laws 1966, Chapter 47, Section 7, as amended) is amended to read:

"7-9-7. IMPOSITION AND RATE OF TAX--DENOMINATION AS "COMPENSATING TAX".--

A. For the privilege of making taxable use of tangible personal property in New Mexico, there is imposed on the person using the property an excise tax equal to five and one-eighth percent of the value of tangible property that was:

- (1) manufactured by the person using the property in the state; or
- (2) acquired in a transaction for which the seller's receipts were not subject to the gross receipts tax.

B. For the purpose of Subsection A of this section, value of tangible personal property shall be the adjusted basis of the property for federal income tax purposes determined as of the time of acquisition or introduction into this state or of conversion of the property to taxable use, whichever is later. If no adjusted basis for federal income tax purposes is established for the property, a reasonable value of the property shall be used.

C. For the privilege of making taxable use of a license or franchise in New Mexico, there is imposed on the person using the license or franchise an excise tax equal to the rate provided in Subsection A of this section against the value of the license or franchise in its use in this state. The department by rule, ruling or instruction shall

fairly apportion, where appropriate, the value of a license or franchise to its value in use in New Mexico. The tax shall apply only to the value of a license or franchise used in New Mexico where the license or franchise was acquired in a transaction the receipts from which were not subject to the gross receipts tax.

D. For the privilege of making taxable use of services in New Mexico, there is imposed on the person using the services an excise tax equal to the rate provided in Subsection A of this section against the value of the services at the time the services were performed or the product of the service was acquired. For use of services to be a taxable use pursuant to this subsection, the services shall have been acquired in a transaction the receipts from which were not subject to the gross receipts tax.

E. For purposes of this section, receipts are not subject to the gross receipts tax if the person responsible for the gross receipts tax on those receipts lacked nexus in New Mexico or the receipts were exempt or allowed to be deducted pursuant to the Gross Receipts and Compensating Tax Act.

F. The tax imposed by this section shall be referred to as the "compensating tax".

G. As used in this section, "taxable use" means use by a person who acquires tangible personal property, a license, a franchise or a service, and the use of which would not have qualified for an exemption or deduction pursuant to the Gross Receipts and Compensating Tax Act."

## **Chapter 65 Section 13 Laws 2021**

SECTION 13. Section 7-9-46 NMSA 1978 (being Laws 1969, Chapter 144, Section 36, as amended) is amended to read:

"7-9-46. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL GROSS RECEIPTS--SALES TO MANUFACTURERS.--



A. Receipts from selling tangible personal property may be deducted from gross receipts or from governmental gross receipts if the sale is made to a person engaged in the business of manufacturing who delivers a nontaxable transaction certificate to the seller or provides alternative evidence pursuant to Section 7-9-43 NMSA 1978. The buyer must incorporate the tangible personal property as an ingredient or component part of the product that the buyer is in the business of manufacturing.

B. Receipts from selling tangible personal property that is a consumable and used in such a way that it is consumed in the manufacturing process of a product, provided that the tangible personal property is not a tool or equipment used to create the manufactured product, to a person engaged in the business of manufacturing that product and who delivers a nontaxable transaction certificate or provides alternative evidence pursuant to Section 7-9-43 NMSA 1978 to the seller may be deducted from gross receipts or from governmental gross receipts.

C. Regarding the deduction allowed pursuant to Subsection B of this section, a nontaxable transaction certificate is required if the seller is a seller of electricity or fuel and is a party to an agreement with the department pursuant to Section 7-1-21.1 NMSA 1978.

D. The purpose of the deductions provided in this section is to encourage manufacturing businesses to locate in New Mexico and to reduce the tax burden, including reducing pyramiding, on the tangible personal property that is consumed in the manufacturing process and that is purchased by manufacturing businesses in New Mexico.

E. The department shall annually report to the revenue stabilization and tax policy committee the aggregate amount of deductions taken pursuant to this section, the number of taxpayers claiming each of the deductions and any other information that is necessary to determine that the deductions are performing the purposes for which they are enacted.

F. A taxpayer deducting gross receipts pursuant to this section shall report the amount deducted separately for each deduction provided in this section and attribute the amount of the deduction to the appropriate authorization provided in this section in a manner required by the department that facilitates the evaluation by the legislature of the benefit to the state of these deductions.

G. As used in Subsection B of this section, "consumable" means tangible personal property that is incorporated into, destroyed, depleted or transformed in the process of manufacturing a product:

(1) including electricity, fuels, water, manufacturing aids and supplies, chemicals, gases, repair parts, spares and other tangibles used to manufacture a product; but

(2) excluding tangible personal property used in:

(a) the generation of power;

(b) the processing of natural resources, including hydrocarbons;

and

(c) the preparation of meals for immediate consumption on- or off-premises."

## **Chapter 65 Section 14 Laws 2021**

SECTION 14. Section 7-9-47 NMSA 1978 (being Laws 1969, Chapter 144, Section 37, as amended) is amended to read:

"7-9-47. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL GROSS RECEIPTS TAX--SALE OF TANGIBLE PERSONAL PROPERTY OR LICENSES FOR RESALE.--Receipts from selling tangible personal property or licenses may be

deducted from gross receipts or from governmental gross receipts if the sale is made to a person who delivers a nontaxable transaction certificate to the seller or provides alternative evidence pursuant to Section 7-9-43 NMSA 1978. The buyer must resell the tangible personal property or license either by itself or in combination with other tangible personal property or licenses in the ordinary course of business."

## **Chapter 65 Section 15 Laws 2021**

SECTION 15. Section 7-9-48 NMSA 1978 (being Laws 1969, Chapter 144, Section 38, as amended) is amended to read:

"7-9-48. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL GROSS RECEIPTS--SALE OF A SERVICE FOR RESALE.--Receipts from selling a service for resale may be deducted from gross receipts or from governmental gross receipts if the sale is made to a person who delivers a nontaxable transaction certificate to the seller or provides alternative evidence pursuant to Section 7-9-43 NMSA 1978. The buyer must resell the service in the ordinary course of business and the resale must be subject to the gross receipts tax or governmental gross receipts tax."

## **Chapter 65 Section 16 Laws 2021**

SECTION 16. Section 7-9-49 NMSA 1978 (being Laws 1969, Chapter 144, Section 39, as amended) is amended to read:

"7-9-49. DEDUCTION--GROSS RECEIPTS TAX--SALE OF TANGIBLE PERSONAL PROPERTY AND LICENSES FOR LEASING.--

A. Except as otherwise provided by Subsection B of this section, receipts from selling tangible personal property and licenses may be deducted from gross receipts if the sale is made to a person who delivers a nontaxable transaction certificate to the seller or provides alternative evidence pursuant to Section 7-9-43 NMSA 1978. The buyer shall be engaged in a business that derives a substantial portion of its receipts

from leasing or selling tangible personal property or licenses of the type sold. The buyer may not utilize the tangible personal property or license in any manner other than holding it for lease or sale or leasing or selling it either by itself or in combination with other tangible personal property or licenses in the ordinary course of business.

B. The deduction provided by this section shall not apply to receipts from selling:

(1) furniture or appliances, the receipts from the rental or lease of which are deductible under Subsection C of Section 7-9-53 NMSA 1978;

(2) coin-operated machines; or

(3) manufactured homes."

## **Chapter 65 Section 17 Laws 2021**

SECTION 17. Section 7-9-50 NMSA 1978 (being Laws 1969, Chapter 144, Section 40, as amended) is amended to read:

"7-9-50. DEDUCTION--GROSS RECEIPTS TAX--LEASE FOR SUBSEQUENT LEASE.--

A. Except as provided otherwise in Subsection B of this section, receipts from leasing tangible personal property or licenses may be deducted from gross receipts if the lease is made to a lessee who delivers a nontaxable transaction certificate to the lessor or provides alternative evidence pursuant to Section 7-9-43 NMSA 1978. The lessee may not use the tangible personal property or license in any manner other than for subsequent lease in the ordinary course of business.

B. The deduction provided by this section does not apply to receipts from leasing:

- (1) furniture or appliances, the receipts from the rental or lease of which are deductible under Subsection C of Section 7-9-53 NMSA 1978;
- (2) coin-operated machines; or
- (3) manufactured homes."

## **Chapter 65 Section 18 Laws 2021**

SECTION 18. Section 7-9-51 NMSA 1978 (being Laws 1969, Chapter 144, Section 41, as amended) is amended to read:

"7-9-51. DEDUCTION--GROSS RECEIPTS TAX--SALE OF CONSTRUCTION MATERIAL TO PERSONS ENGAGED IN THE CONSTRUCTION BUSINESS.--

A. Receipts from selling construction material may be deducted from gross receipts if the sale is made to a person engaged in the construction business who delivers a nontaxable transaction certificate to the seller or provides alternative evidence pursuant to Section 7-9-43 NMSA 1978.

B. The buyer must incorporate the construction material as:

- (1) an ingredient or component part of a construction project that is subject to the gross receipts tax upon its completion or upon the completion of the overall construction project of which it is a part;
- (2) an ingredient or component part of a construction project that is subject to the gross receipts tax upon the sale in the ordinary course of business of the real property upon which it was constructed; or
- (3) an ingredient or component part of a construction project that is located on the tribal territory of an Indian nation, tribe or pueblo."

## Chapter 65 Section 19 Laws 2021

SECTION 19. Section 7-9-52 NMSA 1978 (being Laws 1969, Chapter 144, Section 42, as amended) is amended to read:

"7-9-52. DEDUCTION--GROSS RECEIPTS TAX--SALE OF CONSTRUCTION SERVICES AND CONSTRUCTION-RELATED SERVICES TO PERSONS ENGAGED IN THE CONSTRUCTION BUSINESS.--

A. Receipts from selling a construction service or a construction-related service may be deducted from gross receipts if the sale is made to a person engaged in the construction business who delivers a nontaxable transaction certificate to the person performing the construction service or a construction-related service or provides alternative evidence pursuant to Section 7-9-43 NMSA 1978.

B. The buyer shall have the construction services or construction-related services directly contracted for or billed to:

(1) a construction project that is subject to the gross receipts tax upon its completion or upon the completion of the overall construction project of which it is a part;

(2) a construction project that is subject to the gross receipts tax upon the sale in the ordinary course of business of the real property upon which it was constructed; or

(3) a construction project that is located on the tribal territory of an Indian nation, tribe or pueblo."

## Chapter 65 Section 20 Laws 2021

SECTION 20. Section 7-9-52.1 NMSA 1978 (being Laws 2012, Chapter 5, Section 6) is amended to read:

### "7-9-52.1. DEDUCTION--GROSS RECEIPTS TAX--LEASE OF CONSTRUCTION EQUIPMENT TO PERSONS ENGAGED IN THE CONSTRUCTION BUSINESS.--

A. Receipts from leasing construction equipment may be deducted from gross receipts if the construction equipment is leased to a person engaged in the construction business who delivers a nontaxable transaction certificate to the person leasing the construction equipment or provides alternative evidence pursuant to Section 7-9-43 NMSA 1978.

B. The lessee shall only use the construction equipment at the construction location of:

(1) a construction project that is subject to the gross receipts tax upon its completion or upon the completion of the overall construction project of which it is a part;

(2) a construction project that is subject to the gross receipts tax upon the sale in the ordinary course of business of the real property upon which it was constructed; or

(3) a construction project that is located on the tribal territory of an Indian nation, tribe or pueblo.

C. As used in this section, "construction equipment" means equipment used on a construction project, including trash containers, portable toilets, scaffolding and temporary fencing."

## **Chapter 65 Section 21 Laws 2021**

SECTION 21. Section 7-9-54.1 NMSA 1978 (being Laws 1992, Chapter 40, Section 1, as amended) is amended to read:

"7-9-54.1. DEDUCTION--GROSS RECEIPTS FROM SALE OF AEROSPACE SERVICES TO CERTAIN ORGANIZATIONS.--

A. Receipts from performing or selling an aerospace service for resale may be deducted from gross receipts if the sale is made to a buyer who delivers a nontaxable transaction certificate or provides alternative evidence pursuant to Section 7-9-43 NMSA 1978. The buyer shall separately state the value of the aerospace service purchased in the buyer's charge for the aerospace service on its subsequent sale to an organization or, if the buyer is an organization, on the organization's subsequent sale to the United States, and the subsequent sale shall be in the ordinary course of business of selling aerospace services to an organization or to the United States.

B. As used in this section:

(1) "aerospace services" means research and development services sold to or for resale to an organization for resale by the organization to the United States air force; and

(2) "organization" means an organization described in Subsection A of Section 7-9-29 NMSA 1978 other than a prime contractor operating facilities in New Mexico designated as a national laboratory by act of congress."

## **Chapter 65 Section 22 Laws 2021**

SECTION 22. Section 7-9-56.3 NMSA 1978 (being Laws 2003, Chapter 232, Section 1, as amended) is amended to read:



"7-9-56.3. DEDUCTION--GROSS RECEIPTS--TRADE-SUPPORT COMPANY IN A BORDER ZONE.--

A. The receipts of a trade-support company may be deducted from gross receipts if:

(1) the trade-support company first locates in New Mexico within twenty miles of a port of entry on New Mexico's border with Mexico on or after July 1, 2003 but before July 1, 2013 or on or after January 1, 2016 but before January 1, 2021;

(2) the receipts are received by the company within a five-year period beginning on the date the trade-support company locates in New Mexico and the receipts are derived from its business activities and operations at its border zone location; and

(3) the trade-support company employs at least two employees in New Mexico.

B. A taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction separately in a manner required by the department.

C. The department shall compile an annual report on the deduction created pursuant to this section that shall include the number of taxpayers approved by the department to receive the deduction, the aggregate amount of deductions approved and any other information necessary to evaluate the effectiveness of the deduction. Beginning in 2016 and every four years thereafter that the deduction is in effect, the department shall compile and present the annual reports to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the deduction.

D. As used in this section:

(1) "dependent" means "dependent" as defined in 26 U.S.C. 152(a), as that section may be amended or renumbered;

(2) "employee" means an individual, other than an individual who:

(a) is a dependent of the employer;

(b) if the employer is an estate or trust, is a grantor, beneficiary or fiduciary of the estate or trust or is a dependent of a grantor, beneficiary or fiduciary of the estate or trust;

(c) if the employer is a corporation, is a dependent of an individual who owns, directly or indirectly, more than fifty percent in value of the outstanding stock of the corporation; or

(d) if the employer is an entity other than a corporation, estate or trust, is a dependent of an individual who owns, directly or indirectly, more than fifty percent of the capital and profits interests in the entity;

(3) "port of entry" means an international port of entry in New Mexico at which customs services are provided by United States customs and border protection; and

(4) "trade-support company" means a customs brokerage firm or a freight forwarder."

## **Chapter 65 Section 23 Laws 2021**

SECTION 23. Section 7-9-60 NMSA 1978 (being Laws 1970, Chapter 12, Section 4, as amended) is amended to read:

"7-9-60. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL GROSS RECEIPTS TAX--SALES TO CERTAIN ORGANIZATIONS.--

A. Except as provided otherwise in Subsection B of this section, receipts from selling tangible personal property to 501(c)(3) organizations may be deducted from gross receipts or from governmental gross receipts if the sale is made to an organization that delivers a nontaxable transaction certificate to the seller or provides alternative evidence pursuant to Section 7-9-43 NMSA 1978. The buyer shall employ the tangible personal property in the conduct of functions described in Section 501(c)(3) and shall not employ the tangible personal property in the conduct of an unrelated trade or business as defined in Section 513 of the United States Internal Revenue Code of 1986, as amended or renumbered.

B. The deduction provided by this section does not apply to receipts from selling construction material, excluding tangible personal property, whether removable or non-removable, that is or would be classified for depreciation purposes as three-year property, five-year property, seven-year property or ten-year property, including indirect costs related to the asset basis, by Section 168 of the Internal Revenue Code of 1986, as that section may be amended or renumbered, or from selling metalliferous mineral ore; except that receipts from selling construction material or from selling metalliferous mineral ore to a 501(c)(3) organization that is organized for the purpose of providing homeownership opportunities to low-income families may be deducted from gross receipts. Receipts may be deducted under this subsection only if the buyer delivers a nontaxable transaction certificate to the seller or provides alternative evidence pursuant to Section 7-9-43 NMSA 1978. The buyer shall use the property in the conduct of functions described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and shall not employ the tangible personal property in the conduct of an unrelated trade or business, as defined in Section 513 of that code.

C. For the purposes of this section, "501(c)(3) organization" means an organization that has been granted exemption from the federal income tax by the United States commissioner of internal revenue as an organization described in Section

501(c)(3) of the United States Internal Revenue Code of 1986, as amended or renumbered."

## **Chapter 65 Section 24 Laws 2021**

SECTION 24. Section 7-9-77.1 NMSA 1978 (being Laws 1998, Chapter 96, Section 1, as amended) is amended to read:

"7-9-77.1. DEDUCTION--GROSS RECEIPTS TAX--CERTAIN MEDICAL AND HEALTH CARE SERVICES.--

A. Receipts of a health care practitioner or an association of health care practitioners from payments by the United States government or any agency thereof for provision of medical and other health services by a health care practitioner or of medical or other health and palliative services by hospices or nursing homes to medicare beneficiaries pursuant to the provisions of Title 18 of the federal Social Security Act may be deducted from gross receipts.

B. Receipts of a health care practitioner or an association of health care practitioners from payments by a third-party administrator of the federal TRICARE program for provision of medical and other health services by medical doctors and osteopathic physicians to covered beneficiaries may be deducted from gross receipts.

C. Receipts of a health care practitioner or an association of health care practitioners from payments by or on behalf of the Indian health service of the United States department of health and human services for provision of medical and other health services by medical doctors and osteopathic physicians to covered beneficiaries may be deducted from gross receipts.

D. Receipts of a clinical laboratory from payments by the United States government or any agency thereof for medical services provided by the clinical

laboratory to medicare beneficiaries pursuant to the provisions of Title 18 of the federal Social Security Act may be deducted from gross receipts.

E. Receipts of a home health agency from payments by the United States government or any agency thereof for medical, other health and palliative services provided by the home health agency to medicare beneficiaries pursuant to the provisions of Title 18 of the federal Social Security Act may be deducted from gross receipts.

F. Prior to July 1, 2024, receipts of a dialysis facility from payments by the United States government or any agency thereof for medical and other health services provided by the dialysis facility to medicare beneficiaries pursuant to the provisions of Title 18 of the federal Social Security Act may be deducted from gross receipts.

G. A taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction separately in a manner required by the department. A taxpayer who has receipts that are deductible pursuant to this section and Section 7-9-93 NMSA 1978 shall deduct the receipts under this section prior to calculating the receipts that may be deducted pursuant to Section 7-9-93 NMSA 1978.

H. The department shall compile an annual report on the deductions created pursuant to this section that shall include the number of taxpayers approved by the department to receive each deduction, the aggregate amount of deductions approved and any other information necessary to evaluate the effectiveness of the deductions. The department shall compile and present the annual reports to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the deductions and whether the deductions are providing a benefit to the state.

I. For the purposes of this section:

(1) "association of health care practitioners" means a corporation, unincorporated business entity or other legal entity organized by, owned by or employing one or more health care practitioners; provided that the entity is not:

(a) an organization granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as that section may be amended or renumbered; or

(b) a health maintenance organization, hospital, hospice, nursing home or an entity that is solely an outpatient facility or intermediate care facility licensed pursuant to the Public Health Act;

(2) "clinical laboratory" means a laboratory accredited pursuant to 42 USCA 263a;

(3) "dialysis facility" means an end-stage renal disease facility as defined pursuant to 42 C.F.R. 405.2102;

(4) "health care practitioner" means:

(a) an athletic trainer licensed pursuant to the Athletic Trainer Practice Act;

(b) an audiologist licensed pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

(c) a chiropractic physician licensed pursuant to the Chiropractic Physician Practice Act;

(d) a counselor or therapist practitioner licensed pursuant to the Counseling and Therapy Practice Act;

- (e) a dentist licensed pursuant to the Dental Health Care Act;
- (f) a doctor of oriental medicine licensed pursuant to the Acupuncture and Oriental Medicine Practice Act;
- (g) an independent social worker licensed pursuant to the Social Work Practice Act;
- (h) a massage therapist licensed pursuant to the Massage Therapy Practice Act;
- (i) a naprapath licensed pursuant to the Naprapathic Practice Act;
- (j) a nutritionist or dietitian licensed pursuant to the Nutrition and Dietetics Practice Act;
- (k) an occupational therapist licensed pursuant to the Occupational Therapy Act;
- (l) an optometrist licensed pursuant to the Optometry Act;
- (m) an osteopathic physician licensed pursuant to the Osteopathic Medicine Act;
- (n) a pharmacist licensed pursuant to the Pharmacy Act;
- (o) a physical therapist licensed pursuant to the Physical Therapy Act;
- (p) a physician licensed pursuant to the Medical Practice Act;

- (q) a podiatrist licensed pursuant to the Podiatry Act;
  - (r) a psychologist licensed pursuant to the Professional Psychologist Act;
  - (s) a radiologic technologist licensed pursuant to the Medical Imaging and Radiation Therapy Health and Safety Act;
  - (t) a registered nurse licensed pursuant to the Nursing Practice Act;
  - (u) a respiratory care practitioner licensed pursuant to the Respiratory Care Act; and
  - (v) a speech-language pathologist licensed pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;
- (5) "home health agency" means a for-profit entity that is licensed by the department of health and certified by the federal centers for medicare and medicaid services as a home health agency and certified to provide medicare services;
- (6) "hospice" means a for-profit entity licensed by the department of health as a hospice and certified to provide medicare services;
- (7) "nursing home" means a for-profit entity licensed by the department of health as a nursing home and certified to provide medicare services; and
- (8) "TRICARE program" means the program defined in 10 U.S.C. 1072(7)."



## **Chapter 65 Section 25 Laws 2021**

SECTION 25. Section 7-9-79 NMSA 1978 (being Laws 1966, Chapter 47, Section 16, as amended) is amended to read:

"7-9-79. CREDIT--COMPENSATING TAX.--

A. If, on property or services bought outside this state, a gross receipts, sales, compensating or similar tax has been levied by another state or political subdivision thereof on the transaction by which the person using the property or services in New Mexico acquired the property or a compensating, use or similar tax has been levied by another state on the use of the property subsequent to its acquisition by the person using the property or services in New Mexico and such tax has been paid, the amount of such tax paid may be credited against any compensating tax due this state on the same property. The credit allowed pursuant to this subsection shall not exceed the compensating tax due on the property or services used in New Mexico.

B. When the receipts from the sale of real property constructed by a person in the ordinary course of the person's construction business are subject to the gross receipts tax, the amount of compensating tax previously paid by the person on materials that became an ingredient or component part of the construction project and on construction services performed upon the construction project may be credited against the gross receipts tax due on the sale."

## **Chapter 65 Section 26 Laws 2021**

SECTION 26. Section 7-9-92 NMSA 1978 (being Laws 2004, Chapter 116, Section 5) is amended to read:

"7-9-92. DEDUCTION--GROSS RECEIPTS--SALE OF FOOD AT RETAIL FOOD STORE.--

A. Receipts from the sale of food by a retail food store that are not exempt from gross receipts taxation and are not deductible pursuant to another provision of the Gross Receipts and Compensating Tax Act may be deducted from gross receipts. The deduction provided by this section shall be separately stated by the taxpayer.

B. For the purposes of this section:

(1) "food" means any food or food product for home consumption that meets the definition of food in 7 USCA 2012(k)(1) for purposes of the federal supplemental nutrition assistance program; and

(2) "retail food store" means an establishment that sells food for home preparation and consumption and that meets the definition of retail food store in 7 USCA 2012(o)(1) for purposes of the federal supplemental nutrition assistance program, whether or not the establishment participates in the supplemental nutrition assistance program."

## **Chapter 65 Section 27 Laws 2021**

SECTION 27. Section 7-9-93 NMSA 1978 (being Laws 2004, Chapter 116, Section 6, as amended) is amended to read:

"7-9-93. DEDUCTION--GROSS RECEIPTS--CERTAIN RECEIPTS FOR SERVICES PROVIDED BY HEALTH CARE PRACTITIONER OR ASSOCIATION OF HEALTH CARE PRACTITIONERS.--

A. Receipts of a health care practitioner or an association of health care practitioners for commercial contract services or medicare part C services paid by a managed health care provider or health care insurer may be deducted from gross receipts if the services are within the scope of practice of the health care practitioner providing the service. Receipts from fee-for-service payments by a health care insurer may not be deducted from gross receipts.

B. The deduction provided by this section shall be applied only to gross receipts remaining after all other allowable deductions available under the Gross Receipts and Compensating Tax Act have been taken and shall be separately stated by the taxpayer.

C. For the purposes of this section:

(1) "association of health care practitioners" means a corporation, unincorporated business entity or other legal entity organized by, owned by or employing one or more health care practitioners; provided that the entity is not:

(a) an organization granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as that section may be amended or renumbered; or

(b) a health maintenance organization, hospital, hospice, nursing home or an entity that is solely an outpatient facility or intermediate care facility licensed pursuant to the Public Health Act;

(2) "commercial contract services" means health care services performed by a health care practitioner pursuant to a contract with a managed health care provider or health care insurer other than those health care services provided for medicare patients pursuant to Title 18 of the federal Social Security Act or for medicaid patients pursuant to Title 19 or Title 21 of the federal Social Security Act;

(3) "health care insurer" means a person that:

(a) has a valid certificate of authority in good standing pursuant to the New Mexico Insurance Code to act as an insurer, health maintenance organization or nonprofit health care plan or prepaid dental plan; and

(b) contracts to reimburse licensed health care practitioners for providing basic health services to enrollees at negotiated fee rates;

(4) "health care practitioner" means:

(a) a chiropractic physician licensed pursuant to the provisions of the Chiropractic Physician Practice Act;

(b) a dentist or dental hygienist licensed pursuant to the Dental Health Care Act;

(c) a doctor of oriental medicine licensed pursuant to the provisions of the Acupuncture and Oriental Medicine Practice Act;

(d) an optometrist licensed pursuant to the provisions of the Optometry Act;

(e) an osteopathic physician or an osteopathic physician assistant licensed pursuant to the provisions of the Osteopathic Medicine Act;

(f) a physical therapist licensed pursuant to the provisions of the Physical Therapy Act;

(g) a physician or physician assistant licensed pursuant to the provisions of the Medical Practice Act;

(h) a podiatrist licensed pursuant to the provisions of the Podiatry Act;

(i) a psychologist licensed pursuant to the provisions of the Professional Psychologist Act;

health;

(j) a registered lay midwife registered by the department of

(k) a registered nurse or licensed practical nurse licensed pursuant to the provisions of the Nursing Practice Act;

(l) a registered occupational therapist licensed pursuant to the provisions of the Occupational Therapy Act;

(m) a respiratory care practitioner licensed pursuant to the provisions of the Respiratory Care Act;

(n) a speech-language pathologist or audiologist licensed pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

(o) a professional clinical mental health counselor, marriage and family therapist or professional art therapist licensed pursuant to the provisions of the Counseling and Therapy Practice Act who has obtained a master's degree or a doctorate;

(p) an independent social worker licensed pursuant to the provisions of the Social Work Practice Act; and

(q) a clinical laboratory that is accredited pursuant to 42 U.S.C. Section 263a but that is not a laboratory in a physician's office or in a hospital defined pursuant to 42 U.S.C. Section 1395x;

(5) "managed health care provider" means a person that provides for the delivery of comprehensive basic health care services and medically necessary services to individuals enrolled in a plan through its own employed health care providers or by contracting with selected or participating health care providers. "Managed health

care provider" includes only those persons that provide comprehensive basic health care services to enrollees on a contract basis, including the following:

- (a) health maintenance organizations;
- (b) preferred provider organizations;
- (c) individual practice associations;
- (d) competitive medical plans;
- (e) exclusive provider organizations;
- (f) integrated delivery systems;
- (g) independent physician-provider organizations;
- (h) physician hospital-provider organizations; and
- (i) managed care services organizations; and

(6) "medicare part C services" means services performed pursuant to a contract with a managed health care provider for medicare patients pursuant to Title 18 of the federal Social Security Act."

## **Chapter 65 Section 28 Laws 2021**

SECTION 28. Section 7-9-96.2 NMSA 1978 (being Laws 2007, Chapter 361, Section 8) is amended to read:

"7-9-96.2. CREDIT--GROSS RECEIPTS TAX--UNPAID CHARGES FOR SERVICES PROVIDED IN A HOSPITAL.--

A. A licensed medical doctor, licensed osteopathic physician or association of licensed medical doctors or osteopathic physicians may claim a credit against gross receipts taxes due in an amount equal to the value of unpaid qualified health care services.

B. As used in this section:

(1) "association of licensed medical doctors or osteopathic physicians" means a corporation, unincorporated business entity or other legal entity organized by, owned by or employing one or more licensed medical doctors or osteopathic physicians; provided that the entity is not:

(a) an organization granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as that section may be amended or renumbered; or

(b) a health maintenance organization, hospital, hospice, nursing home or an entity that is solely an outpatient facility or intermediate care facility licensed pursuant to the Public Health Act;

(2) "qualified health care services" means medical care services provided by a licensed medical doctor or licensed osteopathic physician while on call to a hospital; and

(3) "value of unpaid qualified health care services" means the amount that is charged for qualified health care services, not to exceed one hundred thirty percent of the reimbursement rate for the services under the medicaid program administered by the human services department, that remains unpaid one year after the date of billing and that the licensed medical doctor or licensed osteopathic physician has reason to believe will not be paid because:

(a) at the time the services were provided, the person receiving the services had no health insurance or had health insurance that did not cover the services provided;

(b) at the time the services were provided, the person receiving the services was not eligible for medicaid; and

(c) the charges are not reimbursable under a program established pursuant to the Indigent Hospital and County Health Care Act."

## **Chapter 65 Section 29 Laws 2021**

SECTION 29. Section 7-9G-1 NMSA 1978 (being Laws 2004, Chapter 15, Section 1, as amended) is amended to read:

### **"7-9G-1. HIGH-WAGE JOBS TAX CREDIT--QUALIFYING HIGH-WAGE JOBS.--**

A. A taxpayer that is an eligible employer may apply for, and the department may allow, a tax credit for each new high-wage job. The credit provided in this section may be referred to as the "high-wage jobs tax credit".

B. The purpose of the high-wage jobs tax credit is to provide an incentive for urban and rural businesses to create and fill new high-wage jobs in New Mexico.

C. The high-wage jobs tax credit may be claimed and allowed in an amount equal to eight and one-half percent of the wages distributed to an eligible employee in a new high-wage job but shall not exceed twelve thousand seven hundred fifty dollars (\$12,750) per job per qualifying period. The high-wage jobs tax credit may be claimed by an eligible employer for each new high-wage job performed for the year in which the new high-wage job is created and for consecutive qualifying periods.



D. To receive a high-wage jobs tax credit, a taxpayer shall file an application for approval of the credit with the department once per calendar year on forms and in the manner prescribed by the department. The annual application shall contain the certification required by Subsection K of this section and shall contain all qualifying periods that closed during the calendar year for which the application is made. Any qualifying period that did not close in the calendar year for which the application is made shall be denied by the department. The application for a calendar year shall be filed no later than December 31 of the following calendar year. If a taxpayer fails to file the annual application within the time limits provided in this section, the application shall be denied by the department. The department shall make a determination on the application within one hundred eighty days of the date on which the application was filed.

E. A new high-wage job shall not be eligible for a credit pursuant to this section for the initial qualifying period unless the eligible employer's total number of employees with threshold jobs on the last day of the initial qualifying period at the location at which the job is performed or based is at least one more than the number of threshold jobs on the day prior to the date the new high-wage job was created. A new high-wage job shall not be eligible for a credit pursuant to this section for a consecutive qualifying period unless the total number of threshold jobs at a location at which the job is performed or based on the last day of that qualifying period is greater than or equal to the number of threshold jobs at that same location on the last day of the initial qualifying period for the new high-wage job.

F. If a consecutive qualifying period for a new high-wage job does not meet the wage, occupancy and residency requirements, then the qualifying period is ineligible.

G. Except as provided in Subsection H of this section, a new high-wage job shall not be eligible for a credit pursuant to this section if:

(1) the new high-wage job is created due to a business merger or acquisition or other change in business organization;

(2) the eligible employee was terminated from employment in New Mexico by another employer involved in the business merger or acquisition or other change in business organization with the taxpayer; and

(3) the new high-wage job is performed by:

(a) the person who performed the job or its functional equivalent prior to the business merger or acquisition or other change in business organization; or

(b) a person replacing the person who performed the job or its functional equivalent prior to a business merger or acquisition or other change in business organization.

H. A new high-wage job that was created by another employer and for which an application for the high-wage jobs tax credit was received and is under review by the department prior to the time of the business merger or acquisition or other change in business organization shall remain eligible for the high-wage jobs tax credit for the balance of the consecutive qualifying periods. The new employer that results from a business merger or acquisition or other change in business organization may only claim the high-wage jobs tax credit for the balance of the consecutive qualifying periods for which the new high-wage job is otherwise eligible.

I. A new high-wage job shall not be eligible for a credit pursuant to this section if the job is created due to an eligible employer entering into a contract or becoming a subcontractor to a contract with a governmental entity that replaces one or more entities performing functionally equivalent services for the governmental entity unless the job is a new high-wage job that was not being performed by an employee of the replaced entity.

J. A new high-wage job shall not be eligible for a credit pursuant to this section if the eligible employer has more than one business location in New Mexico from which it conducts business and the requirements of Subsection E of this section are satisfied solely by moving the job from one business location of the eligible

employer in New Mexico to another business location of the eligible employer in New Mexico.

K. With respect to each annual application for a high-wage jobs tax credit, the employer shall certify and include:

(1) the amount of wages paid to each eligible employee in a new high-wage job during the qualifying period;

(2) the number of weeks each position was occupied during the qualifying period;

(3) whether the new high-wage job was in a municipality with a population of sixty thousand or more or with a population of less than sixty thousand according to the most recent federal decennial census and whether the job was in the unincorporated area of a county;

(4) which qualifying period the application pertains to for each eligible employee;

(5) the total number of employees employed by the employer at the job location on the day prior to the qualifying period and on the last day of the qualifying period;

(6) the total number of threshold jobs performed or based at the eligible employer's location on the day prior to the qualifying period and on the last day of the qualifying period;

(7) for an eligible employer that has more than one business location in New Mexico from which it conducts business, the total number of threshold jobs performed or based at each business location of the eligible employer in New Mexico on the day prior to the qualifying period and on the last day of the qualifying period;

(8) whether the eligible employer is receiving or is eligible to receive development training program assistance pursuant to Section 21-19-7 NMSA 1978;

(9) whether the eligible employer has ceased business operations at any of its business locations in New Mexico; and

(10) whether the application is precluded by Subsection O of this section.

L. Any person who willfully submits a false, incorrect or fraudulent certification required pursuant to Subsection K of this section shall be subject to all applicable penalties under the Tax Administration Act, except that the amount on which the penalty is based shall be the total amount of credit requested on the application for approval.

M. Except as provided in Subsection N of this section, an approved high-wage jobs tax credit shall be claimed against the taxpayer's modified combined tax liability and shall be filed with the return due immediately following the date of the credit approval. If the credit exceeds the taxpayer's modified combined tax liability, the excess shall be refunded to the taxpayer.

N. If the taxpayer ceases business operations in New Mexico while an application for credit approval is pending or after an application for credit has been approved for any qualifying period for a new high-wage job, the department shall not grant an additional high-wage jobs tax credit to that taxpayer except as provided in Subsection O of this section and shall extinguish any amount of credit approved for that taxpayer that has not already been claimed against the taxpayer's modified combined tax liability.

O. A taxpayer that has received a high-wage jobs tax credit shall not submit a new application for the credit for a minimum of two calendar years from the closing date of the last qualifying period for which the taxpayer received the credit if the taxpayer lost

eligibility to claim the credit from a previous application pursuant to Subsection N of this section.

P. The economic development department and the taxation and revenue department shall report to the appropriate interim legislative committee each year the cost of the high-wage jobs tax credit to the state and its impact on company recruitment and job creation.

Q. As used in this section:

(1) "benefits" means all remuneration for work performed that is provided to an employee in whole or in part by the employer, other than wages, including the employer's contributions to insurance programs, health care, medical, dental and vision plans, life insurance, employer contributions to pensions, such as a 401(k), and employer-provided services, such as child care, offered by an employer to the employee;

(2) "consecutive qualifying period" means each of the three qualifying periods successively following the qualifying period in which the new high-wage job was created;

(3) "department" means the taxation and revenue department;

(4) "dependent" means "dependent" as defined in 26 U.S.C. 152(a), as that section may be amended or renumbered;

(5) "domicile" means the sole place where an individual has a true, fixed, permanent home. It is the place where the individual has a voluntary, fixed habitation of self and family with the intention of making a permanent home;

(6) "eligible employee" means an individual who is employed in New Mexico by an eligible employer and who is a resident of New Mexico; "eligible employee" does not include an individual who:

(a) is a dependent of the employer;

(b) if the employer is an estate or trust, is a grantor, beneficiary or fiduciary of the estate or trust or is a dependent of a grantor, beneficiary or fiduciary of the estate or trust;

(c) if the employer is a corporation, is a dependent of an individual who owns, directly or indirectly, more than fifty percent in value of the outstanding stock of the corporation; or

(d) if the employer is an entity other than a corporation, estate or trust, is a dependent of an individual who owns, directly or indirectly, more than fifty percent of the capital and profits interests in the entity;

(7) "eligible employer" means an employer that, during the applicable qualifying period, would be eligible for development training program assistance under the fiscal year 2019 policies defining development training program eligibility developed by the industrial training board in accordance with Section 21-19-7 NMSA 1978;

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

(9) "new high-wage job" means a new job created in New Mexico by an eligible employer on or after July 1, 2004 and prior to July 1, 2026 that is occupied for at least forty-four weeks of a qualifying period by an eligible employee who is paid wages calculated for the qualifying period to be at least:

(a) for a new high-wage job created prior to July 1, 2015: 1) forty thousand dollars (\$40,000) if the job is performed or based in or within ten miles of the external boundaries of a municipality with a population of sixty thousand or more according to the most recent federal decennial census or in a class H county; and 2) twenty-eight thousand dollars (\$28,000) if the job is performed or based in a municipality with a population of less than sixty thousand according to the most recent federal decennial census or in the unincorporated area, that is not within ten miles of the external boundaries of a municipality with a population of sixty thousand or more, of a county other than a class H county; and

(b) for a new high-wage job created on or after July 1, 2015: 1) sixty thousand dollars (\$60,000) if the job is performed or based in or within ten miles of the external boundaries of a municipality with a population of sixty thousand or more according to the most recent federal decennial census or in a class H county; and 2) forty thousand dollars (\$40,000) if the job is performed or based in a municipality with a population of less than sixty thousand according to the most recent federal decennial census or in the unincorporated area, that is not within ten miles of the external boundaries of a municipality with a population of sixty thousand or more, of a county other than a class H county;

(10) "new job" means a job that is occupied by an employee who has not been employed in New Mexico by the eligible employer in the three years prior to the date of hire;

(11) "qualifying period" means the period of twelve months beginning on the day an eligible employee begins working in a new high-wage job or the period of twelve months beginning on the anniversary of the day an eligible employee began working in a new high-wage job;

(12) "resident" means a natural person whose domicile is in New Mexico at the time of hire or within one hundred eighty days of the date of hire;

(13) "threshold job" means a job that is occupied for at least forty-four weeks of a calendar year by an eligible employee and that meets the wage requirements for a "new high-wage job"; and

(14) "wages" means all compensation paid by an eligible employer to an eligible employee through the employer's payroll system, including those wages that the employee elects to defer or redirect or the employee's contribution to a 401(k) or cafeteria plan program, but "wages" does not include benefits or the employer's share of payroll taxes, social security or medicare contributions, federal or state unemployment insurance contributions or workers' compensation."

## **Chapter 65 Section 30 Laws 2021**

SECTION 30. Section 7-29-2 NMSA 1978 (being Laws 1959, Chapter 52, Section 2, as amended) is amended to read:

"7-29-2. DEFINITIONS.--As used in the Oil and Gas Severance Tax Act:

A. "commission", "department", "division" or "oil and gas accounting division" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

B. "production unit" means a unit of property designated by the department from which products of common ownership are severed;

C. "severance" means the taking from the soil of any product in any manner whatsoever;

D. "value" means the actual price received for products at the production unit, except as otherwise provided in the Oil and Gas Severance Tax Act;



E. "product" or "products" means oil, including crude, slop or skim oil and condensate; natural gas; liquid hydrocarbon, including ethane, propane, isobutene, normal butane and pentanes plus, individually or any combination thereof; and non-hydrocarbon gases, including carbon dioxide and helium;

F. "operator" means any person:

- (1) engaged in the severance of products from a production unit; or
- (2) owning an interest in any product at the time of severance who receives a portion or all of such product for the person's interest;

G. "primary recovery" means the displacement of oil and of other liquid hydrocarbons removed from natural gas at or near the wellhead from an oil well or pool as classified by the oil conservation division of the energy, minerals and natural resources department pursuant to Paragraph (11) of Subsection B of Section 70-2-12 NMSA 1978 into the wellbore by means of the natural pressure of the oil well or pool, including but not limited to artificial lift;

H. "purchaser" means a person who is the first purchaser of a product after severance from a production unit, except as otherwise provided in the Oil and Gas Severance Tax Act;

I. "person" means any individual, estate, trust, receiver, business trust, corporation, firm, co-partnership, cooperative, joint venture, association or other group or combination acting as a unit, and the plural as well as the singular number;

J. "interest owner" means a person owning an entire or fractional interest of whatsoever kind or nature in the products at the time of severance from a production unit, or who has a right to a monetary payment that is determined by the value of such products;

K. "new production natural gas well" means a producing crude oil or natural gas well proration unit that begins its initial natural gas production on or after May 1, 1987 as determined by the oil conservation division of the energy, minerals and natural resources department;

L. "qualified enhanced recovery project", prior to January 1, 1994, means the use or the expanded use of carbon dioxide, when approved by the oil conservation division of the energy, minerals and natural resources department pursuant to the Enhanced Oil Recovery Act, for the displacement of oil and of other liquid hydrocarbons removed from natural gas at or near the wellhead from an oil well or pool classified by the oil conservation division pursuant to Paragraph (11) of Subsection B of Section 70-2-12 NMSA 1978;

M. "qualified enhanced recovery project", on and after January 1, 1994, means the use or the expanded use of any process approved by the oil conservation division of the energy, minerals and natural resources department pursuant to the Enhanced Oil Recovery Act for the displacement of oil and of other liquid hydrocarbons removed from natural gas at or near the wellhead from an oil well or pool classified by the oil conservation division pursuant to Paragraph (11) of Subsection B of Section 70-2-12 NMSA 1978, other than a primary recovery process; the term includes but is not limited to the use of a pressure maintenance process, a water flooding process and immiscible, miscible, chemical, thermal or biological process or any other related process;

N. "production restoration project" means the use of any process for returning to production a natural gas or oil well that had thirty days or less of production in any period of twenty-four consecutive months beginning on or after January 1, 1993, as approved and certified by the oil conservation division of the energy, minerals and natural resources department pursuant to the Natural Gas and Crude Oil Production Incentive Act;

O. "well workover project" means any procedure undertaken by the operator of a natural gas or crude oil well that is intended to increase the production from the well

and that has been approved and certified by the oil conservation division of the energy, minerals and natural resources department pursuant to the Natural Gas and Crude Oil Production Incentive Act;

P. "stripper well property" means a crude oil or natural gas producing property that is assigned a single production unit number by the department and is certified by the oil conservation division of the energy, minerals and natural resources department pursuant to the Natural Gas and Crude Oil Production Incentive Act to have produced in the preceding calendar year:

(1) if a crude oil producing property, an average daily production of less than ten barrels of oil per eligible well per day;

(2) if a natural gas producing property, an average daily production of less than sixty thousand cubic feet of natural gas per eligible well per day; or

(3) if a property with wells that produce both crude oil and natural gas, an average daily production of less than ten barrels of oil per eligible well per day, as determined by converting the volume of natural gas produced by the well to barrels of oil by using a ratio of six thousand cubic feet to one barrel of oil;

Q. "average annual taxable value" means as applicable:

(1) the average of the taxable value per one thousand cubic feet, determined pursuant to Section 7-31-5 NMSA 1978, of all natural gas produced in New Mexico for the specified calendar year as determined by the department; or

(2) the average of the taxable value per barrel, determined pursuant to Section 7-31-5 NMSA 1978, of all oil produced in New Mexico for the specified calendar year as determined by the department;

R. "tax" means the oil and gas severance tax; and

- S. "volume" means the quantity of product severed reported using:
- (1) oil, condensate and slop oil in barrels; and
  - (2) natural gas, liquid hydrocarbons, helium and carbon dioxide in thousand cubic feet at a pressure base of fifteen and twenty-five thousandths pounds per square inch."

## **Chapter 65 Section 31 Laws 2021**

SECTION 31. Section 7-30-2 NMSA 1978 (being Laws 1959, Chapter 53, Section 2, as amended) is amended to read:

"7-30-2. DEFINITIONS.--As used in the Oil and Gas Conservation 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. "production unit" means a unit of property designated by the department from which products of common ownership are severed;
- C. "severance" means the taking from the soil of any product in any manner whatsoever;
- D. "value" means the actual price received for products at the production unit, except as otherwise provided in the Oil and Gas Conservation Tax Act;
- E. "product" or "products" means oil, including crude, slop or skim oil and condensate; natural gas; liquid hydrocarbon, including ethane, propane, isobutene, normal butane and pentanes plus, individually or any combination thereof; and non-hydrocarbon gases, including carbon dioxide and helium;

- F. "operator" means any person:
- (1) engaged in the severance of products from a production unit; or
  - (2) owning an interest in any product at the time of severance who receives a portion or all of such product for the person's interest;
- G. "purchaser" means a person who is the first purchaser of a product after severance from a production unit, except as otherwise provided in the Oil and Gas Conservation Tax Act;
- H. "person" means any individual, estate, trust, receiver, business trust, corporation, firm, copartnership, cooperative, joint venture, association or other group or combination acting as a unit, and the plural as well as the singular number;
- I. "interest owner" means a person owning an entire or fractional interest of whatsoever kind or nature in the products at the time of severance from a production unit or who has a right to a monetary payment that is determined by the value of such products;
- J. "tax" means the oil and gas conservation tax; and
- K. "volume" means the quantity of product severed reported using:
- (1) oil, condensate and slop oil in barrels; and
  - (2) natural gas, liquid hydrocarbons, helium and carbon dioxide in thousand cubic feet at a pressure base of fifteen and twenty-five thousandths pounds per square inch."

## Chapter 65 Section 32 Laws 2021

SECTION 32. Section 7-31-2 NMSA 1978 (being Laws 1959, Chapter 54, Section 2, as amended) is amended to read:

"7-31-2. DEFINITIONS.--As used in the Oil and Gas Emergency School Tax Act:

A. "commission", "department" or "division" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

B. "production unit" means a unit of property designated by the department from which products of common ownership are severed;

C. "severance" means the taking from the soil of any product in any manner whatsoever;

D. "value" means the actual price received from products at the production unit, except as otherwise provided in the Oil and Gas Emergency School Tax Act;

E. "product" or "products" means oil, including crude, slop or skim oil and condensate; natural gas; liquid hydrocarbon, including ethane, propane, isobutene, normal butane and pentanes plus, individually or any combination thereof; and non-hydrocarbon gases, including carbon dioxide and helium;

F. "operator" means any person:

(1) engaged in the severance of products from a production unit; or

(2) owning an interest in any product at the time of severance who receives a portion or all of such product for the person's interest;

G. "purchaser" means a person who is the first purchaser of a product after severance from a production unit, except as otherwise provided in the Oil and Gas Emergency School Tax Act;

H. "person" means any individual, estate, trust, receiver, business trust, corporation, firm, copartnership, cooperative, joint venture, association, limited liability company or other group or combination acting as a unit, and the plural as well as the singular number;

I. "interest owner" means a person owning an entire or fractional interest of whatsoever kind or nature in the products at the time of severance from a production unit or who has a right to a monetary payment that is determined by the value of such products;

J. "stripper well property" means a crude oil or natural gas producing property that is assigned a single production unit number by the department and is certified by the oil conservation division of the energy, minerals and natural resources department pursuant to the Natural Gas and Crude Oil Production Incentive Act to have produced in the preceding calendar year:

(1) if a crude oil producing property, an average daily production of less than ten barrels of oil per eligible well per day;

(2) if a natural gas producing property, an average daily production of less than sixty thousand cubic feet of natural gas per eligible well per day; or

(3) if a property with wells that produce both crude oil and natural gas, an average daily production of less than ten barrels of oil per eligible well per day, as determined by converting the volume of natural gas produced by the well to barrels of oil by using a ratio of six thousand cubic feet to one barrel of oil;

K. "average annual taxable value" means as applicable:

(1) the average of the taxable value per one thousand cubic feet, determined pursuant to Section 7-31-5 NMSA 1978, of all natural gas produced in New Mexico for the specified calendar year as determined by the department; or

(2) the average of the taxable value per barrel, determined pursuant to Section 7-31-5 NMSA 1978, of all oil produced in New Mexico for the specified calendar year as determined by the department;

L. "tax" means the oil and gas emergency school tax; and

M. "volume" means the quantity of product severed reported using:

(1) oil, condensate and slop oil in barrels; and

(2) natural gas, liquid hydrocarbons, helium and carbon dioxide in thousand cubic feet at a pressure base of fifteen and twenty-five thousandths pounds per square inch."

## **Chapter 65 Section 33 Laws 2021**

SECTION 33. Section 7-32-2 NMSA 1978 (being Laws 1959, Chapter 55, Section 2, as amended) is amended to read:

"7-32-2. DEFINITIONS.--As used in the Oil and Gas Ad Valorem Production Tax Act:

A. "commission", "department" or "division" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

B. "production unit" means a unit of property designated by the department from which products of common ownership are severed;



C. "severance" means the taking from the soil any product in any manner whatsoever;

D. "value" means the actual price received for products at the production unit, except as otherwise provided in the Oil and Gas Ad Valorem Production Tax Act;

E. "product" or "products" means oil, including crude, slop or skim oil and condensate; natural gas; liquid hydrocarbon, including ethane, propane, isobutene, normal butane and pentanes plus, individually or any combination thereof; and non-hydrocarbon gases, including carbon dioxide and helium;

F. "operator" means any person:

(1) engaged in the severance of products from a production unit; or

(2) owning an interest in any product at the time of severance who receives a portion or all of such product for the person's interest;

G. "purchaser" means a person who is the first purchaser of a product after severance from a production unit, except as otherwise provided in the Oil and Gas Ad Valorem Production Tax Act;

H. "person" means any individual, estate, trust, receiver, business trust, corporation, firm, copartnership, cooperative, joint venture, association or other group or combination acting as a unit, and the plural as well as the singular number;

I. "interest owner" means a person owning an entire or fractional interest of whatsoever kind or nature in the products at the time of severance from a production unit or who has a right to a monetary payment that is determined by the value of such products;

J. "assessed value" means the value against which tax rates are applied;

- K. "tax" means the oil and gas ad valorem production tax; and
- L. "volume" means the quantity of product severed reported using:
  - (1) oil, condensate and slop oil in barrels; and
  - (2) natural gas, liquid hydrocarbons, helium and carbon dioxide in thousand cubic feet at a pressure base of fifteen and twenty-five thousandths pounds per square inch."

## **Chapter 65 Section 34 Laws 2021**

SECTION 34. Section 7-40-2 NMSA 1978 (being Laws 2018, Chapter 57, Section 2) is amended to read:

"7-40-2. DEFINITIONS.--As used in the Insurance Premium Tax Act:

- A. "authorized insurer" means an insurer holding a valid and subsisting certificate of authority to transact insurance in this state;
- B. "certificate of authority" means the certificate of authority required to transact insurance in this state pursuant to Section 59A-5-10 NMSA 1978;
- C. "department" means the taxation and revenue department;
- D. "health maintenance organization" means "health maintenance organization" as that term is used in Chapter 59A, Article 46 NMSA 1978;
- E. "home state" means "home state" as that term is used in Chapter 59A, Article 14 NMSA 1978;

F. "insurance" means a contract whereby a person undertakes to pay or indemnify another as to loss from certain specified contingencies or perils, or to pay or grant a specified amount or determinable benefit in connection with ascertainable risk contingencies, or to act as surety;

G. "insurer" includes every person engaged as principal and as indemnitor, surety or contractor in the business of entering into contracts of insurance;

H. "nonprofit health care plan" means "health care plan" as that term is used in Chapter 59A, Article 47 NMSA 1978;

I. "secretary" means the secretary of taxation and revenue or the secretary's authorized designee;

J. "self-insured group" means "group" as that term is used in Chapter 52, Article 6 NMSA 1978;

K. "state" means, when used in context indicating a jurisdiction other than New Mexico, any state, district, commonwealth, territory or possession of the United States of America;

L. "superintendent" means the superintendent of insurance or the superintendent's duly authorized representative acting in official capacity;

M. "surplus lines broker" means "surplus lines broker" as that term is used in Section 59A, Article 14 NMSA 1978;

N. "taxpayer" means:

(1) an authorized insurer;

(2) an insurer formerly authorized to transact insurance in New Mexico and receiving premiums on policies remaining in force in New Mexico, except an insurer that withdrew from New Mexico prior to March 26, 1955;

(3) a plan operating under provisions of Chapter 59A, Articles 46 through 49 NMSA 1978;

(4) a property bondsman, as that person is defined in Section 59A-51-2 NMSA 1978;

(5) an unauthorized insurer that has assumed a contract or policy of insurance, directly or indirectly, from an authorized or formerly authorized insurer and is receiving premiums on such policies remaining in force in New Mexico; provided that the ceding insurer does not continue to pay the taxes imposed pursuant to the Insurance Premium Tax Act as to such policy or contract;

(6) an insured who in this state procures, continues or renews insurance with a nonadmitted insurer pursuant to Section 59A-15-4 NMSA 1978; or

(7) members of the same bone fide trade or professional association that has been in existence for five years or more and that have entered into agreements to pool the members' liabilities for workers' compensation benefits; provided that an employer that is a public hospital shall segregate the employer's accounting records and investment accounts from those of the other members, in accordance with applicable law; and

O. "transact insurance" with respect to an insurance contract or a business of insurance includes any of the following, by mail or otherwise or whether or not for profit:

(1) solicitation or inducement;

(2) negotiation;

- (3) effectuation of an insurance contract;
- (4) transaction of matters subsequent to effectuation and arising out of such a contract;
- (5) maintenance in this state of an office or personnel performing any function in furtherance of an insurer's business of insurance; or
- (6) maintenance by an insurer of assets in trust in this state for the benefit, security or protection of its policyholders or its policyholders and creditors."

## **Chapter 65 Section 35 Laws 2021**

SECTION 35. Section 7-40-3 NMSA 1978 (being Laws 2018, Chapter 57, Section 3) is amended to read:

"7-40-3. IMPOSITION AND RATE OF TAX--DENOMINATION OF "PREMIUM TAX", "HEALTH INSURANCE PREMIUM SURTAX" AND "SELF-INSURED GROUP TAX".--

A. The tax imposed pursuant to this subsection may be referred to as the "premium tax". The premium tax is imposed at a rate of three and three-thousandths percent of the gross premiums and membership and policy fees received or written by a taxpayer on insurance or contracts covering risks within the state during the preceding calendar year. The premium tax shall not be imposed on self-insured groups or on return premiums, dividends paid or credited to policyholders or contract holders and premiums received for reinsurance on New Mexico risks.

B. For a taxpayer that is an insurer lawfully organized pursuant to the laws of the Republic of Mexico, the premium tax shall apply solely to the taxpayer's gross premium receipts from insurance policies issued by the taxpayer in New Mexico that

cover residents of New Mexico or property or risks principally domiciled or located in New Mexico.

C. With respect to a taxpayer that is a property bondsman, "gross premiums" shall be considered any consideration received as security or surety for a bail bond in connection with a judicial proceeding.

D. The premium tax provided in Subsection A of this section is imposed on the gross premiums received of a surplus lines broker, less return premiums, on surplus lines insurance where New Mexico is the home state of the insured transacted under the surplus lines broker's license, as reported by the surplus lines broker to the department on forms and in the manner prescribed by the department. For purposes of this subsection, "gross premiums" shall include any additional amount charged the insured, including policy fees, risk purchasing group fees and inspection fees; but "premiums" shall not include any additional amount charged the insured for local, state or federal taxes; regulatory authority fees; or examination fees, if any. For a surplus lines policy issued to an insured whose home state is New Mexico and where only a portion of the risk is located in New Mexico, the entire premium tax shall be paid in accordance with this section.

E. In addition to the premium tax, a health insurance premium surtax is imposed at a rate of one percent of the gross health insurance premiums and membership and policy fees received by the taxpayer on hospital and medical expense incurred insurance or contracts; nonprofit health care plan contracts, excluding dental or vision only contracts; and health maintenance organization subscriber contracts covering health risks within this state during the preceding calendar year. The tax shall not apply to return health insurance premiums, dividends paid or credited to policyholders or contract holders and health insurance premiums received for reinsurance on New Mexico risks. The surtax imposed pursuant to this subsection may be referred to as the "health insurance premium surtax".

F. A tax is imposed at a rate of nine-tenths percent on the net premiums, as defined in the Group Self-Insurance Act, received or written by a self-insured group

within the state during the preceding calendar year. The tax imposed pursuant to this subsection may be referred to as the "self-insured group tax".

## **Chapter 65 Section 36 Laws 2021**

SECTION 36. Section 7-40-7 NMSA 1978 (being Laws 2018, Chapter 57, Section 7) is amended to read:

"7-40-7. DATE PAYMENT DUE.--

A. Except as provided in Subsections B and C of this section, for each calendar quarter, an estimated payment of the premium tax and the health insurance premium surtax shall be made on April 15, July 15, October 15 and the following January 15. The estimated payments shall be equal to at least one-fourth of the payment made during the previous calendar year or one-fifth of the actual payment due for the current calendar year, whichever is greater. The final adjustment for payments due for the prior year shall be made with the return filed on April 15, at which time all taxes for that year are due.

B. Within sixty days after expiration of a calendar quarter, a surplus lines broker shall pay the premium tax due on surplus lines insurance where New Mexico is the home state of the insured transacted under the surplus lines broker's license during such calendar quarter, as reported to the department.

C. For each calendar quarter, an estimated payment of the self-insured group tax shall be made on April 15, July 15, October 15 and the following January 15. The estimated payments shall be equal to at least one-fourth of the payment made during the previous calendar year. The final adjustment for payments due for the prior year shall be made with the return filed on April 15, at which time all taxes for that year are due."

## **Chapter 65 Section 37 Laws 2021**

SECTION 37. Section 9-11-6.4 NMSA 1978 (being Laws 1995, Chapter 31, Section 5) is amended to read:

"9-11-6.4. ELECTRONIC FILING AND PAYMENT.--

A. The department is authorized to require where practical, in lieu of:

(1) the filing of paper documents, the filing by electronic or optical means of any return, application, report or other document required under any law or program administered by the department; and

(2) a paper check or cash payment, the remittance by electronic means of any payment required under any law or program administered by the department.

B. The department, using reasonable criteria, may require some classes of persons to file returns and remit payments electronically or optically while not so requiring others to file returns and remit payments in that manner. The date of filing or payment shall be the date the return, application, report, payment or other document is transmitted to the department in a form able to be processed."

## **Chapter 65 Section 38 Laws 2021**

SECTION 38. REPEAL.--Section 52-6-13 NMSA 1978 (being Laws 1986, Chapter 22, Section 87, as amended) is repealed.

## **Chapter 65 Section 39 Laws 2021**

SECTION 39. APPLICABILITY.--The provisions of Section 9 of this act apply to tax returns filed on or after the effective date of that section:



A. for rural job tax credit claims against a taxpayer's modified combined tax liability, for qualified jobs created in the calendar quarters beginning on or after July 1, 2022; and

B. for rural job tax credit claims against a taxpayer's personal income tax liability or corporate income tax liability, for qualified jobs created in taxable years beginning on or after January 1, 2022.

## **Chapter 65 Section 40 Laws 2021**

### SECTION 40. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 through 8 and 10 through 38 of this act is July 1, 2021.

B. The effective date of the provisions of Section 9 of this act is January 1, 2022.

## **LAWS 2021, CHAPTER 66**

**HTRC/House Bill 278, aa**  
**Approved April 5, 2021**

AN ACT

RELATING TO TAXATION; ADDING MANUFACTURING SERVICE PROVIDERS TO A GROSS RECEIPTS TAX DEDUCTION FOR MANUFACTURERS.

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

## Chapter 66 Section 1 Laws 2021

SECTION 1. Section 7-9-3 NMSA 1978 (being Laws 1978, Chapter 46, Section 1, as amended by Laws 2019, Chapter 270, Section 23 and by Laws 2019, Chapter 274, Section 11) is amended to read:

"7-9-3. DEFINITIONS.--As used in the Gross Receipts and Compensating Tax Act:

A. "buying" or "selling" means a transfer of property for consideration or the performance of service for consideration;

B. "department" means the taxation and revenue department, the secretary of taxation and revenue or an employee of the department exercising authority lawfully delegated to that employee by the secretary;

C. "digital good" means a digital product delivered electronically, including software, music, photography, video, reading material, an application and a ringtone;

D. "financial corporation" means a savings and loan association or an incorporated savings and loan company, trust company, mortgage banking company, consumer finance company or other financial corporation;

E. "initial use" or "initially used" means the first employment for the intended purpose and does not include the following activities:

(1) observation of tests conducted by the performer of services;

(2) participation in progress reviews, briefings, consultations and conferences conducted by the performer of services;

(3) review of preliminary drafts, drawings and other materials prepared by the performer of services;

(4) inspection of preliminary prototypes developed by the performer of services; or

(5) similar activities;

F. "leasing" means an arrangement whereby, for a consideration, property is employed for or by any person other than the owner of the property, except that the granting of a license to use property is licensing and is not a lease;

G. "local option gross receipts tax" means a tax authorized to be imposed by a county or municipality upon a taxpayer's gross receipts and required to be collected by the department at the same time and in the same manner as the gross receipts tax;

H. "manufactured home" means a movable or portable housing structure for human occupancy that exceeds either a width of eight feet or a length of forty feet constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation;

I. "manufacturing" means combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include construction services; farming; electric power generation; processing of natural resources, including hydrocarbons; or the processing or preparation of meals for immediate consumption;

J. "manufacturing service" means the service of combining or processing components or materials owned by another, but does not include construction services; farming; electric power generation; processing of natural resources, including hydrocarbons; or the processing or preparation of meals for immediate consumption;

K. "marketplace provider" means a person who facilitates the sale, lease or license of tangible personal property or services or licenses for use of real property on a marketplace seller's behalf, or on the marketplace provider's own behalf, by:

(1) listing or advertising the sale, lease or license, by any means, whether physical or electronic, including by catalog, internet website or television or radio broadcast; and

(2) either directly or indirectly, through agreements or arrangements with third parties collecting payment from the customer and transmitting that payment to the seller, regardless of whether the marketplace provider receives compensation or other consideration in exchange for the marketplace provider's services;

L. "marketplace seller" means a person who sells, leases or licenses tangible personal property or services or who licenses the use of real property through a marketplace provider;

M. "person" means:

(1) an individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, limited liability partnership, joint venture, syndicate or other entity, including any gas, water or electric utility owned or operated by a county, municipality or other political subdivision of the state; or

(2) a national, federal, state, Indian or other governmental unit or subdivision, or an agency, department or instrumentality of any of the foregoing;

N. "property" means:

(1) real property;

(2) tangible personal property, including electricity and manufactured homes;

(3) licenses, including licenses of digital goods, but not including the licenses of copyrights, trademarks or patents; and

(4) franchises;

O. "research and development services" means an activity engaged in for other persons for consideration, for one or more of the following purposes:

(1) advancing basic knowledge in a recognized field of natural science;

(2) advancing technology in a field of technical endeavor;

(3) developing a new or improved product, process or system with new or improved function, performance, reliability or quality, whether or not the new or improved product, process or system is offered for sale, lease or other transfer;

(4) developing new uses or applications for an existing product, process or system, whether or not the new use or application is offered as the rationale for purchase, lease or other transfer of the product, process or system;

(5) developing analytical or survey activities incorporating technology review, application, trade-off study, modeling, simulation, conceptual design or similar activities, whether or not offered for sale, lease or other transfer; or

(6) designing and developing prototypes or integrating systems incorporating the advances, developments or improvements included in Paragraphs (1) through (5) of this subsection;

P. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

Q. "service" means all activities engaged in for other persons for a consideration, which activities involve predominantly the performance of a service as distinguished from selling or leasing property. "Service" includes activities performed by a person for its members or shareholders. In determining what is a service, the intended use, principal objective or ultimate objective of the contracting parties shall not be controlling. "Service" includes construction activities and all tangible personal property that will become an ingredient or component part of a construction project. That tangible personal property retains its character as tangible personal property until it is installed as an ingredient or component part of a construction project in New Mexico. Sales of tangible personal property that will become an ingredient or component part of a construction project to persons engaged in the construction business are sales of tangible personal property; and

R. "use" or "using" includes use, consumption or storage other than storage for subsequent sale in the ordinary course of business or for use solely outside this state."

## **Chapter 66 Section 2 Laws 2021**

SECTION 2. Section 7-9-46 NMSA 1978 (being Laws 1969, Chapter 144, Section 36, as amended) is amended to read:

"7-9-46. DEDUCTION--GROSS RECEIPTS--GOVERNMENTAL GROSS RECEIPTS--SALES TO MANUFACTURERS AND MANUFACTURING SERVICE PROVIDERS.--

A. Receipts from selling tangible personal property may be deducted from gross receipts or from governmental gross receipts if the sale is made to a person engaged in the business of manufacturing who delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate must incorporate the tangible personal property as an ingredient or component part of the product that the buyer is in the business of manufacturing.

B. Receipts from selling a manufacturing consumable to a manufacturer or a manufacturing service provider may be deducted from gross receipts or from governmental gross receipts if the buyer delivers a nontaxable transaction certificate to the seller.

C. Receipts from selling or leasing qualified equipment may be deducted from gross receipts if the sale is made to, or the lease is entered into with, a person engaged in the business of manufacturing or a manufacturing service provider who delivers a nontaxable transaction certificate to the seller; provided that a manufacturer or manufacturing service provider delivering a nontaxable transaction certificate with respect to the qualified equipment shall not claim an investment credit pursuant to the Investment Credit Act for that same equipment.

D. The purpose of the deductions provided in this section is to encourage manufacturing businesses to locate in New Mexico and to reduce the tax burden, including reducing pyramiding, on the tangible personal property that is consumed in the manufacturing process and that is purchased by manufacturing businesses in New Mexico.

E. The department shall annually report to the revenue stabilization and tax policy committee the aggregate amount of deductions taken pursuant to this section, the number of taxpayers claiming each of the deductions and any other information that is necessary to determine that the deductions are performing the purposes for which they are enacted.

F. A taxpayer deducting gross receipts pursuant to this section shall report the amount deducted separately for each deduction provided in this section and attribute the amount of the deduction to the appropriate authorization provided in this section in a manner required by the department that facilitates the evaluation by the legislature of the benefit to the state of these deductions.

G. As used in this section:

(1) "manufacturing consumable" means tangible personal property, other than qualified equipment or an ingredient or component part of a manufactured product, that is incorporated into, destroyed, depleted or transformed in the process of manufacturing a product, including electricity, fuels, water, manufacturing aids and supplies, chemicals, gases and other tangibles used to manufacture a product;

(2) "manufacturing operation" means a plant operated by a manufacturer or manufacturing service provider that employs personnel to perform production tasks to produce goods, in conjunction with machinery and equipment; and

(3) "qualified equipment" means machinery, equipment and tools, including component, repair, replacement and spare parts thereof, that are used directly in the manufacturing process of a manufacturing operation. "Qualified equipment" includes computer hardware and software used directly in the manufacturing process of a manufacturing operation but excludes any motor vehicle that is required to be registered in this state pursuant to the Motor Vehicle Code."

## **Chapter 66 Section 3 Laws 2021**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2022.

# **LAWS 2021, CHAPTER 67**

**House Bill 31, aa**  
**Approved April 5, 2021**

AN ACT

RELATING TO THE CODE OF MILITARY JUSTICE; AMENDING THE ELEMENTS  
AND DEFINITIONS OF SEVERAL SEX CRIMES.



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

## **Chapter 67 Section 1 Laws 2021**

SECTION 1. Section 20-12-51 NMSA 1978 (being Laws 1989, Chapter 337, Section 50) is amended to read:

"20-12-51. RAPE AND OTHER SEX CRIMES.--

A. Any person subject to Chapter 20 NMSA 1978 is guilty of rape and shall be punished as a court-martial may direct if the person commits a sexual act upon another person by:

- (1) using unlawful force against that other person;
- (2) using force causing or likely to cause death or grievous bodily harm to any person;
- (3) threatening or placing that other person in fear that any person will be subjected to death, grievous bodily harm or kidnapping;
- (4) first rendering that other person unconscious; or
- (5) administering to that other person by force or threat of force, or without the knowledge or consent of that person, a drug, intoxicant or other similar substance and thereby substantially impairing the ability of that other person to appraise or control conduct.

B. Any person subject to Chapter 20 NMSA 1978 is guilty of sexual assault and shall be punished as a court-martial may direct if the person commits a sexual act upon another person:

- (1) by threatening or placing that other person in fear;
- (2) by making a fraudulent representation that the sexual act serves a professional purpose;
- (3) by inducing a belief by any artifice, pretense or concealment that the person is another person;
- (4) without the consent of the other person;
- (5) when the person knows or reasonably should know that the other person is asleep, unconscious or otherwise unaware that the sexual act is occurring; or
- (6) when the other person is incapable of consenting to the sexual act due to: 1) impairment by any drug, intoxicant or other similar substance, and that condition is known or reasonably should be known by the person; or 2) a mental disease or defect or physical disability, and that condition is known or reasonably should be known by the person.

C. Any person subject to Chapter 20 NMSA 1978 is guilty of aggravated sexual contact and shall be punished as a court-martial may direct if the person commits or causes sexual contact upon or by another person if to do so would violate Subsection A of this section had the sexual contact been a sexual act.

D. Any person subject to Chapter 20 NMSA 1978 is guilty of abusive sexual contact and shall be punished as a court-martial may direct if the person commits or causes sexual contact upon or by another person if to do so would violate Subsection B of this section had the sexual contact been a sexual act.

E. In a prosecution under this section, in proving that a person made a threat, it need not be proven that the person actually intended to carry out the threat or had the ability to carry out the threat.

F. An accused may raise any applicable defenses available under Chapter 20 NMSA 1978 or the rules for court-martial. Marriage is not a defense for any conduct at issue in any prosecution under this section.

G. An expression of lack of consent through words or conduct means that there is no consent. Lack of verbal or physical resistance does not constitute consent. Submission resulting from the use of force, threat of force or placing another person in fear also does not constitute consent. A current or previous dating or social or sexual relationship by itself or the manner of dress of the person involved with the accused in the conduct at issue does not constitute consent. A sleeping, unconscious or incompetent person cannot consent. A person cannot consent to force causing or likely to cause death or grievous bodily harm or to being rendered unconscious. A person cannot consent while under threat or in fear or under the circumstances described in Subsection B of this section. All the surrounding circumstances are to be considered in determining whether a person gave consent.

H. As used in this section:

(1) "consent" means a freely given agreement to the conduct at issue by a competent person;

(2) "force" means:

(a) the use of a weapon;

(b) the use of such physical strength or violence as is sufficient to overcome, restrain or injure a person; or

(c) inflicting physical harm sufficient to coerce or compel submission by the victim;

(3) "grievous bodily harm" means serious bodily injury. Grievous bodily harm includes fractured or dislocated bones, deep cuts, torn members of the body,

serious damage to internal organs and other severe bodily injuries. It does not include minor injuries such as a black eye or a bloody nose;

(4) "incapable of consenting" means the person is:

(a) incapable of appraising the nature of the conduct at issue; or

(b) physically incapable of declining participation in, or communicating unwillingness to engage in, the sexual act at issue;

(5) "sexual act" means:

(a) the penetration, however slight, of the penis into the vulva, anus or mouth;

(b) contact between the mouth and the penis, vulva, scrotum or anus; or

(c) the penetration, however slight, of the vulva or penis or anus of another by any part of the body or any object, with an intent to abuse, humiliate, harass or degrade any person or to arouse or gratify the sexual desire of any person;

(6) "sexual contact" means touching, or causing another person to touch, either directly or through the clothing, the vulva, penis, scrotum, anus, groin, breast, inner thigh or buttocks of any person, with an intent to abuse, humiliate, harass or degrade any person or to arouse or gratify the sexual desire of any person. Touching may be accomplished by any part of the body or an object;

(7) "threatening or placing that other person in fear" means a communication or action that is of sufficient consequence to cause a reasonable fear that noncompliance will result in the victim or another person being subjected to the wrongful action contemplated by the communication or action; and

(8) "unlawful force" means an act of force done without legal justification or excuse."

## **LAWS 2021, CHAPTER 68**

**SJC/Senate Bill 202**  
**Approved April 6, 2021**

AN ACT

RELATING TO BUSINESS ENTITIES; PROVIDING FOR THE REGISTRATION OF ALTERNATE BUSINESS ENTITY NAMES.

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

### **Chapter 68 Section 1 Laws 2021**

SECTION 1. Section 53-8-7 NMSA 1978 (being Laws 1975, Chapter 217, Section 7) is amended to read:

"53-8-7. CORPORATE NAME.--The corporate name and, if different, the name under which the corporation proposes to transact business in New Mexico shall not:

A. contain any word or phrase that indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation; and

B. be the same as, or confusingly similar to, the name of any corporation, whether for profit or not for profit, existing under the laws of New Mexico, or any foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in New Mexico, or a corporate name reserved or registered as permitted by the laws of New Mexico."

## Chapter 68 Section 2 Laws 2021

SECTION 2. Section 53-8-37 NMSA 1978 (being Laws 1975, Chapter 217, Section 37, as amended) is amended to read:

"53-8-37. ARTICLES OF AMENDMENT.--The articles of amendment shall be executed by the corporation by two authorized officers of the corporation and shall set forth:

A. the name of the corporation and, if different, include any name under which it proposes to transact business in New Mexico;

B. the amendment so adopted;

C. if there are members entitled to vote thereon:

(1) a statement setting forth the date of the meeting of members at which the amendment was adopted, that a quorum was present at the meeting and that the amendment received at least two-thirds of the votes that members present at the meeting or represented by proxy were entitled to cast; or

(2) a statement that the amendment was adopted by a consent in writing signed by all members entitled to vote with respect thereto; and

D. if there are no members, or no members entitled to vote thereon, a statement of such fact, the date of the meeting of the board of directors at which the amendment was adopted and a statement of the fact that the amendment received the vote of a majority of the directors in office."

## **Chapter 68 Section 3 Laws 2021**

SECTION 3. Section 53-8-66 NMSA 1978 (being Laws 1975, Chapter 217, Section 66) is amended to read:

"53-8-66. CORPORATE NAME OF FOREIGN CORPORATION.--No certificate of authority shall be issued to a foreign corporation unless the corporate name of the corporation and, if different, the name under which it proposes to transact business in New Mexico:

A. shall not contain any word or phrase that indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation;

B. shall not be the same as, or confusingly similar to, the name of any corporation, whether for profit or not for profit, existing under the laws of New Mexico, or foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this state, or a corporate name reserved or registered as permitted by the laws of this state; and

C. shall be expressed in English letters."

## **Chapter 68 Section 4 Laws 2021**

SECTION 4. Section 53-12-2 NMSA 1978 (being Laws 1967, Chapter 81, Section 50, as amended) is amended to read:

"53-12-2. ARTICLES OF INCORPORATION.--

A. The articles of incorporation shall set forth:

(1) the name of the corporation and, if different, the name under which it proposes to transact business in New Mexico;

(2) the period of duration, if other than perpetual;

(3) the purpose for which the corporation is organized, which may include the transaction of any lawful business for which corporations may be incorporated under the Business Corporation Act;

(4) the aggregate number of shares that the corporation has authority to issue and, if the shares are to be divided into classes, the number of shares of each class;

(5) if the shares are to be divided into classes, the designation of each class and a statement of the preferences, limitations and relative rights in respect of the shares of each class;

(6) if the corporation is to issue the shares of any preferred or special class in series, the designation of each series and a statement of the variations in the relative rights and preferences as between series, insofar as they are to be fixed in the articles of incorporation and a statement of any authority to be vested in the board of directors to establish series and fix and determine the variations in the relative rights and preferences as between series;

(7) any provision limiting or denying to shareholders the preemptive right to acquire unissued shares or securities convertible into such shares or carrying a right to subscribe to or acquire shares;

(8) the address of its initial registered office and the name of its initial registered agent at the address;



(9) the names and addresses of the persons who have consented to serve as directors until the first annual meeting of shareholders or until their successors are elected and qualify; and

(10) the name and address of each incorporator.

B. In addition to provisions required therein, the articles of incorporation may also contain provisions not inconsistent with law regarding:

(1) the direction of the management of the business and the regulation of the affairs of the corporation;

(2) the definition, limitation and regulation of the powers of the corporation, the directors and the shareholders, or any class of the shareholders, including restrictions on the transfer of shares;

(3) the minimum consideration for any authorized shares or class of shares; and

(4) any provision that, under the Business Corporation Act, is required or permitted to be set forth in the bylaws.

C. It is not necessary to set forth in the articles of incorporation any of the corporate powers enumerated in the Business Corporation Act.

D. The articles of incorporation may set forth any provision that the incorporators elect to set forth for the regulation of the internal affairs of the corporation.

E. The articles of incorporation may provide that a director shall not be personally liable to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director unless:

(1) the director has breached or failed to perform the duties of the director's office in compliance with Subsection B of Section 53-11-35 NMSA 1978; and

(2) the breach or failure to perform constitutes:

(a) negligence, willful misconduct or recklessness in the case of a director who has either an ownership interest in the corporation or receives as a director or as an employee of the corporation compensation of more than two thousand dollars (\$2,000) from the corporation in any calendar year; or

(b) willful misconduct or recklessness in the case of a director who does not have an ownership interest in the corporation and does not receive as director or as an employee of the corporation compensation of more than two thousand dollars (\$2,000) from the corporation in any calendar year.

Such a provision in the articles of incorporation shall, however, only eliminate the liability of a director for action taken as a director or any failure to take action as a director at meetings of the board of directors or of a committee of the board of directors or by virtue of action of the directors without a meeting pursuant to Section 53-11-43 NMSA 1978, on or after the date when such provision in the articles of incorporation becomes effective."

## **Chapter 68 Section 5 Laws 2021**

SECTION 5. Section 53-13-1 NMSA 1978 (being Laws 1967, Chapter 81, Section 55, as amended) is amended to read:

"53-13-1. RIGHT TO AMEND ARTICLES OF INCORPORATION.--A corporation may amend its articles of incorporation from time to time in as many respects as may be desired, so long as its articles of incorporation, as amended, contain only such provisions as might be lawfully contained in original articles of incorporation at the time of making the amendment and, if a change in shares or the rights of shareholders, or an

exchange, reclassification or cancellation of shares or rights of shareholders is to be made, provisions as may be necessary to effect the change, exchange, reclassification or cancellation. In particular, and without limitation upon the general power of amendment, a corporation may amend its articles of incorporation from time to time to:

- A. change its corporate name and, if different, include any name under which it proposes to transact business in New Mexico;
- B. change its period of duration;
- C. change, enlarge or diminish its corporate purposes;
- D. increase or decrease the aggregate number of shares or shares of any class that the corporation has authority to issue;
- E. provide or eliminate any provision with respect to the minimum consideration for any shares or class of shares;
- F. exchange, classify, reclassify or cancel all or any part of its shares, whether issued or unissued;
- G. change the designation of all or any part of its shares, whether issued or unissued, and to change the preferences, limitations and relative rights in respect of all or any part of its shares, whether issued or unissued;
- H. change the shares of any class, whether issued or unissued, into a different number of shares of the same class or into the same or a different number of shares of other classes;
- I. create new classes of shares having rights and preferences, either prior and superior or subordinate and inferior, to the shares of any class then authorized, whether issued or unissued;

J. cancel or otherwise affect the right of the holders of the shares of any class to receive dividends that have accrued but have not been declared;

K. divide any preferred or special class of shares, whether issued or unissued, into series and fix and determine the designation of the series and the variations in the relative rights and preferences as between the shares of the series;

L. authorize the board of directors to establish, out of authorized but unissued shares, series of any preferred or special class of shares and fix and determine the relative rights and preferences of the shares of any series so established;

M. authorize the board of directors to fix and determine the relative rights and preferences of the authorized but unissued shares of series theretofore established in respect of which either the relative rights and preferences have not been fixed and determined or the relative rights and preferences theretofore fixed and determined are to be changed;

N. revoke, diminish or enlarge the authority of the board of directors to establish series out of authorized but unissued shares of any preferred or special class and fix and determine the relative rights and preferences of the shares of any series so established; or

O. limit, deny or grant to shareholders of any class the preemptive right to acquire additional shares of the corporation, whether then or thereafter authorized."

## **Chapter 68 Section 6 Laws 2021**

SECTION 6. Section 53-17-3 NMSA 1978 (being Laws 1967, Chapter 81, Section 105, as amended) is amended to read:

"53-17-3. CORPORATE NAME OF FOREIGN CORPORATION.--

A. No certificate of authority shall be issued to a foreign corporation unless the corporate name of the corporation and, if different, the name under which it proposes to transact business in New Mexico:

(1) contains the word "corporation", "company", "incorporated" or "limited" or contains an abbreviation of one of these words or the corporation, for use in this state, adds at the end of its name one of these words or an abbreviation thereof;

(2) does not contain any word or phrase that indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation or that it is authorized or empowered to conduct a business that a corporation organized under the Business Corporation Act is not permitted to transact; and

(3) is not the same as, or confusingly similar to, the name of any domestic corporation existing under the laws of this state or any foreign corporation authorized to transact business in this state or a name the exclusive right to which is, at the time, reserved in the manner provided in the Business Corporation Act or the name of a corporation that has in effect a registration of its name as provided in the Business Corporation Act.

B. The provisions of Paragraph (3) of Subsection A of this section shall not apply if the foreign corporation applying for a certificate of authority files with the secretary of state any one of the following:

(1) a resolution of its board of directors adopting a fictitious name for use in transacting business in this state, which fictitious name is not confusingly similar to the name of any domestic corporation or of any foreign corporation authorized to transact business in this state or to any name reserved or registered as provided in the Business Corporation Act;

(2) the written consent of such other corporation or holder of a reserved or registered name to use the same or confusingly similar name and one or more words are added to make such name distinguishable from such other name; or

(3) a certified copy of a final decree of a court of competent jurisdiction establishing the prior right of such foreign corporation to the use of such name in this state."

## **Chapter 68 Section 7 Laws 2021**

SECTION 7. Section 53-19-3 NMSA 1978 (being Laws 1993, Chapter 280, Section 3, as amended) is amended to read:

"53-19-3. NAME.--

A. The name of a limited liability company and, if different, the name under which it proposes to transact business in New Mexico shall be stated in its articles of organization and shall contain the words "limited liability company" or "limited company" or the abbreviation "L.L.C.", "LLC", "L.C." or "LC". The word "limited" may be abbreviated as "ltd." and the word "company" may be abbreviated as "co.".

B. A limited liability company name shall be distinguishable from the name of any:

(1) limited liability company, limited partnership or corporation existing under the laws of this state;

(2) foreign limited liability company or corporation authorized to transact business in this state; and

(3) name reserved under Section 53-19-4 NMSA 1978.

C. The provisions of Subsection B of this section do not apply if the applicant files with the secretary of state a certified copy of a final decree of a court establishing the prior right of the limited liability company to use such name in this state."

## **Chapter 68 Section 8 Laws 2021**

SECTION 8. Section 53-19-11 NMSA 1978 (being Laws 1993, Chapter 280, Section 11) is amended to read:

"53-19-11. AMENDMENT AND RESTATEMENT OF ARTICLES OF ORGANIZATION.--

A. The articles of organization of a limited liability company are amended when articles of amendment are filed with the secretary of state or at any later date or time specified in the articles of amendment if there has been substantial compliance with the requirements of the Limited Liability Company Act. The articles of amendment shall set forth:

- (1) the name of the limited liability company and, if different, include any name under which it proposes to transact business in New Mexico;
- (2) the date that the articles of organization were filed; and
- (3) the amendments of the articles of organization.

B. The articles of organization may be amended in any respect desired, so long as the articles of organization, as amended, contain only provisions that may be lawfully contained in articles of organization at the time of making the amendment.

C. The articles of organization shall be amended to reflect any change in the name of the limited liability company, the latest date on which the limited liability

company is to dissolve or whether the limited liability company is to be managed by members or managers.

D. Articles of organization may be restated at any time. Restated articles of organization shall be filed with the secretary of state and shall be designated as such in the heading and shall state either in the heading or in an introductory paragraph the limited liability company's present name and, if it has been changed, all of its former names and the date of the filing of its articles of organization. Restated articles of organization shall supersede the original articles of organization and all prior amendments and restatements."

## **Chapter 68 Section 9 Laws 2021**

SECTION 9. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

# **LAWS 2021, CHAPTER 69**

**Senate Bill 218, aa**  
**Approved April 6, 2021**

AN ACT

RELATING TO THE MULTISTATE TAX COMPACT; ELIMINATING A TAXPAYER ELECTION TO APPORTION AND ALLOCATE INCOME PURSUANT TO THE MODEL VERSION OF THE UNIFORM DIVISION OF INCOME FOR TAX PURPOSES ACT; REQUIRING TAXPAYERS TO APPORTION AND ALLOCATE INCOME PURSUANT TO NEW MEXICO'S UNIFORM DIVISION OF INCOME FOR TAX PURPOSES ACT.

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



## Chapter 69 Section 1 Laws 2021

SECTION 1. Section 7-5-1 NMSA 1978 (being Laws 1967, Chapter 56, Section 1) is amended to read:

"7-5-1. COMPACT ENACTED AND ENTERED INTO.--The "Multistate Tax Compact" is enacted into law and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

### "MULTISTATE TAX COMPACT

#### Article I. Purposes.

The purposes of this compact are to:

1. facilitate proper determination of state and local tax liability of multistate taxpayers, including the equitable apportionment of tax bases and settlement of apportionment disputes;
2. promote uniformity or compatibility in significant components of tax systems;
3. facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration; and
4. avoid duplicative taxation.

#### Article II. Definitions.

As used in this compact:

1. "state" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any Territory or Possession of the United States;
2. "subdivision" means any governmental unit or special district of a state;
3. "taxpayer" means any corporation, partnership, firm, association, governmental unit or agency or person acting as a business entity in more than one state;
4. "income tax" means a tax imposed on or measured by net income, including any tax imposed on or measured by an amount arrived at by deducting expenses from gross income, one or more forms of which expenses are not specifically and directly related to particular transactions;
5. "capital stock tax" means a tax measured in any way by the capital of a corporation considered in its entirety;
6. "gross receipts tax" means a tax, other than a sales tax, that is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which no deduction is allowed that would constitute the tax an income tax;
7. "sales tax" means a tax imposed with respect to the transfer for a consideration of ownership, possession or custody of tangible personal property or the rendering of services measured by the price of the tangible personal property transferred or services rendered and that is required by state or local law to be separately stated from the sales price by the seller, or that is customarily separately stated from the sales price, but does not include a tax imposed exclusively on the sale of a specifically identified commodity or article or class of commodities or articles;
8. "use tax" means a nonrecurring tax, other than a sales tax, that: (a) is imposed on or with respect to the exercise or enjoyment of any right or power over tangible personal property incident to the ownership, possession or custody of that

property or the leasing of that property from another including any consumption, keeping, retention, or other use of tangible personal property; and (b) is complementary to a sales tax; and

9. "tax" means an income tax, capital stock tax, gross receipts tax, sales tax, use tax, and any other tax that has a multistate impact, except that the provisions of Articles III, IV and V of this compact shall apply only to the taxes specifically designated therein and the provisions of Article IX of this compact shall apply only in respect to determinations pursuant to Article IV of this compact;

#### Article III. Elements of Income Tax Laws.

1. Each party state or any subdivision thereof that imposes an income tax shall provide by law that any taxpayer required to file a return, whose only activities within the taxing jurisdiction consist of sales and do not include owning or renting real estate or tangible personal property, and whose dollar volume of gross sales made during the tax year within the state or subdivision, as the case may be, is not in excess of \$100,000 may elect to report and pay any tax due on the basis of a percentage of such volume, and shall adopt rates which shall produce a tax which reasonably approximates the tax otherwise due. The multistate tax commission, not more than once in five years, may adjust the \$100,000 figure in order to reflect such changes as may occur in the real value of the dollar, and such adjusted figure, upon adoption by the commission, shall replace the \$100,000 figure specifically provided herein. Each party state and subdivision thereof may make the same election available to taxpayers additional to those specified in this paragraph.

2. Nothing in this article relates to the reporting or payment of any tax other than an income tax.

#### Article IV. Division of Income.

1. As used in this article, unless the context otherwise requires:

(a) "business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations;

(b) "commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed;

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

(d) "financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, small loan company, sales finance company, investment company, or any type of insurance company;

(e) "nonbusiness income" means all income other than business income;

(f) "public utility" means any business entity: (1) that owns or operates any plant, equipment, property, franchise, or license for the transmission of communications, transportation of goods or persons, except by pipe line, or the production, transmission, sale, delivery, or furnishing of electricity, water or steam; and (2) whose rates of charges for goods or services have been established or approved by a federal, state or local government or governmental agency;

(g) "sales" means all gross receipts of the taxpayer not allocated under paragraphs of this article;

(h) "state" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof; and

(i) "this state" means the state in which the relevant tax return is filed or, in the case of application of this article to the apportionment and allocation of income for local tax purposes, the subdivision or local taxing district in which the relevant tax return is filed.

2. Any taxpayer having income from business activity that is taxable both within and without this state, other than activity as a financial organization or public utility or the rendering of purely personal services by an individual, shall allocate and apportion the taxpayer's net income as provided in this article. If a taxpayer has income from business activity as a public utility but derives the greater percentage of the taxpayer's income from activities subject to this article, the taxpayer may elect to allocate and apportion the taxpayer's entire net income as provided in this article.

3. For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if: (1) in that state, the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or (2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

4. Rents and royalties from real or tangible personal property, capital gains, interest, dividends or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in Paragraphs 5 through 8 of this article.

5. (a) Net rents and royalties from real property located in this state are allocable to this state.

(b) Net rents and royalties from tangible personal property are allocable to this state: (1) if and to the extent that the property is utilized in this state; or (2) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(c) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

6. (a) Capital gains and losses from sales of real property located in this state are allocable to this state.

(b) Capital gains and losses from sales of tangible personal property are allocable to this state if: (1) the property had a situs in this state at the time of the sale; or (2) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(c) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

7. Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

8. (a) Patent and copyright royalties are allocable to this state: (1) if and to the extent that the patent or copyright is utilized by the payer in this state; or (2) if and to the extent that the patent copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(b) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not

reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(c) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

9. All business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.

10. The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

11. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

12. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the tax administrator may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

13. The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period.

14. Compensation is paid in this state if:

- (a) the individual's service is performed entirely within the state;
- (b) the individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or
- (c) some of the service is performed in the state and: (1) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state; or (2) the base of operations or the place from which the 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.

15. The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

16. Sales of tangible personal property are in this state if:

- (a) the property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of the f.o.b. point or other conditions of the sale; or
- (b) the property is shipped from an office, store, warehouse, factory, or other place of storage in this state and: (1) the purchaser is the United States government; or (2) the taxpayer is not taxable in the state of the purchaser.

17. Sales, other than sales of tangible personal property, are in this state if:

- (a) the income-producing activity is performed in this state; or



(b) the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

18. If the allocation and apportionment provisions of this article do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the tax administrator may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(a) separate accounting;

(b) the exclusion of any one or more of the factors;

(c) the inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or

(d) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

#### Article V. Elements of Sales and Use Tax Laws.

##### Tax Credit.

1. Each purchaser liable for a use tax on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by the purchaser with respect to the same property to another state and any subdivision thereof. The credit shall be applied first against the amount of any use tax due the state, and any unused portion of the credit shall then be applied against the amount of any use tax due a subdivision.

##### Exemption Certificates, Vendors May Rely.

2. Whenever a vendor receives and accepts in good faith from a purchaser a resale or other exemption certificate or other written evidence of exemption authorized by the appropriate state or subdivision taxing authority, the vendor shall be relieved of liability for a sales or use tax with respect to the transaction.

## Article VI. The Commission.

### Organization and Management.

1. (a) The "multistate tax commission" is hereby established. It shall be composed of one "member" from each party state who shall be the head of the state agency charged with the administration of the types of taxes to which this compact applies. If there is more than one such agency the state shall provide by law for the selection of the commission member from the heads of the relevant agencies. State law may provide that a member of the commission be represented by an alternate but only if there is on file with the commission written notification of the designation and identity of the alternate. The attorney general of each party state or the attorney general's designee, or other counsel if the laws of the party state specifically provide, shall be entitled to attend the meetings of the commission, but shall not vote. Such attorneys general, designees, or other counsel shall receive all notices of meetings required under Paragraph 1 (e) of this article.

(b) Each party state shall provide by law for the selection of representatives from its subdivisions affected by this compact to consult with the commission member from that State.

(c) Each member shall be entitled to one vote. The commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the total number of members.

(d) The commission shall adopt an official seal to be used as it may provide.

(e) The commission shall hold an annual meeting and such other regular meetings as its bylaws may provide and such special meetings as its executive committee may determine. The commission bylaws shall specify the dates of the annual and any other regular meetings, and shall provide for the giving of notice of annual, regular and special meetings. Notices of special meetings shall include the reasons therefor and an agenda of the items to be considered.

(f) The commission shall elect annually, from among its members, a chair, a vice chair and a treasurer. The commission shall appoint an executive director who shall serve at its pleasure, and it shall fix the executive director's duties and compensation. The executive director shall be secretary of the commission. The commission shall make provision for the bonding of such of its officers and employees as it may deem appropriate.

(g) Irrespective of the civil service, personnel or other merit system laws of any party state, the executive director shall appoint or discharge such personnel as may be necessary for the performance of the functions of the commission and shall fix their duties and compensation. The commission bylaws shall provide for personnel policies and programs.

(h) The commission may borrow, accept or contract for the services of personnel from any state, the United States, or any other governmental entity.

(i) The commission may accept for any of its purposes and functions any and all donations and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any governmental entity, and may utilize and dispose of the same.

(j) The commission may establish one or more offices for the transacting of its business.

(k) The commission shall adopt bylaws for the conduct of its business. The commission shall publish its bylaws in convenient form, and shall file a copy of the

bylaws and any amendments thereto with the appropriate agency or officer in each of the party states.

(l) The commission annually shall make to the governor and legislature of each party state a report covering its activities for the preceding year. Any donation or grant accepted by the commission or services borrowed shall be reported in the annual report of the commission, and shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender. The commission may make additional reports as it may deem desirable.

#### Committees.

2. (a) To assist in the conduct of its business when the full commission is not meeting, the commission shall have an executive committee of seven members, including the chair, vice chair, treasurer and four other members elected annually by the commission. The executive committee, subject to the provisions of this compact and consistent with the policies of the commission, shall function as provided in the bylaws of the commission.

(b) The commission may establish advisory and technical committees, membership on which may include private persons and public officials, in furthering any of its activities. Such committees may consider any matter of concern to the commission, including problems of special interest to any party state and problems dealing with particular types of taxes.

(c) The commission may establish such additional committees as its bylaws may provide.

#### Powers.

3. In addition to powers conferred elsewhere in this compact, the commission shall have power to:

(a) study state and local tax systems and particular types of state and local taxes;

(b) develop and recommend proposals for an increase in uniformity or compatibility of state and local tax laws with a view toward encouraging the simplification and improvement of state and local tax law and administration;

(c) compile and publish information as in its judgment would assist the party states in implementation of the compact and taxpayers in complying with state and local tax laws; and

(d) do all things necessary and incidental to the administration of its functions pursuant to this compact.

#### Finance.

4. (a) The commission shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

(b) Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the party states. The total amount of appropriations requested under any such budget shall be apportioned among the party states as follows: one-tenth in equal shares; and the remainder in proportion to the amount of revenue collected by each party state and its subdivisions from income taxes, capital stock taxes, gross receipts taxes, sales and use taxes. In determining such amounts, the commission shall employ such available public sources of information as, in its judgment, present the most equitable and accurate comparisons among the party states. Each of the commission's budgets of estimated expenditures and requests for appropriations shall indicate the sources used in obtaining information employed in applying the formula contained in this paragraph.

(c) The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it under Paragraph (1) (i) of this article: provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it under Paragraph 1 (i) of this article, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(e) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

(f) Nothing contained in this article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

#### Article VII. Uniform Regulations and Forms.

1. Whenever any two or more party states, or subdivisions of party states, have uniform or similar provisions of law relating to an income tax, capital stock tax, gross receipts tax, sales or use tax, the commission may adopt uniform regulations for any phase of the administration of such law, including assertion of jurisdiction to tax, or prescribing uniform tax forms. The commission may also act with respect to the provisions of Article IV of this compact.

2. Prior to the adoption of any regulation, the commission shall:

(a) as provided in its bylaws, hold at least one public hearing on due notice to all affected party states and subdivisions thereof and to all taxpayers and other persons who have made timely request of the commission for advance notice of its regulation-making proceedings; and

(b) afford all affected party states and subdivisions and interested persons an opportunity to submit relevant written data and views, which shall be considered fully by the commission.

3. The commission shall submit any regulations adopted by it to the appropriate officials of all party states and subdivisions to which they might apply. Each such state and subdivision shall consider any such regulation for adoption in accordance with its own laws and procedures.

#### Article VIII. Interstate Audits.

1. This article shall be in force only in those party states that specifically provide therefor by statute.

2. Any party state or subdivision thereof desiring to make or participate in an audit of any accounts, books, papers, records or other documents may request the commission to perform the audit on its behalf. In responding to the request, the commission shall have access to and may examine, at any reasonable time, such accounts, books, papers, records, and other documents and any relevant property or stock of merchandise. The commission may enter into agreements with party states or their subdivisions for assistance in performance of the audit. The commission shall make charges, to be paid by the state or local government or governments for which it performs the service, for any audits performed by it in order to reimburse itself for the actual costs incurred in making the audit.

3. The commission may require the attendance of any person within the state where it is conducting an audit or part thereof at a time and place fixed by it within such state for the purpose of giving testimony with respect to any account, book, paper,

document, other record, property or stock of merchandise being examined in connection with the audit. If the person is not within the jurisdiction, the person may be required to attend for such purpose at any time and place fixed by the commission within the state of which the person is a resident; provided that such state has adopted this article.

4. The commission may apply to any court having power to issue compulsory process for orders in aid of its powers and responsibilities pursuant to this article and any and all such courts shall have jurisdiction to issue such orders. Failure of any person to obey any such order shall be punishable as contempt of the issuing court. If the party or subject matter on account of which the commission seeks an order is within the jurisdiction of the court to which application is made, such application may be to a court in the state or subdivision on behalf of which the audit is being made or a court in the state in which the object of the order being sought is situated. The provisions of this paragraph apply only to courts in a state that has adopted this article.

5. The commission may decline to perform any audit requested if it finds that its available personnel or other resources are insufficient for the purpose or that, in the terms requested, the audit is impracticable of satisfactory performance. If the commission, on the basis of its experience, has reason to believe that an audit of a particular taxpayer, either at a particular time or on a particular schedule, would be of interest to a number of party states or their subdivisions, it may offer to make the audit or audits, the offer to be contingent on sufficient participation therein as determined by the commission.

6. Information obtained by any audit pursuant to this article shall be confidential and available only for tax purposes to party states, their subdivisions or the United States. Availability of information shall be in accordance with the laws of the states or subdivisions on whose account the commission performs the audit, and only through the appropriate agencies or officers of such states or subdivisions. Nothing in this article shall be construed to require any taxpayer to keep records for any period not otherwise required by law.



7. Other arrangements made or authorized pursuant to law for cooperative audit by or on behalf of the party states or any of their subdivisions are not superseded or invalidated by this article.

8. In no event shall the commission make any charge against a taxpayer for an audit.

9. As used in this article, "tax," in addition to the meaning ascribed to it in Article II of this compact, means any tax or license fee imposed in whole or in part for revenue purposes.

#### Article IX. Arbitration.

1. Whenever the commission finds a need for settling disputes concerning apportionments and allocations by arbitration, it may adopt a regulation placing this article in effect, notwithstanding the provisions of Article VII of this compact.

2. The commission shall select and maintain an arbitration panel composed of officers and employees of state and local governments and private persons who shall be knowledgeable and experienced in matters of tax law and administration.

3. Whenever a taxpayer who has elected to employ Article IV of this compact, or whenever the laws of the party state or subdivision thereof are substantially identical with the relevant provisions of Article IV, the taxpayer, by written notice to the commission and to each party state or subdivision thereof that would be affected, may secure arbitration of an apportionment or allocation, if the taxpayer is dissatisfied with the final administrative determination of the tax agency of the state or subdivision with respect thereto on the ground that it would subject the taxpayer to double or multiple taxation by two or more party states or subdivisions thereof. Each party state and subdivision thereof hereby consents to the arbitration as provided herein, and agrees to be bound thereby.

4. The arbitration board shall be composed of one person selected by the taxpayer, one by the agency or agencies involved, and one member of the commission's arbitration panel. If the agencies involved are unable to agree on the person to be selected by them, such person shall be selected by lot from the total membership of the arbitration panel. The two persons selected for the board in the manner provided by the foregoing provisions of this paragraph shall jointly select the third member of the board. If they are unable to agree on the selection, the third member shall be selected by lot from among the total membership of the arbitration panel. No member of a board selected by lot shall be qualified to serve if the member is an officer or employee or is otherwise affiliated with any party to the arbitration proceeding. Residence within the jurisdiction of a party to the arbitration proceeding shall not constitute affiliation within the meaning of this paragraph.

5. The board may sit in any state or subdivision party to the proceeding, in the state of the taxpayer's incorporation, residence or domicile, in any state where the taxpayer does business, or in any place that it finds most appropriate for gaining access to evidence relevant to the matter before it.

6. The board shall give due notice of the times and places of its hearings. The parties shall be entitled to be heard, to present evidence, and to examine and cross-examine witnesses. The board shall act by majority vote.

7. The board shall have power to administer oaths, take testimony, subpoena and require the attendance of witnesses and the production of accounts, books, papers, records, and other documents, and issue commissions to take testimony. Subpoenas may be signed by any member of the board. In case of failure to obey a subpoena, and upon application by the board, any judge of a court of competent jurisdiction of the state in which the board is sitting or in which the person to whom the subpoena is directed may be found may make an order requiring compliance with the subpoena, and the court may punish failure to obey the order as a contempt. The provisions of this paragraph apply only in states that have adopted this article.

8. Unless the parties otherwise agree the expenses and other costs of the arbitration shall be assessed and allocated among the parties by the board in such manner as it may determine. The commission shall fix a schedule of compensation for members of arbitration boards and of other allowable expenses and costs. No officer or employee of a state or local government who serves as a member of a board shall be entitled to compensation therefor unless the member is required on account of the member's service to forego the regular compensation attaching to the member's public employment, but any such board member shall be entitled to expenses.

9. The board shall determine the disputed apportionment or allocation and any matters necessary thereto. The determinations of the board shall be final for the purposes of making the apportionment or allocation, but for no other purpose.

10. The board shall file with the commission and with each tax agency represented in the proceeding: the determination of the board; the board's written statement of its reasons therefor; the record of the board's proceedings; and any other documents required by the arbitration rules of the commission to be filed.

11. The commission shall publish the determinations of boards together with the statements of the reasons therefor.

12. The commission shall adopt and publish rules of procedure and practice and shall file a copy of such rules and of any amendment thereto with the appropriate agency or officer in each of the party states.

13. Nothing contained herein shall prevent at any time a written compromise of any matter or matters in dispute, if otherwise lawful, by the parties to the arbitration proceeding.

#### Article X. Entry Into Force and Withdrawal.

1. This compact shall enter into force when enacted into law by any seven states. Thereafter, this compact shall become effective as to any other state upon its

enactment thereof. The commission shall arrange for notification of all party states whenever there is a new enactment of the compact.

2. Any party state may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

3. No proceeding commenced before an arbitration board prior to the withdrawal of a state and to which the withdrawing state or any subdivision thereof is a party shall be discontinued or terminated by the withdrawal, nor shall the board thereby lose jurisdiction over any of the parties to the proceeding necessary to make a binding determination therein.

#### Article XI. Effect on Other Laws and Jurisdiction.

Nothing in this compact shall be construed to:

(a) affect the power of any state or subdivision thereof to fix rates of taxation, except that a party state shall be obligated to implement Article III 1 of this compact;

(b) apply to any tax or fixed fee imposed for the registration of a motor vehicle or any tax on motor fuel, other than a sales tax; provided that the definition of "tax" in Article VIII 9 of this compact may apply for the purposes of that article and the commission's powers of study and recommendation pursuant to Article VI 3 of this compact may apply;

(c) withdraw or limit the jurisdiction of any state or local court or administrative officer or body with respect to any person, corporation or other entity or subject matter, except to the extent that such jurisdiction is expressly conferred by or pursuant to this compact upon another agency or body; and

(d) supersede or limit the jurisdiction of any court of the United States.

## Article XII. Construction and Severability.

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

### **Chapter 69 Section 2 Laws 2021**

SECTION 2. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2021.

## **LAWS 2021, CHAPTER 70**

**Senate Bill 219**  
**Approved April 6, 2021**

### AN ACT

RELATING TO OCCUPATIONS; REMOVING PROOF OF CITIZENSHIP OR LEGAL RESIDENCY REQUIREMENTS FOR CERTAIN PROFESSIONALS; ALLOWING FOR SUBMISSION OF AN INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER FOR CERTAIN OCCUPATIONAL LICENSE OR PERMIT APPLICATIONS.

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

## **Chapter 70 Section 1 Laws 2021**

SECTION 1. Section 56-12-7 NMSA 1978 (being Laws 1985, Chapter 228, Section 7) is amended to read:

"56-12-7. APPLICATION FOR PERMIT--REQUIREMENTS.--

A. Each application for an original or a renewal permit shall be submitted in writing to the local government and contain such information as is required by the local government and be accompanied by the applicable permit fee amount.

B. Each application shall be accompanied by the name, social security number or individual taxpayer identification number, address and date of birth of each agent, servant and employee of the applicant engaged in the business of pawn transactions. Changes in such list shall be indicated on each renewal application.

C. Every pawnbroker shall furnish with each application for an original or renewal permit proof of execution and delivery of the bond to the local government."

## **Chapter 70 Section 2 Laws 2021**

SECTION 2. Section 59A-11-2 NMSA 1978 (being Laws 1984, Chapter 127, Section 181, as amended) is amended to read:

"59A-11-2. APPLICATION FOR LICENSE--INDIVIDUAL.--

A. Where a license is required under the Insurance Code for categories referred to in Section 59A-11-1 NMSA 1978, application by an individual shall be filed with, and on a form prescribed by, the superintendent. The application shall be signed by the applicant, under oath if required by the form.

B. The application form may require information about the applicant as to:

- (1) name, date of birth, social security number or individual taxpayer identification number, residence and business address, if applicable;
- (2) personal history, business experience in general;
- (3) experience or special training or education in the kind of business to be transacted under the license applied for;
- (4) previous licensing;
- (5) type of license applied for and kinds of insurance or transactions to be covered thereby;
- (6) proof of applicant's identity; and
- (7) such other pertinent information and matters as the superintendent may reasonably require.

C. The application form shall also require information as to additional matters expressly required to be included therein in articles of the Insurance Code relating to particular licenses.

D. The application shall be accompanied by the applicable license application filing fee specified in Section 59A-6-1 NMSA 1978 and by the fee specified in such fee schedule for any examination required under the Insurance Code to be taken and passed by the applicant prior to licensing.

E. The superintendent may require a criminal history background investigation of the applicant for a license by means of fingerprint checks by the department of public safety and the federal bureau of investigation.

F. The superintendent may obtain from the department of public safety and the federal bureau of investigation, at the expense of the applicant for a license, criminal

history information concerning each applicant, using the applicant's fingerprints or other identifying information. The information shall be used by the superintendent solely in determining whether to grant the application."

## **Chapter 70 Section 3 Laws 2021**

SECTION 3. Section 59A-13-4 NMSA 1978 (being Laws 1984, Chapter 127, Section 232, as amended) is amended to read:

"59A-13-4. QUALIFICATIONS FOR LICENSE AS ADJUSTER.--

A. The superintendent shall license as an adjuster only an individual who is otherwise in compliance with Chapter 59A, Articles 11 and 13 NMSA 1978 and who has furnished evidence satisfactory to the superintendent that the applicant for license:

(1) is not less than eighteen years of age;

(2) is a bona fide resident of this state, or of a state or country that permits residents of this state to act as adjusters therein, except that under circumstances of necessity the superintendent may waive the requirement of reciprocity;

(3) can demonstrate a good business reputation, and intends to engage in a bona fide manner in the business of adjusting insurance claims;

(4) has passed any examination required for licensing; and

(5) has filed the bond required under Section 59A-13-5 NMSA 1978.

B. Paragraphs (2) and (5) of Subsection A of this section shall not apply as to staff adjusters.



C. Individuals holding licenses as adjusters on the effective date of the Insurance Code shall be deemed to meet the qualifications for the license except as provided in Chapter 59A, Articles 11 and 13 NMSA 1978.

D. A business entity applying for an independent adjuster license for the purposes of portable electronics insurance in New Mexico shall submit the names, addresses, social security numbers or individual taxpayer identification numbers, criminal and administrative histories, background checks, biographical statements and fingerprints of all executive officers and directors of the applicant and of all executive officers and directors of entities owning and any individuals owning, directly or indirectly, fifty-one percent or more of the outstanding voting securities of the applicant. Any nonresident business entity applicant whose resident state has enacted into law provisions that are substantively duplicative of the provisions of this subsection shall not be required to submit criminal histories, background checks, biographical statements and fingerprints for its executive officers, directors and owners of outstanding voting securities."

## **Chapter 70 Section 4 Laws 2021**

SECTION 4. Section 59A-13-6 NMSA 1978 (being Laws 1984, Chapter 127, Section 234, as amended) is amended to read:

"59A-13-6. EMERGENCY ADJUSTERS.--

A. In the event of an emergency requiring the immediate expansion of adjuster services in New Mexico, an insurer or a public adjuster licensed in New Mexico may request authority from the superintendent to employ adjusters to assist with the emergency who are not licensed in New Mexico but who have fulfilled all licensing requirements in their home state and are in good standing in their home state. An insurer or public adjuster requesting such authority shall provide the superintendent with the following information:

(1) the nature of the emergency and the affected region of the state;

(2) a list of the adjusters that the insurer or public adjuster shall use that are not licensed in New Mexico. This list shall include each adjuster's name, home address, last four digits of individual taxpayer identification number or last four digits of social security number, national producer number, home state and the effective date of the contract between the adjuster and the insurer or public adjuster;

(3) the name, contact information, national producer number and New Mexico license number for the individual designated by the insurer or public adjuster who will be responsible for the conduct of these adjusters; and

(4) any other information that the superintendent may require.

B. The adjustment of claims by the adjusters listed in Paragraph (2) of Subsection A of this section shall be limited to claims arising from the emergency.

C. Use of the listed adjusters shall be limited to the ninety days immediately following the emergency, unless an extension of time is requested by the insurer or public adjuster and granted by the superintendent.

D. A request by an insurer or public adjuster to employ adjusters to assist with an emergency who are not licensed in New Mexico but who are currently licensed and in good standing in their home state shall be deemed approved if such a request is not disapproved by the superintendent within three business days of its submission to the superintendent.

E. An insurer or public adjuster that requests authorization pursuant to this section may commence employing the adjusters listed in Paragraph (2) of Subsection A of this section while awaiting the superintendent's decision on their request."

## Chapter 70 Section 5 Laws 2021

SECTION 5. Section 59A-51-4 NMSA 1978 (being Laws 1984, Chapter 127, Section 931, as amended) is amended to read:

"59A-51-4. QUALIFICATIONS FOR LICENSE.--Applicants for license as bail bondsman or solicitor pursuant to the provisions of the Bail Bondsmen Licensing Law shall:

- A. be an individual not less than eighteen years of age;
- B. be a high school graduate or have passed a high school equivalency examination;
- C. not be a law enforcement, adjudication, jail, court or prosecution official or an employee thereof or an attorney, official authorized to admit to bail or state or county officer;
- D. if for license as bondsman, pass a written examination testing the applicant's knowledge and competence to engage in the bail bondsman business;
- E. be of good personal and business reputation;
- F. if to act as a property bondsman, be financially responsible and provide the surety bond or deposit in lieu thereof as required in accordance with Section 59A-51-8 NMSA 1978;
- G. if to act as a limited surety agent, be appointed by an authorized surety insurer; and
- H. if for license as a solicitor, have been so appointed by a licensed bail bondsman subject to issuance of the solicitor license."

## Chapter 70 Section 6 Laws 2021

SECTION 6. Section 60-13A-6 NMSA 1978 (being Laws 1993, Chapter 162, Section 6) is amended to read:

"60-13A-6. REGISTRATION APPLICATION--CONTENTS.--

A. An application for registration as an employee leasing contractor shall be signed by an individual for the applicant and verified by the applicant under oath before a notary public. It shall contain:

(1) the applicant's full name, the title of the applicant's position with the employee leasing contractor and a statement that the applicant is authorized to act on behalf of the employee leasing contractor in connection with the application;

(2) the business name, if any, of the applicant;

(3) the applicant's legal entity status;

(4) if the applicant is an individual, the applicant's:

(a) age; and

(b) date and place of birth;

(5) the applicant's state and federal tax identification numbers and employer identification number;

(6) the current residence street or location address of the principal office of the applicant and a current mailing address if different from the residency address;

- (7) a signature by:
  - (a) an individual sole proprietor if the applicant is a proprietorship;
  - (b) each of the general partners if the applicant is a partnership;
  - or
  - (c) a corporate officer having authority to make the application if the applicant is a corporation;
- (8) for a corporate applicant, the name and residence street address of the corporation's agent for the service of process; and
- (9) proof of compliance with Section 60-13A-5 NMSA 1978.

B. Changes in information required to be included in the application for registration as an employee leasing contractor shall be reported to the department by the employee leasing contractor within thirty days of the date the change occurs. Failure by the employee leasing contractor to comply with this requirement constitutes cause for the department to cancel the employee leasing contractor's registration."

## **Chapter 70 Section 7 Laws 2021**

SECTION 7. Section 61-2-8 NMSA 1978 (being Laws 1973, Chapter 353, Section 7) is amended to read:

"61-2-8. QUALIFICATIONS FOR LICENSURE AS AN OPTOMETRIST.--Each applicant for licensure as an optometrist shall furnish evidence satisfactory to the board that the applicant:

- A. has reached the age of majority;

B. is of good moral character and of temperate habits;

C. has completed at least an approved four-year high school course of study or the equivalent as determined by regulations of the board; and

D. has graduated and been awarded a doctor of optometry degree from a school or college of optometry approved and accredited by the board. In the event the applicant applies for licensure by endorsement, the applicant shall have been awarded a doctor of optometry degree from a school or college of optometry, approved and accredited by the board, which had a minimum course of study of four thousand clock hours of instruction leading to that degree."

## **Chapter 70 Section 8 Laws 2021**

SECTION 8. Section 61-6-13 NMSA 1978 (being Laws 1989, Chapter 269, Section 9, as amended) is amended to read:

"61-6-13. LICENSURE BY ENDORSEMENT.--

A. The board may grant a license by endorsement to an applicant who:

(1) has graduated from an accredited United States or Canadian medical school;

(2) is board certified in a specialty recognized by the American board of medical specialties;

(3) has been a licensed physician in the United States or Canada and has practiced medicine in the United States or Canada immediately preceding the application for at least three years;

(4) holds an unrestricted license in another state or Canada; and

(5) was not the subject of a disciplinary action in a state or province.

B. The board may grant a license by endorsement to an applicant who:

(1) has graduated from a medical school located outside the United States or Canada;

(2) is of good moral character;

(3) is board certified in a specialty recognized by the American board of medical specialties;

(4) has been a licensed physician in the United States or Canada and has practiced medicine in the United States or Canada immediately preceding the application for at least three years;

(5) holds an unrestricted license in another state or Canada; and

(6) was not the subject of disciplinary action in a state or province.

C. An endorsement provided pursuant to this section shall certify that the applicant has passed an examination that meets with board approval and that the applicant is in good standing in that jurisdiction. In cases when the applicant is board certified, has not been the subject of disciplinary action that would be reportable to the national practitioner data bank or the healthcare integrity and protection data bank and has unusual skills and experience not generally available in this state, and patients residing in this state have a significant need for such skills and experience, the board may waive a requirement imposing time limits for examination completion that are different from requirements of the state where the applicant is licensed.

D. An applicant for licensure under this section may be required to personally appear before the board or a designated agent for an interview.

E. An applicant for licensure under this section shall pay an application fee as provided in Section 61-6-19 NMSA 1978.

F. The board may require fingerprints and other information necessary for a state and national criminal background check."

## **Chapter 70 Section 9 Laws 2021**

SECTION 9. Section 61-12D-10 NMSA 1978 (being Laws 1997, Chapter 89, Section 10, as amended) is amended to read:

"61-12D-10. LICENSURE--QUALIFICATIONS.--

A. An applicant for licensure as a physical therapist shall submit a completed application and have the following minimum qualifications:

- (1) be of good moral character;
- (2) be a graduate of an accredited physical therapy program approved by the board;
- (3) have successfully passed the national physical therapy examination approved by the board; and
- (4) have successfully passed the state jurisprudence examination.

B. An applicant for licensure as a physical therapist who has been educated outside the United States shall submit a completed application and meet the following minimum qualifications in addition to those required in Paragraphs (1), (3) and (4) of Subsection A of this section:



(1) provide satisfactory evidence that the applicant's education is substantially equivalent to the requirements of physical therapists educated in accredited educational programs in the United States, as determined by the board. If the board determines that a foreign-educated applicant's education is not substantially equivalent, it may require completion of additional course work before proceeding with the application process;

(2) provide evidence that the applicant is a graduate of a school of training that is recognized by the foreign country's own ministry of education or similar institution;

(3) provide written proof of authorization to practice as a physical therapist without limitations in the legal jurisdiction where the post-secondary institution from which the applicant has graduated is located;

(4) have the applicant's educational credentials evaluated by a board-approved credential evaluation agency;

(5) pass all approved English proficiency examinations as may be prescribed by the board if English is not the applicant's primary language; and

(6) participate in an interim supervised clinical practice period as may be prescribed by the board.

C. The board may issue an interim permit to a foreign-trained applicant who satisfies the board's requirements. An interim permit shall be issued for the purpose of participating in a supervised clinical practice period.

D. If the foreign-educated physical therapist applicant is a graduate of a college accredited by the commission on accreditation in physical therapy education, the requirements of Paragraphs (1), (2), (4) and (6) of Subsection B of this section are waived.

E. An applicant for licensure as a physical therapist assistant shall submit a completed application and meet the following minimum requirements:

- (1) be of good moral character;
- (2) be a graduate of an accredited physical therapist assistant program approved by the board;
- (3) have successfully passed the national physical therapy examination approved by the board; and
- (4) have successfully passed the state jurisprudence examination.

F. An applicant for licensure as a physical therapist or physical therapist assistant shall file a written application on forms provided by the board. A nonrefundable application fee and the cost of the examination shall accompany the completed written application.

G. Applicants who fail to pass the examinations shall be subject to requirements determined by board regulations prior to being approved by the board for subsequent testing.

H. The board or its designee shall issue a license to a physical therapist or physical therapist assistant who has a valid unrestricted license from another United States jurisdiction and who meets all requirements for licensure in New Mexico.

I. Prior to licensure, if prescribed by the board, the board or its designee may issue a temporary nonrenewable license to a physical therapist or physical therapist assistant who has completed the education and experience requirements of the Physical Therapy Act. The temporary license shall allow the applicant to practice physical therapy under the supervision of a licensed physical therapist until a permanent license is approved that shall include passing the national physical therapy examination.

J. The board or its designee may issue a temporary license to a physical therapist or physical therapist assistant performing physical therapy while teaching an educational seminar who has met the requirements established by regulation of the board.

K. A physical therapist or physical therapist assistant licensed under the provisions of the Physical Therapy Act shall renew the physical therapist's or physical therapist assistant's license as specified in board rules. A person who fails to renew the person's license by the date of expiration shall not practice physical therapy as a physical therapist or physical therapist assistant in New Mexico.

L. Reinstatement of a lapsed license following a renewal deadline requires payment of a renewal fee and late fee.

M. Reinstatement of a physical therapist or physical therapist assistant license that has lapsed for more than three years, without evidence of continued practice in another state pursuant to a valid unrestricted license in that state, requires reapplication and payment of fees, as specified in board rules. The board shall promulgate rules establishing the qualifications for reinstatement of a lapsed license.

N. The board may establish, by rule, activities to periodically assess continuing competence to practice physical therapy.

O. A physical therapist shall refer a patient to the patient's licensed health care provider if:

(1) after thirty days of initiating physical therapy intervention, the patient has not made measurable or functional improvement with respect to the primary complaints of the patient; provided that the thirty-day limit shall not apply to:

(a) treatment provided for a condition related to a chronic, neuromuscular or developmental condition for a patient previously diagnosed by a

licensed health care provider as having a chronic, neuromuscular or developmental condition;

(b) services provided for health promotion, wellness, fitness or maintenance purposes; or

(c) services provided to a patient who is participating in a program pursuant to an individual education plan or individual family service plan under federal law; or

(2) at any time, the physical therapist has reason to believe the patient has symptoms or conditions requiring treatment that is beyond the scope of practice of the physical therapist.

P. As used in this section, "licensed health care provider" means:

(1) a physician licensed pursuant to the Medical Practice Act;

(2) an osteopathic physician licensed pursuant to the Osteopathic Medicine Act;

(3) a chiropractic physician licensed pursuant to the Chiropractic Physician Practice Act;

(4) a podiatrist licensed pursuant to the Podiatry Act;

(5) a dentist licensed pursuant to the Dental Health Care Act;

(6) a doctor of oriental medicine licensed pursuant to the Acupuncture and Oriental Medicine Practice Act;

(7) a certified nurse practitioner licensed pursuant to the Nursing Practice Act;

(8) a certified nurse-midwife licensed pursuant to the Nursing Practice Act and registered with the public health division of the department of health as a certified nurse-midwife;

(9) a certified nurse specialist licensed pursuant to the Nursing Practice Act; or

(10) a physician assistant licensed pursuant to the Medical Practice Act."

## **Chapter 70 Section 10 Laws 2021**

SECTION 10. Section 61-18A-11 NMSA 1978 (being Laws 1987, Chapter 252, Section 11, as amended) is amended to read:

"61-18A-11. QUALIFICATION OF MANAGER APPLICANTS.--The licensed manager to be actively in charge of a collection agency shall:

- A. have reached the age of majority;
- B. not have been convicted of a felony or crime involving moral turpitude;
- C. be a graduate of a high school or provide proof to the director that the licensed manager is possessed of the equivalent of a high school education;
- D. pass the examination required;
- E. pay the examination fee to the director;
- F. have been actively and continuously engaged or employed in the collection of accounts receivable for at least two of the five years next preceding the filing of the application; and

G. have a good credit record."

## **Chapter 70 Section 11 Laws 2021**

SECTION 11. Section 61-24D-6 NMSA 1978 (being Laws 2019, Chapter 239, Section 6) is amended to read:

"61-24D-6. LICENSURE.--

A. Unless otherwise provided in the Home Inspector Licensing Act, an applicant for a license shall:

- (1) complete an application on forms provided by the board;
- (2) provide documentation to establish that the applicant is at least eighteen years of age;
- (3) provide the board with the applicant's fingerprints and all information necessary for a state and national criminal background check;
- (4) provide proof of and maintain insurance coverage as provided in Section 61-24D-12 NMSA 1978;
- (5) have completed at least eighty hours of classroom training, the content of which shall be established by rule of the board;
- (6) pass a national home inspector licensing examination and any additional licensing examinations as prescribed by the board; and
- (7) have completed at least eighty hours of field training, or its equivalent, as determined by the board.

B. Paragraphs (5) and (7) of Subsection A of this section shall not apply to a person who has:

(1) worked as a home inspector in each of the twenty-four months immediately preceding the effective date of the Home Inspector Licensing Act; and

(2) performed at least one hundred home inspections for compensation in the twenty-four months immediately preceding the effective date of the Home Inspector Licensing Act.

C. After the board's review of all information obtained by the board and submitted by the applicant as required by this section, if all of the requirements for licensure are met, the board shall issue a license to the applicant."

## **Chapter 70 Section 12 Laws 2021**

SECTION 12. Section 61-29-9 NMSA 1978 (being Laws 1959, Chapter 226, Section 8, as amended) is amended to read:

"61-29-9. QUALIFICATIONS FOR LICENSE.--

A. Licenses shall be granted only to persons who meet the requirements for licensure prescribed by law and are deemed by the commission to be of good repute and competent to transact the business of a qualifying broker or an associate broker in a manner that safeguards the interests of the public.

B. An applicant for a qualifying broker's license or an associate broker's license shall have reached the age of majority. Each applicant for a qualifying broker's license or an associate broker's license shall have passed the real estate broker's examination approved by the commission and shall:

(1) furnish the commission with certificates of completion of ninety hours of classroom instruction consisting of commission-approved thirty-hour courses in real estate principles and practice, real estate law and broker basics; or

(2) in the case of an out-of-state applicant, furnish the commission with a certified license history from the real estate licensing jurisdiction in the state or states in which the applicant is currently or has been previously licensed as a real estate broker, or certificates of completion of those courses issued by the course sponsor or provider, certifying that the applicant has or had a license in that state and has completed the equivalent of sixty classroom hours of prelicensing education approved by that licensing jurisdiction in real estate principles and practice and real estate law. Upon receipt of such documentation, the commission may waive sixty hours of the ninety hours of prelicensing education required to take the New Mexico real estate broker's examination and may waive the national portion of the examination. The applicant shall complete the commission-approved thirty-hour broker basics class to be eligible to take the state portion of the New Mexico real estate broker's examination.

C. An applicant for a qualifying broker's license shall have passed the New Mexico real estate broker's examination and had an active associate broker's license or equivalent real estate license for at least two of the last five years immediately preceding application for a qualifying broker's license and shall furnish the commission with a certificate of completion of the commission-approved thirty-hour brokerage office administration course and any additional educational courses required by the commission by rule.

D. Notwithstanding Subsection C of this section, a qualifying broker shall not supervise associate brokers until the qualifying broker has had an active associate broker's or qualifying broker's license or equivalent real estate license for at least four years. Licensees who hold an active or inactive qualifying broker's license on January 1, 2018 are exempt from this subsection.

E. The commission shall require the information it deems necessary from every applicant to determine that applicant's honesty, trustworthiness and competency."



## **Chapter 70 Section 13 Laws 2021**

SECTION 13. Section 61-30-10.1 NMSA 1978 (being Laws 1992, Chapter 54, Section 8, as amended) is amended to read:

"61-30-10.1. QUALIFICATION FOR REAL ESTATE APPRAISER TRAINEE.--

A. Registration as a real estate appraiser trainee shall be granted only to persons who are deemed by the board to be of good repute and competent to render appraisals.

B. Each applicant for registration as a real estate appraiser trainee shall have reached the age of majority.

C. Each applicant for registration as a real estate appraiser trainee shall meet the education requirements as established for the real estate appraiser trainee classification issued by the appraiser qualifications board of the appraisal foundation and adopted by rule pursuant to the Real Estate Appraisers Act.

D. The board shall require such information as it deems necessary from every applicant to determine the applicant's honesty, trustworthiness and competency."

## **Chapter 70 Section 14 Laws 2021**

SECTION 14. Section 61-30-11 NMSA 1978 (being Laws 1990, Chapter 75, Section 11, as amended) is amended to read:

"61-30-11. QUALIFICATIONS FOR LICENSE.--

A. Licenses shall be granted only to persons who are deemed by the board to be of good repute and competent to render appraisals.

B. Each applicant for a license as a state licensed residential real estate appraiser shall have reached the age of majority.

C. Each applicant for a license as a state licensed residential real estate appraiser shall have additional experience and education requirements as established for the licensed classification issued by the appraiser qualifications board of the appraisal foundation and adopted by rule pursuant to the Real Estate Appraisers Act.

D. The board shall require such information as it deems necessary from every applicant to determine the applicant's honesty, trustworthiness and competency.

E. Persons who do not meet the qualifications for licensure are not qualified for appraisal assignments involving federally related transactions."

## **Chapter 70 Section 15 Laws 2021**

SECTION 15. Section 61-30-12 NMSA 1978 (being Laws 1990, Chapter 75, Section 12, as amended) is amended to read:

"61-30-12. QUALIFICATIONS FOR CERTIFIED RESIDENTIAL AND GENERAL REAL ESTATE APPRAISERS.--

A. Certified classification shall be granted only to persons who are deemed by the board to be of good repute and competent to render appraisals.

B. Each applicant for a state certified residential or general real estate appraiser classification shall have reached the age of majority.

C. Each applicant for a residential certificate as a state certified real estate appraiser shall have performed actively as a real estate appraiser and shall have additional experience and education requirements as established for the residential

certification classification issued by the appraiser qualifications board of the appraisal foundation and adopted by rule pursuant to the Real Estate Appraisers Act.

D. Each applicant for a general certificate as a state certified real estate appraiser shall have performed actively as a real estate appraiser and have additional experience and education requirements as established for the general certification classification issued by the appraiser qualifications board of the appraisal foundation and adopted pursuant to the Real Estate Appraisers Act.

E. The board shall require such information as it deems necessary from every applicant to determine the applicant's honesty, trustworthiness and competency."

## **LAWS 2021, CHAPTER 71**

**Senate Bill 222**  
**Approved April 6, 2021**

AN ACT

RELATING TO HEALTH CARE; AMENDING DEFINITIONS IN THE HEALTH INFORMATION SYSTEM ACT.

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

### **Chapter 71 Section 1 Laws 2021**

SECTION 1. Section 24-14A-2 NMSA 1978 (being Laws 1989, Chapter 29, Section 2, as amended) is amended to read:

"24-14A-2. DEFINITIONS.--As used in the Health Information System Act:

A. "aggregate data" means data that are obtained by combining like data elements in a manner that precludes specific identification of a single client;

B. "data source" or "data provider" means a person that possesses health information, including any public or private sector licensed health care practitioner, primary care clinic, ambulatory surgery center, ambulatory urgent care center, ambulatory dialysis unit, home health agency, long-term care facility, hospital, pharmacy, third-party payer and any public entity that has health information;

C. "department" means the department of health;

D. "health information" or "health data" means any data relating to health care; health status, including environmental, social and economic factors; the health system; or health costs and financing;

E. "hospital" means any general or special hospital licensed by the department, whether publicly or privately owned;

F. "long-term care facility" means any skilled nursing facility or nursing facility licensed by the department, whether publicly or privately owned;

G. "record-level data" means a medical record that contains unique and nonaggregated data elements that relate to a single identifiable individual; and

H. "third-party payer" means any public or private payer of health care services and includes health maintenance organizations and health insurers."

## **LAWS 2021, CHAPTER 72**

**Senate Bill 223, aa**  
**Approved April 6, 2021**

## AN ACT

RELATING TO TAXATION; AMENDING CERTAIN DISTRIBUTIONS OF CIGARETTE TAX REVENUE; AUTHORIZING THE ISSUANCE OF REVENUE BONDS; MAKING APPROPRIATIONS AUTHORIZING THE NEW MEXICO FINANCE AUTHORITY TO ISSUE CERTAIN ADDITIONAL REVENUE BONDS FOR THE UNIVERSITY OF NEW MEXICO HOSPITAL AND THE COMPREHENSIVE CANCER CENTER AT THE UNIVERSITY OF NEW MEXICO HEALTH SCIENCES CENTER; CORRECTING INCORRECT REFERENCES TO CERTAIN LAWS CAUSED BY THE PARTIAL VETO OF LAWS 2010 (2ND S.S.), CHAPTER 5, SECTION 1; MAKING APPROPRIATIONS.

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

### **Chapter 72 Section 1 Laws 2021**

SECTION 1. Section 6-21-6.7 NMSA 1978 (being Laws 2003, Chapter 341, Section 5, as amended) is amended to read:

"6-21-6.7. CREDIT ENHANCEMENT ACCOUNT CREATED--USE OF ACCOUNT--RELEASE OF MONEY TO THE GENERAL FUND.--

A. The "credit enhancement account" is created as a separate account within the authority for use only as provided in this section.

B. All cigarette tax proceeds distributed each month to the authority pursuant to Subsection D of Section 7-1-6.11 NMSA 1978 shall be deposited in the credit enhancement account.

C. Amounts deposited in the credit enhancement account may be pledged irrevocably as additional security for the payment of the principal, interest, premiums and expenses on bonds issued by the authority for:

(1) designing, constructing, equipping and furnishing additions and improvements to the university of New Mexico hospital and the comprehensive cancer center at the university of New Mexico health sciences center; and

(2) land acquisition and the planning, designing, construction and equipping of department of health facilities or improvements to such facilities.

D. The authority shall determine monthly upon receipt of cigarette tax proceeds if the individual amounts of cigarette tax proceeds distributed pursuant to Subsection B or C, respectively, of Section 7-1-6.11 NMSA 1978 are sufficient to meet the monthly amount required for immediate payment or designation for payment of principal, interest, premiums and expenses on bonds additionally secured by the credit enhancement account. Any insufficient amount shall be paid immediately from the credit enhancement account. A payment from the credit enhancement account shall be reimbursed in succeeding months from the individual amount of cigarette tax proceeds distributed pursuant to Subsection B or C, as applicable, of Section 7-1-6.11 NMSA 1978 in excess of the amount required for immediate payment or designation for payment of principal, interest, premiums and expenses on bonds. All money in the credit enhancement account in excess of the monthly amount required for immediate payment or designation for payment of principal, interest, premiums and expenses on bonds shall be transferred monthly by the authority to the general fund.

E. Any law authorizing the imposition, collection or distribution of the cigarette tax or that affects the cigarette tax shall not be amended, repealed or otherwise directly or indirectly modified so as to impair or reduce debt service coverage for any outstanding revenue bonds that may be secured by a pledge of those cigarette tax proceeds distributed to the credit enhancement account, unless the revenue bonds have been discharged in full or provisions have been made for a full discharge."

## Chapter 72 Section 2 Laws 2021

SECTION 2. Section 7-1-6.11 NMSA 1978 (being Laws 1983, Chapter 211, Section 16, as amended) is amended to read:

### "7-1-6.11. DISTRIBUTIONS OF CIGARETTE TAXES.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the board of regents of the university of New Mexico for the benefit of the comprehensive cancer center at the university of New Mexico health sciences center in an amount equal to seventy-one hundredths percent of the net receipts, exclusive of penalties and interest, attributable to the cigarette tax.

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to seven and fifty-two hundredths percent of the net receipts, exclusive of penalties and interest, attributable to the cigarette tax, shall be made on behalf of and for the benefit of the university of New Mexico health sciences center for its comprehensive cancer center, until payment of all principal, interest and other expenses or obligations related to the bonds authorized pursuant to Section 3 of this 2021 act and the New Mexico finance authority certifies to the secretary of taxation and revenue that all obligations for the bonds have been fully discharged, to the credit enhancement account.

C. A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to three and seventeen hundredths percent of the net receipts, exclusive of penalties and interest, attributable to the cigarette tax shall be made to the New Mexico finance authority for land acquisition and the planning, designing, construction and equipping of department of health facilities or improvements to such facilities.

D. A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to eight and twenty-six hundredths percent of the net receipts, exclusive of penalties and interest, attributable to the cigarette tax shall be made to the New Mexico finance authority for deposit in the credit enhancement account created in the authority.

E. A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to fifty-three hundredths percent of the net receipts, exclusive of penalties and interest, attributable to the cigarette tax shall be made, on behalf

of and for the benefit of the rural county cancer treatment fund, to the New Mexico finance authority."

## **Chapter 72 Section 3 Laws 2021**

SECTION 3. Laws 2003, Chapter 341, Section 3, as amended by Laws 2005, Chapter 319, Section 1, is compiled in Chapter 6, Article 21 NMSA 1978 and is amended to read:

"NEW MEXICO FINANCE AUTHORITY REVENUE BONDS--AUTHORIZED--  
UNIVERSITY OF NEW MEXICO HOSPITAL AND UNIVERSITY OF NEW MEXICO  
HEALTH SCIENCES CENTER.--

A. The New Mexico finance authority may issue and sell revenue bonds in compliance with the New Mexico Finance Authority Act for a term not exceeding twenty years in an amount not exceeding eighty-two million dollars (\$82,000,000) for the purpose of designing, constructing, equipping and furnishing additions and improvements to the university of New Mexico hospital and the comprehensive cancer center at the university of New Mexico health sciences center.

B. The New Mexico finance authority may issue and sell additional revenue bonds in compliance with the New Mexico Finance Authority Act for a term not exceeding twenty years in an amount not exceeding fifteen million dollars (\$15,000,000) for the purpose of supplementing the proceeds of the bonds issued pursuant to Subsection A of this section to design, construct, equip and furnish additions and improvements to the university of New Mexico hospital and the comprehensive cancer center at the university of New Mexico health sciences center.



C. The New Mexico finance authority may issue and sell revenue bonds authorized by this section when the vice president for health sciences of the university of New Mexico certifies the need for issuance of the bonds. The net proceeds from the sale of the bonds are appropriated to the health sciences center of the university of New Mexico for the purposes described in Subsections A and B of this section.

D. The cigarette tax proceeds distributed to the New Mexico finance authority pursuant to Subsection B of Section 7-1-6.11 NMSA 1978 shall be pledged irrevocably for the payment of the principal, interest, premiums and related expenses on the bonds and for payment of the expenses incurred by the authority related to the issuance, sale and administration of the bonds.

E. The cigarette tax proceeds distributed to the New Mexico finance authority pursuant to Subsection B of Section 7-1-6.11 NMSA 1978 shall be deposited each month in a separate fund or account of the authority. Money in the separate fund or account in excess of the monthly amount necessary for immediate payment or designation for payment of principal and interest due on the bonds is appropriated to the university of New Mexico health sciences center for the programs and operations of its comprehensive cancer center and shall be transferred each month to the university of New Mexico health sciences center for the comprehensive cancer center.

F. Upon payment of all principal, interest and other expenses or obligations related to the bonds, the New Mexico finance authority shall certify to the secretary of taxation and revenue that all obligations for the bonds issued pursuant to this section have been fully discharged and shall direct the secretary of taxation and revenue and the state treasurer to cease distributing cigarette tax proceeds to the authority pursuant to Subsection B of Section 7-1-6.11 NMSA 1978.

G. Any law authorizing the imposition, collection or distribution of the cigarette tax or that affects the cigarette tax shall not be amended, repealed or otherwise directly or indirectly modified so as to impair or reduce debt service coverage for any outstanding revenue bonds that may be secured by a pledge of those cigarette

tax revenues, unless the revenue bonds have been discharged in full or provisions have been made for a full discharge.

H. The New Mexico finance authority may additionally secure the revenue bonds issued pursuant to this section by a pledge of money in the public project revolving fund with a lien priority on the money in the public project revolving fund as determined by the authority.

I. The New Mexico finance authority may purchase revenue bonds issued pursuant to this section with money in the public project revolving fund pursuant to the provisions of Section 6-21-6 NMSA 1978."

## **LAWS 2021, CHAPTER 73**

**Senate Bill 234, aa**  
**Approved April 6, 2021**

AN ACT

RELATING TO HIGHER EDUCATION; ALLOWING HOME SCHOOL STUDENTS TO QUALIFY FOR LEGISLATIVE LOTTERY TUITION SCHOLARSHIPS.

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

### **Chapter 73 Section 1 Laws 2021**

SECTION 1. Section 21-21N-2 NMSA 1978 (being Laws 2014, Chapter 80, Section 2, as amended) is amended to read:

"21-21N-2. DEFINITIONS.--As used in the Legislative Lottery Tuition Scholarship Act:

A. "community college" means a branch community college of a four-year state educational institution, a two-year state educational institution or a community college or technical and vocational institute established pursuant to Chapter 21, Article 13 or 16 NMSA 1978, respectively;

B. "comprehensive institution" means eastern New Mexico university, western New Mexico university, New Mexico highlands university or northern New Mexico college;

C. "department" means the higher education department;

D. "full time" means fifteen or more credit hours each semester of the regular academic year in state educational institutions and twelve or more credit hours each semester of the regular academic year in community colleges or for legacy students in any program semester;

E. "fund" means the lottery tuition fund;

F. "legacy student" means a full-time resident student who has received for three or more program semesters by the end of fiscal year 2014 the legislative lottery scholarship awarded pursuant to the former provisions of Sections 21-1-4.3, 21-13-10 and 21-16-10.1 NMSA 1978 prior to the enactment of the Legislative Lottery Tuition Scholarship Act;

G. "program semesters" means those semesters for which a legacy or qualified student may receive a tuition scholarship and excludes the first semester of attendance at a public post-secondary educational institution;

H. "public post-secondary educational institution" means a four-year state educational institution or a community college;

I. "qualified student" means a full-time student who graduated from a public or accredited private New Mexico high school in the state or completed the requirements of a home-based or non-public-school primary educational program

in the state or received a high school equivalency credential while maintaining residency in New Mexico and who:

(1) either:

(a) within sixteen months of graduation from a public school in this state or completion of the requirements of a home-based or non-public-school primary educational program or receipt of a high school equivalency credential, was accepted for entrance to and attended a public post-secondary educational institution; or

(b) within four months of graduation from a public school in this state or completion of the requirements of a home-based or non-public-school primary educational program or receipt of a high school equivalency credential, began service in the United States armed forces and within sixteen months of completion of honorable service or medical discharge from the service, attended a public post-secondary educational institution; and

(2) successfully completed the first semester at a public post-secondary educational institution with a grade point average of 2.5 or higher on a 4.0 scale during the first semester of full-time enrollment;

J. "research institution" means the university of New Mexico, New Mexico state university or New Mexico institute of mining and technology;

K. "state educational institution" means an institution of higher education enumerated in Article 12, Section 11 of the constitution of New Mexico;

L. "tribal college" means a tribally, federally or congressionally chartered post-secondary educational institution located in New Mexico that is accredited by the higher learning commission; and

M. "tuition scholarship" means the scholarship that provides tuition assistance per program semester for a qualified student or legacy student attending a public post-secondary educational institution or tribal college."

## **LAWS 2021, CHAPTER 74**

**Senate Bill 266**  
**Approved April 6, 2021**

AN ACT

RELATING TO NONPARTISAN JUDICIAL RETENTION; STAGGERING THE TERMS OF DISTRICT COURT JUDGES AND METROPOLITAN COURT JUDGES; PROVIDING LEGISLATIVE FINDINGS FOR THE STAGGERING OF TERMS.

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

### **Chapter 74 Section 1 Laws 2021**

SECTION 1. Section 1-26-5 NMSA 1978 (being Laws 2019, Chapter 212, Section 176) is amended to read:

"1-26-5. JUDICIAL RETENTION--DISTRICT COURT JUDGES.--

A. Each eligible district court judge shall be subject to retention or rejection at the general election in the last year of the six-year term of office for the position in which the judge is serving.

B. Terms of office for positions on the district court in each judicial district shall be staggered, as follows:

(1) the term of office for division 1 and for every third division number thereafter shall expire in 2026 and every six years thereafter;

(2) the term of office for division 2 and for every third division number thereafter shall expire in 2028 and every six years thereafter; and

(3) the term of office for division 3 and for every third division number thereafter shall expire in 2024 and every six years thereafter.

C. The administrative office of the courts shall maintain current on its website a list of the names of the currently serving judges of each judicial district and the year in which the term of office for each position expires.

D. The initial term of office for a newly created district court judgeship shall be staggered in accordance with the provisions of Subsection B of this section, even if the result is a shortened first term for the office.

E. As used in this section, "division" means the divisions established pursuant to Section 34-6-18 NMSA 1978."

## **Chapter 74 Section 2 Laws 2021**

SECTION 2. Section 1-26-6 NMSA 1978 (being Laws 2019, Chapter 212, Section 177) is amended to read:

"1-26-6. JUDICIAL RETENTION--METROPOLITAN COURT JUDGES.--

A. Each eligible metropolitan court judge shall be subject to retention or rejection at the general election in the last year of the four-year term of office for the position in which the judge is serving.

B. Terms of office for positions on each metropolitan court shall be staggered, as follows:

(1) the term of office for division 1 and for every second division number thereafter shall expire in 2024 and every four years thereafter; and

(2) the term of office for division 2 and for every second division number thereafter shall expire in 2022 and every four years thereafter.

C. The administrative office of the courts shall maintain current on its website a list of the names of the currently serving judges of the metropolitan court and the year in which the term of office for each position expires.

D. The initial term of office for a newly created metropolitan court judgeship shall be staggered in accordance with the provisions of Subsection B of this section, even if the result is a shortened first term for the office.

E. As used in this section, "division" means the divisions established pursuant to Subsection B of Section 34-8A-4 NMSA 1978."

## **Chapter 74 Section 3 Laws 2021**

SECTION 3. TEMPORARY PROVISION--LEGISLATIVE FINDINGS.--Pursuant to Article 20, Section 3 of the constitution of New Mexico, the legislature finds that the judicial term adjustments provided for district court judges in Section 1 of this 2021 act and for metropolitan court judges in Section 2 of this 2021 act are needed to:

- A. balance the number of judicial positions appearing on the ballot in any one election cycle;
- B. enable more effective evaluation of judges by the judicial performance evaluation commission; and
- C. create greater continuity of judges at the trial court level by not having all judges up for judicial retention in the same election cycle.

## **LAWS 2021, CHAPTER 75**

**Senate Bill 271**  
**Approved April 6, 2021**

### AN ACT

RELATING TO PUBLIC SCHOOLS; CREATING PURPLE STAR PUBLIC SCHOOLS, WHICH ARE SCHOOLS THAT DEMONSTRATE A COMMITMENT TO STUDENTS AND FAMILIES CONNECTED TO THE UNITED STATES MILITARY OR HONOR THE ACCOMPLISHMENTS OF VETERANS AND ACTIVE AND RESERVE MEMBERS OF THE MILITARY AND THE NATIONAL GUARD.

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

### **Chapter 75 Section 1 Laws 2021**

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

"PURPLE STAR PUBLIC SCHOOLS PROGRAM.--

- A. The department shall develop a "purple star public schools program" that provides a mechanism for public schools to ease the transition of students of military



families into new schools by providing academic, social and emotional support to those students or, for public schools not located near a military installation, those schools that want to recognize and celebrate military service and the accomplishments of active military and veterans.

B. A public school that has students from active-duty military families may apply to the department to be a purple star public school by:

- (1) designating school staff as a point of contact for military-related students and their families and for the military;
- (2) providing professional development for point-of-contact staff;
- (3) including a page on its school website that features resources and information for military families;
- (4) describing the academic, social and emotional supports available to assist transitioning military students; and
- (5) submitting a resolution to the local school board supporting military students and the public school's application to become a purple star public school.

C. A public school that does not have students from active-duty military families may apply to be a purple star public school by:

- (1) emphasizing the importance and honor of military service;
- (2) recognizing the service to the country and accomplishments of veterans, active-duty and reserve military and the national guard in their communities;
- (3) sponsoring special events recognizing military service;

- and
- (4) celebrating students who have committed to serving in the military;
  - (5) submitting a resolution to the local school board supporting students of military families and the public school's application to become a purple star public school."

## **LAWS 2021, CHAPTER 76**

**Senate Bill 272, aa**  
**Approved April 6, 2021**

AN ACT

RELATING TO PUBLIC SCHOOLS; REQUIRING SCHOOL DISTRICTS AND CHARTER SCHOOLS TO ALLOW MILITARY FAMILIES TO ENROLL SCHOOL-AGE CHILDREN PRIOR TO THEIR PHYSICAL PRESENCE IN THE STATE.

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

### **Chapter 76 Section 1 Laws 2021**

SECTION 1. Section 22-1-4 NMSA 1978 (being Laws 1975, Chapter 338, Section 1, as amended) is amended to read:

"22-1-4. FREE PUBLIC SCHOOLS--EXCEPTIONS--WITHDRAWING AND ENROLLING--OPEN ENROLLMENT.--

A. Except as provided by Section 24-5-2 NMSA 1978, and except as provided in Subsection H of this section, a free public school education shall be available to any school-age person who is a resident of this state and has not received a high school diploma or its equivalent.

B. A free public school education in those courses already offered to persons pursuant to the provisions of Subsection A of this section shall be available to any person who is a resident of this state and has received a high school diploma or its equivalent if there is available space in such courses.

C. A person entitled to a free public school education pursuant to the provisions of this section may enroll or re-enroll in a public school at any time and, unless required to attend school pursuant to the Attendance for Success Act, may withdraw from a public school at any time.

D. In adopting and promulgating rules concerning the enrollment of students transferring from a home school or private school to the public schools, the local school board shall provide that the grade level at which the transferring student is placed is appropriate to the age of the student or to the student's score on a student achievement test administered according to the statewide assessment and accountability system.

E. A local school board shall adopt and promulgate rules governing enrollment and re-enrollment at public schools other than charter schools within the school district. These rules shall include:

(1) definition of the school district boundary and the boundaries of attendance areas for each public school;

(2) for each public school, definition of the boundaries of areas outside the school district boundary or within the school district but outside the public school's attendance area and within a distance of the public school that would not be served by a school bus route as determined pursuant to Section 22-16-4 NMSA 1978 if enrolled, which areas shall be designated as "walk zones";

(3) priorities for enrollment of students as follows:

(a) first, students residing within the school district, or who will be residing within the school district if the student is a child in a military family who will

be attending public school in the school district during the upcoming school year as provided in Subsection H of this section, and within the attendance area of a public school and students who had resided in the attendance area prior to a parent who is an active duty member of the armed forces of the United States or member of the national guard being deployed and whose deployment has required the student to relocate outside the attendance area for custodial care;

and (b) second, students who previously attended the public school;

(c) third, all other applicants;

(4) establishment of maximum allowable class size if smaller than that permitted by law; and

(5) rules pertaining to grounds for denial of enrollment or re-enrollment at schools within the school district and the school district's hearing and appeals process for such a denial. Grounds for denial of enrollment or re-enrollment shall be limited to:

(a) a student's expulsion from any school district or private school in this state or any other state during the preceding twelve months; or

(b) a student's behavior in another school district or private school in this state or any other state during the preceding twelve months that is detrimental to the welfare or safety of other students or school employees.

F. In adopting and promulgating rules governing enrollment and re-enrollment at public schools other than charter schools within the school district, a local school board may establish additional enrollment preferences for rules admitting students in accordance with the second and third priorities of enrollment set forth in Subparagraphs (b) and (c) of Paragraph (3) of Subsection E of this section. The additional enrollment preferences may include:

- (1) after-school child care for students;
- (2) child care for siblings of students attending the public school;
- (3) children of employees employed at the public school;
- (4) extreme hardship;
- (5) location of a student's previous school;
- (6) siblings of students already attending the public school; and
- (7) student safety.

G. As long as the maximum allowable class size established by law or by rule of a local school board, whichever is lower, is not met or exceeded in a public school by enrollment of first- and second-priority persons, the public school shall enroll other persons applying in the priorities stated in the school district rules adopted pursuant to Subsections E and F of this section. If the maximum would be exceeded by enrollment of an applicant in the second and third priorities, the public school shall establish a waiting list. As classroom space becomes available, persons highest on the waiting list within the highest priority on the list shall be notified and given the opportunity to enroll.

H. Every school district and charter school shall allow military families that will be relocating to a military installation in New Mexico pursuant to an official military order to enroll their children in public school prior to their actual physical presence in the school district. A parent may submit the student's name for any lottery-selected charter school, magnet school or other public school program for which the student qualifies. The school district or charter school shall accept electronic applications for enrollment, including enrollment in a specific school or program with the school district or charter school. The school district or charter school shall provide the applicant with materials regarding academic courses, electives, sports and other relevant information regarding

the public school in which the student wants to be enrolled. The public school shall preregister the student in anticipation of the student's enrollment. A student's parent:

(1) shall provide proof of residence in the school district within forty-five days after the published arrival date provided on official military documentation; and

(2) may use any of the following addresses related to the family's military move:

(a) a temporary on-base billeting facility;

(b) off-base military housing; or

(c) a purchased or leased residence."

## **Chapter 76 Section 2 Laws 2021**

SECTION 2. APPLICABILITY.--The provisions of this act apply to the 2021-2022 and subsequent school years.

# **LAWS 2021, CHAPTER 77**

**SIRC/Senate Bill 273**  
**Approved April 6, 2021**

AN ACT

RELATING TO LIBRARIES; CLARIFYING GRANT ELIGIBILITY; REVISING THE DEFINITION OF "RURAL LIBRARY".

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

## **Chapter 77 Section 1 Laws 2021**

SECTION 1. Section 18-18-2 NMSA 1978 (being Laws 2019, Chapter 165, Section 2) is amended to read:

"18-18-2. RURAL LIBRARIES GRANT PROGRAM--SPECIALIZED SERVICES.--

A. The "rural libraries grant program" is created. Through that program, the state librarian shall annually disburse, in the form of grants directly benefiting developing rural libraries and established rural libraries and grants for the establishment of developing rural libraries in cities, towns and villages without libraries, money from the rural libraries program fund. The state librarian shall endeavor each year to disburse the full amount available for rural libraries grants. The portion, if any, of that amount not disbursed shall be made available for the next award of grants.

B. Once a developing rural library or an established rural library qualifies to receive grants pursuant to this section, that library shall remain qualified to receive such grants even if the population in the municipality or Indian nation, tribe or pueblo exceeds three thousand.

C. The state librarian shall use money allocated for specialized services to rural libraries from the rural libraries endowment fund distribution to provide specialized services to rural libraries."

## **Chapter 77 Section 2 Laws 2021**

SECTION 2. Section 18-18-4 NMSA 1978 (being Laws 2019, Chapter 165, Section 4) is amended to read:

"18-18-4. DEFINITIONS.--As used in Sections 18-18-1 through 18-18-4 NMSA 1978, and to the extent allowed by law:

A. "developing rural library" means a rural library whose library staff, whether salaried or volunteer, is dedicated to delivering library services to the public for at least fifteen hours per week and on at least two days each week;

B. "established rural library" means a rural library:

- (1) with permanent, salaried staff; and
- (2) that offers library services to the public for at least twenty-five hours per week;

C. "rural library" means a library that is established:

(1) through an ordinance or legal resolution adopted by a political subdivision of the state and is located in:

- (a) an unincorporated area of the state; or
- (b) a municipality with a population on or after July 1, 2019 of three thousand or less;

(2) by a legal resolution of a tribal government in New Mexico with a tribal population on or after July 1, 2019 of three thousand or less; or

(3) as a corporation with tax-exempt status pursuant to Section 501(c)(3) of the United States Internal Revenue Code of 1986 and is located in:

- (a) an unincorporated area of the state; or
- (b) a municipality with a population on or after July 1, 2019 of three thousand or less; and



D. "specialized services" means professional development opportunities, program support, information technology support and other capacity-building services, as defined by the state librarian."

## **LAWS 2021, CHAPTER 78**

**Senate Bill 303**  
**Approved April 6, 2021**

AN ACT

RELATING TO THE EDUCATIONAL RETIREMENT BOARD; CHANGING THE MEMBERSHIP OF THE BOARD.

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

### **Chapter 78 Section 1 Laws 2021**

SECTION 1. Section 22-11-3 NMSA 1978 (being Laws 1967, Chapter 16, Section 127, as amended) is amended to read:

"22-11-3. EDUCATIONAL RETIREMENT BOARD--MEMBERS--TERMS--VACANCIES.--

- A. The "educational retirement board" is created.
  - B. The board shall be composed of nine members, consisting of the following:
    - (1) the secretary of public education, or a designee of the secretary
- who:

- (a) is a resident of New Mexico;
  - (b) is a current employee of the public education department;
- and
- (c) possesses experience relevant to the financial or fiduciary aspects of pension or investment fund management;
- (2) the state treasurer, or a designee of the treasurer who:
    - (a) is a resident of New Mexico;
    - (b) is a current employee of the state treasurer's office; and
    - (c) possesses experience relevant to the financial or fiduciary aspects of pension or investment fund management;
- (3) one member to be elected for a term of four years by members of the New Mexico association of educational retirees;
  - (4) one member to be elected for a term of four years by the members of the national education association of New Mexico;
  - (5) one member to be elected for a term of four years by the New Mexico members of the American association of university professors;
  - (6) two members to be appointed by the governor for terms of four years each. Each member appointed pursuant to this paragraph shall have a background in investments, finance or pension fund administration;
  - (7) one member to be elected for a term of four years by the members of the American federation of teachers New Mexico; and

who: (8) the secretary of higher education, or a designee of the secretary

(a) is a resident of New Mexico;

and (b) is a current employee of the higher education department;

(c) possesses experience relevant to the financial or fiduciary aspects of pension or investment fund management.

C. A designee of a board member shall have the same responsibilities, duties, liabilities and immunities as the board member, including the indemnification provided by Subsection H of Section 22-11-13 NMSA 1978. The appointment of a designee does not relieve the board member of the member's responsibilities, duties, liabilities and immunities as a board member, and the board member shall be fully responsible and liable for the actions of the designee while serving on the board.

D. In the initial composition of the board, the member elected by the members of the American association of university professors shall serve for a term of three years; one member appointed by the governor shall serve for a term of two years; and the other member appointed by the governor shall serve for a term of one year. In electing or appointing new members after the enactment of this 2021 act, the member elected by the American federation of teachers New Mexico shall serve an initial term of three years; thereafter, the members shall serve a term of four years.

E. Vacancies occurring in the terms of office of those members appointed by the governor or elected by an association shall be filled either by the governor appointing or the association electing a new member to fill the unexpired term."

# LAWS 2021, CHAPTER 79

Senate Bill 304, aa  
Approved April 6, 2021

## AN ACT

RELATING TO ELECTIONS; DIRECTING THE SECRETARY OF STATE TO COLLECT AND MAKE PUBLICLY AVAILABLE THE GEOGRAPHIC INFORMATION SYSTEM DATA FOR EACH VOTING DISTRICT IN THE STATE; ENACTING THE REDISTRICTING ACT; CREATING THE CITIZEN REDISTRICTING COMMITTEE; DIRECTING THE COMMITTEE TO DEVELOP DISTRICT PLANS FOR APPROVAL BY THE LEGISLATURE AND GOVERNOR; PROVIDING DUTIES; ESTABLISHING REQUIREMENTS FOR CREATING DISTRICT PLANS AND PUBLIC PARTICIPATION IN THE PROCESS; AMENDING THE PRECINCT BOUNDARY ADJUSTMENT ACT.

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

### **Chapter 79 Section 1 Laws 2021**

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

"SECRETARY OF STATE--GEOGRAPHIC INFORMATION SYSTEM DATA.--

A. Beginning January 1, 2022, the secretary of state shall collect and make publicly available on the secretary of state's website the geographic information system data for each voting district in the state.

B. The geographic information system data shall be accessible free of charge and provided in shapefile format or any comparable open source or convertible geographic information system file format.

C. In the event of a change in voting district boundaries or precinct boundary adjustments, the secretary of state shall promptly update the geographic information system data accordingly.

D. For the purposes of this section, "voting district" means a political subdivision or boundary located in a geographical area that is represented by an elected office."

## **Chapter 79 Section 2 Laws 2021**

SECTION 2. SHORT TITLE.--Sections 2 through 10 of this act may be cited as the "Redistricting Act".

## **Chapter 79 Section 3 Laws 2021**

SECTION 3. DEFINITIONS.--As used in the Redistricting Act:

- A. "committee" means the citizen redistricting committee;
- B. "community of interest" means a contiguous population that shares common economic, social or cultural interests;
- C. "district plan" means an entire plan of single-member districts for electing members to the United States house of representatives, the state house of representatives, the state senate or other state offices requiring redistricting;
- D. "lobbyist" means a person who is required to register as a lobbyist pursuant to the provisions of the Lobbyist Regulation Act;
- E. "political party" means a political party that has been qualified in accordance with the provisions of the Election Code; and

F. "public official" means a person elected to an office of the executive or legislative branch of the state.

## **Chapter 79 Section 4 Laws 2021**

### **SECTION 4. CITIZEN REDISTRICTING COMMITTEE CREATED-- MEMBERSHIP--TERMS.--**

A. The "citizen redistricting committee" is created.

B. The committee is composed of seven members, appointed, with due regard to the cultural and geographic diversity of the state, as follows:

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

(2) one member appointed by the minority floor leader of the house of representatives;

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

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

(5) two members appointed by the state ethics commission, who shall not be members of the largest or second largest political parties in the state; and

(6) one member appointed by the state ethics commission, who shall be a retired justice of the New Mexico supreme court or a retired judge of the New Mexico court of appeals, and who shall chair the committee.

C. No more than three members of the committee shall be members of the same political party. A member of the committee shall not have changed party

registration in the two years preceding the member's appointment in such a manner that the member's prior party registration would cause one political party to have more than three members. A member of the committee shall not continue to serve on the committee if the member changes party registration after the date of appointment in such a manner as to cause one political party to have more than three members.

D. Members shall be appointed not later than July 1, 2021, and August 1 of each year ending in the number zero thereafter, and shall serve until a district plan for each of New Mexico's congressional districts, the state house of representatives, the state senate and other state offices requiring redistricting is submitted to the legislature.

E. When any member of the committee dies, resigns or no longer has the qualifications required for the member's original appointment, the member's position on the committee becomes vacant and the chair shall notify the original appointing authority of the vacant position. The vacancy shall be filled by appointment by the original appointing authority no later than fifteen days following notification of the vacancy.

F. The committee shall meet as necessary to carry out its duties pursuant to the Redistricting Act.

G. 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.

## **Chapter 79 Section 5 Laws 2021**

### **SECTION 5. MEMBERS--QUALIFICATIONS--LIMITATIONS.--**

- A. To qualify for appointment to the committee, a person shall:
- (1) be a qualified elector of New Mexico and a voter; and

(2) not be, or in the two years prior to appointment have been, in New Mexico, any of the following:

- (a) a public official;
- (b) a candidate for public office;
- (c) a lobbyist;
- (d) an office holder in a political party at the state or federal level;
- (e) a relative in the first degree of consanguinity of a member of congress, the state house of representatives, the state senate or the public education commission;
- (f) an employee of congress, the legislative branch of government or other state office required to be redistricted by the committee; or
- (g) an employee of the executive branch of government.

B. Before entering upon the duties of the office of member, a member shall review the Redistricting Act and take the oath of office as provided by state law.

## **Chapter 79 Section 6 Laws 2021**

### **SECTION 6. COMMITTEE--DUTIES.--**

A. Beginning July 1, 2021, and every August 1 of each year ending in the number zero thereafter, the committee shall:



(1) no later than October 30, 2021, or as soon thereafter as practicable, and September 1 of each year ending in the number one thereafter, adopt three district plans each for:

- (a) New Mexico's congressional districts;
- (b) the state house of representatives;
- (c) the state senate; and
- (d) the other state offices required to be redistricted;

(2) hold no fewer than six public meetings that allow for virtual participation before publishing the district plans for public comment; provided that in-person meetings shall not be required if such meetings would violate a public health order;

(3) hold no fewer than six public meetings that allow for virtual participation for the purpose of adopting district plans; provided that in-person meetings shall not be required if such meetings would violate a public health order;

(4) conduct all meetings pursuant to the requirements of the Open Meetings Act; and

(5) compile, index, maintain and provide public access to the committee's record for each district plan it adopts.

B. Beginning no later than July 1, 2021, and August 1 of each year ending in the number zero thereafter, the committee may:

- (1) develop and adopt procedures for public hearings; and

(2) hire staff and enter into contracts and any interagency agreements, including agreements to provide for professional technical or legal services, as necessary to accomplish the duties set forth in this section.

## **Chapter 79 Section 7 Laws 2021**

### **SECTION 7. COMMITTEE MEETINGS BEFORE PROPOSING DISTRICT PLANS.--**

A. Before the committee issues proposed district plans for public comment, the committee shall hold no fewer than six public meetings at which the committee shall receive testimony, documents and information regarding the identification of communities of interest and other testimony, documents and information regarding the creation of district plans. The committee shall provide the public with notice not later than thirty days before these meetings and the notice shall include information about how the public may participate and submit testimony, documents and information. The committee shall hold meetings in various regions across the state, including in central New Mexico and in each of the four geographic quadrants of the state, with at least one meeting on tribal lands.

B. The committee shall compile, index, maintain and provide public access to all testimony, documents and information received in the meetings conducted before issuing proposed district plans for public comment.

C. The proposed district plans that the committee issues for public comment shall be based, in part, on the testimony, documents and information received.

## **Chapter 79 Section 8 Laws 2021**

### **SECTION 8. DISTRICT PLANS--REQUIREMENTS AND PROHIBITIONS.--**

A. The committee shall develop district plans in accordance with the following provisions:

(1) congressional districts shall be as equal in population as practicable;

(2) state districts shall be substantially equal in population; no plans for state office will be considered that have a total deviation of more than ten percent;

(3) the committee shall use the most recent federal decennial census data generated by the United States census bureau and may use other reliable sources of demographic data as determined by majority vote of the committee;

(4) proposed redistricting plans to be considered by the legislature shall not be composed of districts that split precincts;

(5) plans must comport with the provisions of the federal Voting Rights Act of 1965, as amended, and federal constitutional standards; plans that dilute a protected minority's voting strength are unacceptable; race may be considered in developing redistricting plans but shall not be the predominant consideration; traditional race-neutral districting principles shall not be subordinated to racial considerations;

(6) all redistricting plans shall use only single-member districts;

(7) districts shall be drawn consistent with traditional districting principles;

(8) districts shall be composed of contiguous precincts and shall be reasonably compact;

(9) to the extent feasible, districts shall be drawn in an attempt to preserve communities of interest and shall take into consideration political and

geographic boundaries, including the boundaries of Indian nations, tribes and pueblos; and

(10) in addition, and to the extent feasible, the committee may seek to preserve the core of existing districts.

B. The committee may incorporate suggested changes to its proposed district plans in accordance with public comments and testimony it receives, but shall not subordinate the requirements of Paragraphs (1) through (9) of Subsection A of this section in doing so.

C. When proposing or adopting district plans, the committee shall not:

(1) use, rely upon or reference partisan data, such as voting history or party registration data; provided that voting history in elections may be considered to ensure that the district plan complies with applicable federal law; or

(2) consider the voting address of candidates or incumbents, except to avoid the pairing of incumbents unless necessary to conform to other traditional districting principles.

## **Chapter 79 Section 9 Laws 2021**

SECTION 9. COMMITTEE ADOPTION OF DISTRICT PLANS.--The committee shall adopt at a minimum three district plans for each of New Mexico's congressional districts, the state house of representatives, the state senate and other state offices required to be redistricted at an open meeting. After the committee adopts the district plans, the committee shall provide written evaluations of each district plan that address the satisfaction of the requirements set forth in the Redistricting Act, the ability of racial and language minorities to elect candidates of their choice, a measure of partisan fairness and the preservation of communities of interest.

## **Chapter 79 Section 10 Laws 2021**

### SECTION 10. LEGISLATIVE SELECTION OF DISTRICT PLANS.--

A. The committee shall deliver its adopted district plans and accompanying written evaluations and all accompanying concise explanatory statements to the legislature by October 30, 2021, or as soon thereafter as practicable, and September 1 of each year ending in the number one thereafter.

B. The legislature shall receive the adopted district plans for consideration in the same manner as for legislation recommended by interim legislative committees.

## **Chapter 79 Section 11 Laws 2021**

SECTION 11. Section 1-3-12 NMSA 1978 (being Laws 1984 (1st S.S.), Chapter 3, Section 4, as amended) is amended to read:

### "1-3-12. ADJUSTING PRECINCT BOUNDARIES.--

A. Before each federal decennial census, every precinct shall comply with the requirements of Section 1-3-1 NMSA 1978, and if necessary its boundary shall be adjusted to coincide with a feature or a boundary that is:

(1) shown on the standard base maps developed pursuant to Subsection B of this section;

(2) a designated census block boundary on the proposed federal PL 94-171 census block maps; or

(3) approved by the secretary of state and the United States bureau of the census.

B. Prior to commencement of the federal decennial census, the secretary of state shall have prepared and shall furnish to each county clerk standard base maps of the county. The standard base map for urban and nonurban areas of the county shall, as nearly as practical, show:

- (1) all state and federal highways;
- (2) all numbered and named county roads that have been certified to the department of transportation;
- (3) all military installation boundaries and federal and state prison boundaries;
- (4) all major railroad lines;
- (5) federal, state and county political boundaries, municipal boundaries and school district boundaries;
- (6) Indian nation, tribe and pueblo boundaries and subdivisions or chapter house boundaries;
- (7) all streets within urban areas; and
- (8) other major terrain features, such as flowing rivers and streams, arroyos, power lines, pipelines, roads, trails and ridgelines and other acceptable census block boundaries.

C. The board of county commissioners, upon receipt of the standard base maps from the secretary of state and upon the recommendation of the county clerk, shall:

- (1) adjust all precinct boundaries to coincide with numbered or named street boundaries or suitable visible terrain features shown on the standard base map;

provided that the precincts shall be composed of contiguous and compact areas, and state, county, municipal, school district and other special district or political boundary lines shall serve as precinct boundaries whenever possible; and

(2) upon the completion of the precinct boundary adjustments as required in this section, indicate on the standard base maps the boundaries for both urban and nonurban precincts and, together with a written description of the precincts, shall send an electronic copy to the secretary of state for approval."

## **Chapter 79 Section 12 Laws 2021**

SECTION 12. Section 1-3-13 NMSA 1978 (being Laws 1983, Chapter 223, Section 4, as amended) is amended to read:

"1-3-13. ADJUSTING PRECINCT BOUNDARIES--TIME LINES FOR LEGISLATIVE AND LOCAL PUBLIC BODY REDISTRICTING--RELEASE OF NOMINATING PETITIONS.--

A. Prior to commencement of the federal decennial census, the secretary of state shall review all county precinct maps submitted pursuant to Section 1-3-12 NMSA 1978 for compliance with the provisions of the Precinct Boundary Adjustment Act and Section 1-3-1 NMSA 1978. Those county precinct maps determined not to be in compliance with the precinct boundary criteria set forth in Subsection A of Section 1-3-12 NMSA 1978 or Section 1-3-1 NMSA 1978 shall be rejected and returned to the appropriate county clerk with a written statement setting forth those instances in which the map does not comply. The county clerk and the board of county commissioners shall make the required adjustments within thirty days after receiving notice of noncompliance.

B. Following receipt of the results of a federal decennial census, the secretary of state shall again follow the procedures outlined in Subsection A of this section to allow the counties to make any necessary adjustments. For any county that

does not make the required adjustments within thirty days after receiving notice of noncompliance following receipt of the results of a federal decennial census, the secretary of state shall send a second notice of noncompliance, and no later than ninety days following receipt of the results of the federal decennial census, if any precinct boundary adjustments are necessary to meet the legal requirements of redistricting, pursuant to Sections 1-3-1 and 1-3-12 NMSA 1978, the secretary of state shall adjust the boundaries of the precincts only to the extent necessary to achieve compliance with the requirements of those sections and notify the county of those boundary adjustments.

C. The precincts shown upon the standard base maps submitted pursuant to the provisions of this section and as revised and approved by the secretary of state pursuant to the Precinct Boundary Adjustment Act shall become the official precincts of each county for redistricting.

D. Following completion of the procedures outlined in Subsection B of this section and in the same calendar year in which the state receives the results of a federal decennial census:

(1) the legislature shall redistrict federal congressional districts, each house of the legislature and any other state districts requiring redistricting; and

(2) each local public body subject to districting and whose governing body members are not elected at the regular local election shall create or redraw districts for the local public body.

E. In the calendar year following the receipt of the results of a federal decennial census, each local public body subject to districting and whose governing body members are elected at the regular local election shall create or redraw districts for the local public body.

F. A local public body shall establish districts in which the number of persons in each district, as shown in the most recent federal decennial census, is as nearly



equal in population as practical, but within five percent of the mean. A local public body subject to districting shall not split a precinct into two or more districts for any elected office unless necessary to comply with federal law or to preserve communities of interest. Each local public body subject to districting shall create or redraw districts pursuant to the time lines of this section.

G. During years in which districts are redrawn pursuant to the provisions of this section, nominating petitions shall not be made available for relevant offices until completion of the procedures specified in Subsection D or E of this section, as applicable.

H. As used in this section:

(1) "local public body subject to districting" means any political subdivision of the state with elected governing body members who:

(a) must reside in designated areas of the political subdivision to qualify for election; or

(b) are elected by a geographically defined subset of voters within the boundaries of the political subdivision; and

(2) "mean" means the total number of persons residing within a political subdivision of the state divided by the number of districts from which governing body members are elected."

## **Chapter 79 Section 13 Laws 2021**

SECTION 13. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

# **LAWS 2021, CHAPTER 80**

**Senate Bill 325**  
**Approved April 6, 2021**

AN ACT

RELATING TO TRANSPORTATION; PROVIDING FOR THE PROCESS FOR THE COLLECTION OF DAMAGES BY THE DEPARTMENT OF TRANSPORTATION FOR DESTRUCTION OF PROPERTY.

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

## **Chapter 80 Section 1 Laws 2021**

SECTION 1. Section 67-7-10 NMSA 1978 (being Laws 1921, Chapter 94, Section 10) is amended to read:

"67-7-10. UNLAWFUL USE OF HIGHWAYS--PENALTIES.--

A. The public highways in the state are dedicated to reasonable use by the public.

B. It is unlawful for any person to injure or damage any public highway, street, road or any bridge, culvert, sign, signpost, other traffic control or safety device or structure upon or used or constructed in connection with any public highway, street or road for the protection thereof or for protection or regulation of traffic thereon by any unusual, improper or unreasonable use thereof or by the careless driving or use of any vehicle thereon or by willful mutilation, defacing or destruction thereof.

C. It is considered unreasonable use of any highway, street, road, bridge or structure to operate or conduct upon or over the same any vehicle, tractor, engine or

load of greater weight than that specified by the state, county or municipal authorities having control of the highway, street, road, bridge or structure in a notice posted at or near each end of the highway, street, road, bridge or structure.

D. It is considered unreasonable use of any improved highway, street, road, bridge or structure to operate, drive or haul thereon any truck, tractor or engine in such manner or at times when the surface thereof is in a soft or plastic condition from moisture so as to cause excessive ruts or excessive deterioration or displacement of the surfacing thereof.

E. It is unlawful to operate, haul or conduct over any public highway, street, road, bridge or structure any vehicle, tractor, engine, truck, load, building or other object, more than eight feet in width, except loads of hay, straw or other farm products, without a permit from the state, county or municipal authority in control of such highway, street, road, bridge or structure, which permit shall specify the manner of operation thereof so as to prevent as far as possible inconvenience and danger to the traveling public and damage to the surface.

F. It is unlawful to maintain any fence across any public highway, street, road, bridge or structure unless the owner or person in control of such fence constructs and maintains in good condition a gate and a cattle guard passageway for motor vehicles in accordance with the specifications of the authorities having control of such highway, street, road, bridge or structure. No fence shall be maintained across any public highway, street, road, bridge or structure without a written permit from the authorities having control of such highway, street, road, bridge or structure.

G. Any person violating any provision of this section is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500) or by imprisonment in the county jail not less than five days nor more than thirty days or by both such fine and imprisonment.

H. The owner and the operator of a vehicle, truck, tractor or engine that causes damage to any public highway, street, road, bridge, culvert, sign, signpost, other traffic control or safety device or structure in violation of any provision of this section and Section 67-7-11 NMSA 1978 shall be jointly and severally liable to the state, county or municipality as the case may be for the actual damage caused by the operation, conducting or hauling thereof over any public highway, street, road, bridge, culvert, sign, signpost, other traffic control or safety device or structure in violation of any provision of this section and Section 67-7-11 NMSA 1978, to be collected by suit or settlement brought in the name of the state, county or municipality having control of such highway or street, road, bridge, culvert, sign, signpost, other traffic control or safety device or structure; and such vehicle, truck, tractor or engine may be attached and held to satisfy any judgment for damages.

I. Damages and associated claims pursuant to this section may be:

(1) settled at the discretion of the department on behalf of the state, or by the county or municipality, whichever has control of the subject highway or street, road, bridge, culvert, sign, signpost, other traffic control or safety device or structure, with regard to identified damages, whether or not the damages have been reduced to judgment; and may include a contract for collection of such damages due to the state, county or municipality; or

(2) collected by suit brought by the department in the name of the state, or by the county or municipality, whichever has control of the subject highway or street, road, bridge, culvert, sign, signpost, other traffic control or safety device or structure; and such vehicle, truck, tractor or engine that caused the damage may be attached and held to satisfy any judgment for such damages.

J. The proceeds of any such settlement or judgment shall be paid to the treasurer of the state or of such county or municipality and placed to the credit of a fund for the construction and improvement of highways, streets, roads, bridges, traffic control or safety devices or structures."

# LAWS 2021, CHAPTER 81

Senate Bill 345, aa, w/ec  
Approved April 6, 2021

AN ACT

RELATING TO PUBLIC OFFICERS; CLARIFYING ATTENDANCE PURSUANT TO THE PER DIEM AND MILEAGE ACT; CHANGING THE RATES OF PER DIEM REIMBURSEMENT FOR IN-STATE AND OUT-OF-STATE TRAVEL FOR CERTAIN PUBLIC OFFICERS AND EMPLOYEES; DECLARING AN EMERGENCY.

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

## Chapter 81 Section 1 Laws 2021

SECTION 1. Section 10-8-3 NMSA 1978 (being Laws 1971, Chapter 116, Section 2, as amended) is amended to read:

"10-8-3. DEFINITIONS.--As used in the Per Diem and Mileage Act:

A. "attend" means the act of being present, either physically or through a virtual platform that is approved by the entity responsible for determining attendance;

B. "secretary" means the secretary of finance and administration;

C. "employee" means any person who is in the employ of any state agency, local public body or public post-secondary educational institution and whose salary is paid either completely or in part from public money, but does not include jurors or jury commissioners;

D. "governing board" means the board of regents of any institution designated in Article 12, Section 11 of the constitution of New Mexico or designated in Chapter 21, Article 14 NMSA 1978, or the board of any institution designated in Chapter 21, Articles 13, 16 and 17 NMSA 1978;

E. "local public body" means all political subdivisions of the state and their agencies, instrumentalities and institutions, except public post-secondary educational institutions;

F. "state agency" means the state or any of its branches, agencies, departments, boards, instrumentalities or institutions, except public post-secondary educational institutions;

G. "public post-secondary educational institution" means any institution designated in Article 12, Section 11 of the constitution of New Mexico and any institution designated in Chapter 21, Articles 13, 14, 16 and 17 NMSA 1978; and

H. "public officer" or "public official" means every elected or appointed officer of the state, local public body or any public post-secondary educational institution. "Public officer" or "public official" includes members of advisory boards appointed by any state agency, local public body or public post-secondary educational institution."

## **Chapter 81 Section 2 Laws 2021**

SECTION 2. Section 10-8-4 NMSA 1978 (being Laws 1963, Chapter 31, Section 3, as amended) is amended to read:

"10-8-4. PER DIEM AND MILEAGE RATES--IN LIEU OF PAYMENT.--

A. Notwithstanding any other specific law to the contrary and except as provided in Subsection I of this section, every nonsalaried public officer shall receive either reimbursement pursuant to the provisions of Subsection K or L of this section or

per diem expenses in the following amounts for a board or committee meeting attended; provided that the officer shall not receive per diem expenses for more than one board or committee meeting that occurs on the same day; or for each day spent in discharge of official duties for travel within the state but away from the officer's home:

(1) forty-five dollars (\$45.00) if the officer physically attends the board or committee meeting for less than four hours or the officer attends a virtual meeting of any duration during a single calendar day; or

(2) ninety-five dollars (\$95.00) if the officer physically attends the board or committee meeting for four hours or more during a single calendar day.

B. Every salaried public officer or employee who is traveling within the state but away from the officer's or employee's home and designated post of duty on official business shall receive either reimbursement pursuant to the provisions of Subsection K or L of this section or for each day spent in the discharge of official duties, the amount established by the department of finance and administration for the fiscal year in which the travel occurs. The department of finance and administration shall establish the reimbursement rate to be used for the next fiscal year by May 1 of each fiscal year; provided that such rate shall take into consideration the rates available for lodging, meals and incidentals as determined by the United States general services administration for that period of time.

C. Every public officer or employee who is traveling outside of the state on official business shall receive either reimbursement pursuant to the provisions of Subsection K or L of this section or for each day spent in the discharge of official duties, the amount established by the department of finance and administration for the fiscal year in which the travel occurs. The department of finance and administration shall establish the reimbursement rate to be used for the next fiscal year by May 1 of each fiscal year; provided that such rate shall take into consideration the rates available for lodging, meals and incidentals as determined by the United States general services administration for that period of time. For a salaried public officer or employee of a local public body or state agency, expenses shall be substantiated in accordance with rules

promulgated by the secretary of finance and administration, and the secretary may promulgate rules defining what constitutes out-of-state travel for the purposes of the Per Diem and Mileage Act. For a public officer or employee of a public post-secondary educational institution, expenses shall be substantiated in accordance with rules promulgated by the governing board of that public post-secondary educational institution, and the governing board may promulgate rules defining what constitutes out-of-state travel for the purposes of the Per Diem and Mileage Act.

D. Every public officer or employee shall receive up to the internal revenue service standard mileage rate set January 1 of the previous year for each mile traveled in a privately owned vehicle or eighty-eight cents (\$.88) a mile for each mile traveled in a privately owned airplane if the travel is necessary to the discharge of the officer's or employee's official duties and if the private conveyance is not a common carrier; provided, however, that only one person shall receive mileage for each mile traveled in a single privately owned vehicle or airplane, except in the case of common carriers, in which case the person shall receive the cost of the ticket in lieu of the mileage allowance.

E. The per diem and mileage or per diem and cost of tickets for common carriers paid to salaried public officers or employees is in lieu of actual expenses for transportation, lodging and subsistence.

F. In addition to the in-state per diem set forth in this section, the department of finance and administration, by rule, may authorize a flat subsistence rate in the amount set by the legislature in the general appropriation act for commissioned officers of the New Mexico state police in accordance with rules promulgated by the department of finance and administration.

G. In lieu of the in-state per diem set in Subsection B of this section, the department of finance and administration may, by rule, authorize a flat monthly subsistence rate for certain employees of the department of transportation, provided that the payments made under this subsection shall not exceed the maximum amount that would be paid under Subsection B of this section.



H. Per diem received by nonsalaried public officers for travel on official business or in the discharge of their official duties, other than attending a board or committee meeting, and per diem received by public officers and employees for travel on official business shall be prorated in accordance with rules of the department of finance and administration or the governing board.

I. The provisions of Subsection A of this section do not apply to payment of per diem expense to a nonsalaried public official of a municipality for attendance at board or committee meetings held within the boundaries of the municipality.

J. In addition to any other penalties prescribed by law for false swearing on an official voucher, it shall be cause for removal or dismissal from office.

K. With prior written approval of the secretary or the secretary's designee or the local public body, a nonsalaried public officer of a state agency or local public body, a salaried public officer of a state agency or local public body or a salaried employee of a state agency or local public body is entitled to per diem expenses under this subsection and shall receive:

(1) reimbursement for actual expenses for lodging; and

(2) reimbursement for actual expenses for meals and incidentals not to exceed the maximum amounts for in-state and out-of-state travel established by the department of finance and administration for the fiscal year in which the travel occurs; provided that the department of finance and administration shall establish the maximum rates for the reimbursement of actual expenses for meals and incidentals as described in Subsections B and C of this section.

L. With prior written approval of the governing board or its designee, a nonsalaried public officer of a public post-secondary educational institution, a salaried public officer of a public post-secondary educational institution or a salaried employee of a public post-secondary educational institution is entitled to per diem expenses under this subsection and shall receive:

(1) reimbursement for actual expenses for lodging; and

(2) reimbursement for actual expenses for meals and incidentals not to exceed the maximum amounts for in-state and out-of-state travel established by the department of finance and administration for the fiscal year in which the travel occurs; provided that the department of finance and administration shall establish the maximum rates for the reimbursement of actual expenses for meals and incidentals as described in Subsections B and C of this section."

### **Chapter 81 Section 3 Laws 2021**

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

## **LAWS 2021, CHAPTER 82**

**Senate Bill 365, aa**  
**Approved April 6, 2021**

AN ACT

RELATING TO MORTGAGE LOAN ORIGINATION; CHANGING THE PROHIBITIONS AND REQUIREMENTS RELATING TO CERTAIN ADJUSTABLE RATE HOME LOANS.

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

### **Chapter 82 Section 1 Laws 2021**

SECTION 1. Section 58-21A-4 NMSA 1978 (being Laws 2003, Chapter 436, Section 4, as amended) is amended to read:

"58-21A-4. PROHIBITED PRACTICES AND PROVISIONS REGARDING HOME LOANS.--

A. No creditor shall finance, directly or indirectly, credit life, credit disability, credit unemployment or credit property insurance, or any other life or health insurance, or any payments directly or indirectly for any debt cancellation or suspension agreement or contract, provided that nothing in this subsection prohibits the payment or receipt of insurance premiums or debt cancellation or suspension fees calculated on the unpaid balance of a home loan and paid on a monthly basis.

B. No creditor shall knowingly and intentionally engage in the unfair act or practice of flipping a home loan. As used in this subsection, "flipping a home loan" means the making of a home loan to a borrower that refinances an existing home loan when the new loan does not have reasonable, tangible net benefit to the borrower considering all of the circumstances, including the terms of both the new and refinanced loans, the cost of the new loan and the borrower's circumstances.

C. No creditor shall make a home loan without documenting and considering the borrower's reasonable ability to repay that loan pursuant to its terms. The borrower's ability to repay shall be demonstrated through reasonably reliable documentation that may include payroll receipts, tax returns, bank records, asset and credit evaluations, mortgage payment history or other similar reliable documentation. The provisions of this subsection shall not apply to a home loan originated pursuant to a government streamline program or a streamline program administered by a government-sponsored enterprise, to a reverse mortgage insured as part of a government program or to loss mitigation activities of a home loan servicer or lender with which the borrower has a current relationship, so long as each of these exceptions, as applicable, provides the borrower with a reasonable, tangible net benefit.

D. No creditor shall make a home loan without determining the borrower's reasonable ability to pay the costs set forth in this subsection. In the case of an adjustable rate home loan, the reasonable ability to pay shall be determined based on a fully indexed rate and repayment schedule that achieves full amortization over the life of

the home loan. The costs, as applicable, to be used in determining the borrower's reasonable ability to pay include principal, interest, real estate taxes, property insurance, property assessments, mortgage insurance premiums and other scheduled long-term monthly debt payments.

E. No creditor shall make or originate an adjustable rate home loan in which caps on payment increases may be less than that necessary to reduce principal and amortize the loan over the entire term of the loan regardless of interest rate adjustments resulting in negative amortization.

F. No creditor shall make or originate a home loan that includes terms under which more than two periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the borrower.

G. No creditor shall pay a contractor under a home-improvement contract from the proceeds of a home loan unless:

(1) the creditor is presented with a signed and dated completion certificate showing that the home improvements have been completed; or

(2) the instrument is payable jointly to the borrower and the contractor, or at the election of the borrower, through a third-party escrow agent in accordance with terms established in a written agreement signed by the borrower, the creditor and the contractor prior to the disbursement.

H. No creditor shall charge a borrower any fees or other charges, other than those that are bona fide, reasonable and actual, to modify, renew, extend or amend a home loan.

I. No creditor shall charge a borrower more than seventy-five dollars (\$75.00) to defer any payment due under the terms of a home loan.

J. No creditor shall recommend or encourage default on an existing loan or other debt prior to and in connection with the closing or planned closing of a home loan that refinances all or any portion of the existing loan or debt.

K. No creditor shall make a home loan that provides for a late payment fee except as follows:

(1) the late payment fee shall not be in excess of five percent of the amount of the payment past due;

(2) the late payment fee shall only be assessed for a payment past due for fifteen days or more;

(3) the late payment fee shall not be imposed more than once with respect to a single late payment, and no late payment fee shall be charged with respect to a subsequent payment that would have been a full payment but for the previous default or the imposition of the previous late payment fee;

(4) no late payment fee shall be charged unless the creditor notifies the borrower within forty-five days following the date the payment was due that a late payment fee has been imposed for a particular late payment. A late payment fee that the creditor has collected shall be reimbursed if the borrower presents proof of having made a timely payment; and

(5) a creditor shall treat each payment as posted on the same business day as it was received by the creditor, servicer, creditor's agent for making payments or at the address provided to the borrower by the creditor, servicer or creditor's agent for making payments.

L. No creditor shall make a home loan that contains a provision that permits the creditor, in its sole discretion, to accelerate the indebtedness, provided that this provision does not prohibit acceleration of a loan in good faith due to a borrower's failure to abide by the material terms of the loan.

M. No creditor shall make or originate a home loan that contains a provision that requires a penalty or premium for prepayment of the balance or any portion of the principal of the indebtedness.

N. No creditor shall make or originate a home loan that includes or uses one or more of the following lending practices:

(1) making a home loan primarily based upon the foreclosure or liquidation value of the borrower's collateral rather than on the borrower's ability to repay the home loan according to its terms;

(2) making or originating an adjustable rate home loan, except a home equity line of credit, where the interest rate and payment may change more frequently than once every six months during the term of the loan;

(3) making an adjustable rate home loan, except a home equity line of credit, where:

(a) the initial interest rate may be increased by more than two percent for loans with initial periods less than five years and six percent for loans with initial periods greater than or equal to five years;

(b) a periodic interest rate may be increased by more than one percent every six months; and

(c) a lifetime interest rate cap is more than six percent over the initial rate;

(4) advertising terms of home loans, including interest rates, margins, discount points, fees, commissions or other material facts, including limitations on the home loans, unless the creditor is able to make the advertised home loans available to a reasonable number of qualified applicants;

(5) misrepresenting a borrower's credit rating;

(6) misrepresenting, inflating or fabricating, or encouraging a borrower to misrepresent, inflate or fabricate, the source or amount of a borrower's actual income or assets, other than allowable grossed-up income not to exceed the twenty-five percent per agency guidelines established by rule by the director, in the application or underwriting process of a home loan; and

(7) making a home loan with an eighty percent or higher loan-to-value ratio for an owner-occupied residence if the creditor has failed to establish an escrow account for the payment of real estate taxes and property insurance."

## **LAWS 2021, CHAPTER 83**

**Senate Bill 410, aa**  
**Approved April 6, 2021**

AN ACT

RELATING TO TAXATION; AMENDING SECTIONS OF THE TAX ADMINISTRATION ACT AND AMENDING AND ENACTING SECTIONS OF THE WITHHOLDING TAX ACT TO ADDRESS FEDERAL PARTNERSHIP AUDIT OR ADJUSTMENT REQUESTS RESULTING IN UNDER- OR OVER-PAYMENT OF CERTAIN STATE TAXES.

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

### **Chapter 83 Section 1 Laws 2021**

SECTION 1. Section 7-1-13 NMSA 1978 (being Laws 1965, Chapter 248, Section 18, as amended) is amended to read:

"7-1-13. TAXPAYER RETURNS--PAYMENT OF TAXES--EXTENSION OF TIME.--

A. Taxpayers are liable for tax at the time of and after the transaction or incident giving rise to tax until payment is made. Taxes are due on and after the date on which their payment is required until payment is made.

B. Every taxpayer shall, on or before the date on which payment of any tax is due, complete and file a tax return in a form prescribed and according to the regulations issued by the secretary. Except as provided in Section 7-1-13.1 NMSA 1978 or by regulation, ruling, order or instruction of the secretary, the payment of any tax or the filing of any return may be accomplished by mail. When the filing of a tax return or payment of a tax is accomplished by mail, the date of the postmark shall be considered the date of submission of the return or payment.

C. Payment of the total amount of all taxes that are due from the taxpayer shall precede or accompany the return. Delivery to the department of a check that is not paid upon presentment does not constitute payment.

D. The secretary or the secretary's delegate may, for good cause, extend in favor of a taxpayer or a class of taxpayers, for no more than a total of twelve months, the date on which payment of any tax is required or on which any return required by provision of the Tax Administration Act shall be filed, but no extension shall prevent the accrual of interest as otherwise provided by law. When an extension of time for income tax has been granted a taxpayer pursuant to the Internal Revenue Code, the extension shall serve to extend the time for filing New Mexico income tax; provided that a copy of the approved federal extension of time is attached to the taxpayer's New Mexico income tax return. The secretary by regulation may also provide for the automatic extension for no more than six months of the date upon which payment of any New Mexico income tax or the filing of any New Mexico income tax return is required. If the secretary or the secretary's delegate believes it necessary to ensure the collection of the tax, the secretary or the secretary's delegate may require, as a condition of granting any



extension, that the taxpayer furnish security in accordance with the provisions of Section 7-1-54 NMSA 1978.

E. Except as provided in Subsection F of this section, no later than one hundred eighty days after the final determination date, a taxpayer shall file a federal adjustments report with the department and pay any state tax due with respect to final net-positive federal adjustments arising from:

(1) an audit or other action by the internal revenue service; or

(2) a timely filed amended federal income tax return, including a return or other similar information filed pursuant to Section 6225(c)(2) of the Internal Revenue Code.

F. Except for federal adjustments that are required to be reported pursuant to Subsection E of this section, partnerships and partners shall report final net-positive federal adjustments arising from a partnership level audit or an administrative adjustment request and make payments as follows:

(1) except for where the partnership or tiered partner makes an election pursuant to Subsection G of this section, the partnership or tiered partner shall:

(a) file: 1) a completed federal adjustments report and notify each of its direct partners of their distributive share of the final federal adjustments, including information necessary for reporting state tax due as required by the department; and 2) an amended withholding return for the reviewed year if such return was filed, or would have been required pursuant to the Withholding Tax Act;

(b) in the case of an audited partnership, file the returns required by this paragraph no later than ninety days after the final determination date; and

(c) in the case of a tiered partner of an audited partnership, file the returns required by this paragraph no later than ninety days after the time for the audited partnership's filing and furnishing statements to tiered partnerships and their partners as established pursuant to Section 6226 of the Internal Revenue Code and the regulations thereunder; and

(2) a partner of a partnership or a tiered partner subject to tax pursuant to Section 7-2-3 or 7-2A-3 NMSA 1978 on adjustments to which Paragraph (1) of this subsection applies shall file a federal adjustments report reporting the partner's distributive share of the adjustments and shall pay the additional amount of state tax due, plus any penalty and interest due and less any credit for related amounts paid or withheld and remitted on behalf of the partner pursuant to Paragraph (1) of this subsection as follows:

(a) for taxable direct partners of the audited partnership, no later than one hundred eighty days after the final determination date; or

(b) for taxable indirect partners of the audited partnership, no later than one hundred eighty days after the time for the audited partnership's filing and furnishing statements to tiered partnerships and their partners as established pursuant to Section 6226 of the Internal Revenue Code and the regulations thereunder.

G. The election provided by this subsection applies only to federal adjustments other than the distributive share of federal adjustments that must be included in the unitary business income of any direct or indirect corporate partner; provided that this can be reasonably determined, or federal adjustments resulting from an administrative adjustment request. A partnership making an election pursuant to this subsection shall:

(1) file a completed federal adjustments report and notify the department that it is making the election pursuant to this subsection; and

(2) pay an amount, determined as follows, in lieu of taxes owed by its direct and indirect taxable partners:

(a) exclude from the total final federal adjustments the distributive share reported to a direct partner that is an exempt partner unless the adjustment represents unrelated business taxable income;

(b) include only the portion of the total federal adjustment to distributive shares of partners taken into account pursuant to Section 6225(b)(2) of the Internal Revenue Code;

(c) apportion and allocate the adjustments as provided by the Uniform Division of Income for Tax Purposes Act as applied at the partnership level following any department regulations adopted for this purpose;

(d) multiply the resulting amount by the highest tax rate provided by Section 7-2A-5 NMSA 1978; and

(e) add to the amount calculated pursuant to Subparagraph (d) of this paragraph an amount of penalty and interest computed pursuant to the Tax Administration Act.

H. In any action required or allowed to be taken pursuant to the Tax Administration Act with respect to the reporting of federal adjustments by a partnership, the state partnership representative for the reviewed year shall have the sole authority to act on behalf of the partnership, and the partnership's direct partners and indirect partners shall be bound by those actions. The state partnership representative is the partnership's federal partnership representative for the reviewed year, unless the partnership designates in writing another person as its state partnership representative; provided that the person meets any qualifications established by the department.

I. Pursuant to procedures that may be adopted by the department, an audited partnership or tiered partner of that partnership may enter into an agreement

with the department to utilize an alternative reporting and payment method, including applicable time requirements or any other provision pursuant to Subsections E through H of this section, if the audited partnership or tiered partner demonstrates that the requested method will reasonably provide for the reporting and payment of taxes, penalties and interest due pursuant to Subsections E through H of this section. Application for approval of an alternative reporting and payment method must be made by the audited partnership or tiered partner within the time for election as provided in Subsection G of this section, as appropriate.

J. An election made pursuant to Subsection G or I of this section is irrevocable, unless the department, in its discretion, determines otherwise. If properly reported and paid by the audited partnership or tiered partner, the amount determined in Paragraph (2) of Subsection G of this section, or similarly under an optional election pursuant to Subsection I of this section, will be treated as paid in lieu of taxes owed by its direct and indirect partners on the same final federal adjustments. The direct or indirect partners of the partnership that pays this in lieu of amount may not claim any deduction, credit or refund with respect to that amount.

K. A taxpayer may make estimated payments of state tax expected to result from a pending audit by the internal revenue service prior to the final determination date, following the process prescribed by the department, and such payments will limit the accrual of further statutory interest on that amount.

L. A taxpayer may claim an amount of state tax resulting from final net-negative federal adjustments as provided in Section 7-1-26 NMSA 1978.

M. Nothing in Subsections E through L of this section shall prevent the department from assessing direct partners or indirect partners for taxes they owe, using the best information available, in the event that a partnership or tiered partner fails to timely make any report or payment required for any reason.

N. As used in this section:

(1) "administrative adjustment request" means an administrative adjustment request filed by a partnership pursuant to Section 6227 of the Internal Revenue Code;

(2) "audited partnership" means a partnership subject to a partnership level audit resulting in a federal adjustment;

(3) "corporate partner" means a partner, direct or indirect, that is subject to tax pursuant to the Corporate Income and Franchise Tax Act;

(4) "direct partner" means any partner that holds an interest directly in a partnership or pass-through entity;

(5) "exempt partner" means a partner, direct or indirect, that is exempt from New Mexico income tax except on unrelated business taxable income;

(6) "federal adjustment" means a change to an item or amount determined pursuant to the Internal Revenue Code that is used by a taxpayer to compute an amount of state tax owed, whether that change results from action by the internal revenue service, including a partnership level audit, or the filing of an amended federal return, federal refund claim or an administrative adjustment request by a partnership;

(7) "federal adjustments report" includes the methods or forms required by the department for use by a taxpayer to report final federal adjustments, including an amended tax return, information return or a uniform multistate report;

(8) "final determination date" means:

(a) except as provided in Subparagraphs (b), (c) and (d) of this paragraph, if a federal adjustment arises from an audit or other action by the internal revenue service, the final determination date is the first day on which no federal adjustments arising from that audit or other action remain to be finally determined,

whether by a decision of the internal revenue service with respect to which all rights of appeal have been waived or exhausted, by agreement, or, if appealed or contested, by a final decision with respect to which all rights of appeal have been waived or exhausted. For agreements required to be signed by the internal revenue service and the taxpayer, the final determination date is the date on which the last party signed the agreement;

(b) for federal adjustments arising from an internal revenue service audit or other action by the internal revenue service, if the taxpayer filed as a member of a filing group pursuant to the Corporate Income and Franchise Tax Act, the final determination date means the first day on which no related federal adjustments arising from that audit remain to be finally determined, as described in Subparagraph (a) of this paragraph, for the entire group;

(c) except as provided in Subparagraph (d) of this paragraph, if the federal adjustment results from filing an amended federal return, a federal refund claim or an administrative adjustment request, or if it is a federal adjustment reported on an amended federal return or other similar report filed pursuant to Section 6225(c) of the Internal Revenue Code, the final determination date means the day on which the amended return, refund claim, administrative adjustment request or other similar report was filed; and

(d) for adjustments resulting from a partnership level audit or an administrative adjustment request for which the final determination date pursuant to Subparagraph (a) or (c) of this paragraph is determined to be a date occurring prior to the effective date of this 2021 act, the final determination date shall be July 1, 2021;

(9) "final federal adjustments" means adjustments for which the final determination date has passed, including final net-positive federal adjustments and final net-negative federal adjustments;

(10) "indirect partner" means a partner in a partnership or pass-through entity in which the partner holds an interest directly, or through another indirect partner, in a partnership or pass-through entity;

(11) "net-negative federal adjustments" means federal adjustments relating to the same tax period, whether made by the taxpayer or the internal revenue service, the net effect of which is to decrease state tax due as compared to tax originally reported for that period;

(12) "net-positive federal adjustments" means federal adjustments relating to the same tax period, whether made by the taxpayer or the internal revenue service, the net effect of which is to increase state tax due as compared to tax originally reported for that period;

(13) "partner" means a person that holds an interest directly or indirectly in a partnership or other pass-through entity;

(14) "partnership" means an entity subject to taxation pursuant to Subchapter K of the Internal Revenue Code;

(15) "partnership level audit" means an examination by the internal revenue service at the partnership level pursuant to Subchapter C or Subtitle F, Chapter 63 of the Internal Revenue Code which results in federal adjustments;

(16) "pass-through entity" means an entity, other than a partnership, that is not subject to tax pursuant to the Corporate Income and Franchise Tax Act;

(17) "reviewed year" means the taxable year of a partnership that is subject to a partnership level audit from which federal adjustments arise;

(18) "taxpayer" means a taxpayer, including a partnership subject to a partnership level audit or a partnership that has made an administrative adjustment

request, as well as a tiered partner of that partnership, unless the context indicates otherwise;

(19) "tiered partner" means any partner that is a partnership or pass-through entity; and

(20) "unrelated business taxable income" means "unrelated business taxable income" as used in Section 512 of the Internal Revenue Code."

## **Chapter 83 Section 2 Laws 2021**

SECTION 2. Section 7-1-18 NMSA 1978 (being Laws 1965, Chapter 248, Section 21, as amended) is amended to read:

"7-1-18. LIMITATION ON ASSESSMENT BY DEPARTMENT.--

A. Except as otherwise provided in this section, no assessment of tax may be made by the department after three years from the end of the calendar year in which payment of the tax was due, and no proceeding in court for the collection of such tax without the prior assessment thereof shall be begun after the expiration of such period.

B. In case of a false or fraudulent return made by a taxpayer with intent to evade tax, the amount thereof may be assessed at any time within ten years from the end of the calendar year in which the tax was due, and no proceeding in court for the collection of such tax without the prior assessment thereof shall be begun after the expiration of such period.

C. In case of the failure by a taxpayer to complete and file any required return, the tax relating to the period for which the return was required may be assessed at any time within seven years from the end of the calendar year in which the tax was due, and no proceeding in court for the collection of such tax without the prior assessment thereof shall be begun after the expiration of such period.



D. If a taxpayer in a return understates by more than twenty-five percent the amount of liability for any tax for the period to which the return relates, appropriate assessments may be made by the department at any time within six years from the end of the calendar year in which payment of the tax was due.

E. If any adjustment in the basis for computation of any federal tax is made as a result of an audit by the internal revenue service or the filing of an amended federal return or administrative adjustment request changing a prior election or making any other change for which federal approval is required by the Internal Revenue Code that results in liability for any tax, the amount thereof may be assessed at any time, but not after three years from the end of the calendar year in which filing of a federal adjustments report is required by Subsections E through J of Section 7-1-13 NMSA 1978.

F. If the taxpayer has signed a waiver of the limitations on assessment imposed by this section, an assessment of tax may be made or a proceeding in court begun without regard to the time at which payment of the tax was due.

G. As used in this section:

(1) "administrative adjustment request" means "administrative adjustment request" as used in Section 7-1-13 NMSA 1978; and

(2) "federal adjustments report" means "federal adjustments report" as used in Section 7-1-13 NMSA 1978."

## **Chapter 83 Section 3 Laws 2021**

SECTION 3. Section 7-1-26 NMSA 1978 (being Laws 1965, Chapter 248, Section 28, as amended) is amended to read:

"7-1-26. DISPUTING LIABILITIES--CLAIM FOR CREDIT, REBATE OR REFUND.--

A. A person who believes that an amount of tax has been paid by or withheld from that person in excess of that for which the person was liable, who has been denied a credit or rebate claimed or who claims a prior right to property in the possession of the department pursuant to a levy made pursuant to the authority of Sections 7-1-31 through 7-1-34 NMSA 1978 may claim a refund by directing to the secretary, within the time limitations provided by Subsections F and G of this section, a written claim for refund that, except as provided in Subsection K of this section, includes:

- (1) the taxpayer's name, address and identification number;
- (2) the type of tax for which a refund is being claimed, the credit or rebate denied or the property levied upon;
- (3) the sum of money or other property being claimed;
- (4) with respect to a refund, the period for which overpayment was made;
- (5) a brief statement of the facts and the law on which the claim is based, which may be referred to as the "basis for the refund", which may include documentation that substantiates the written claim and supports the taxpayer's basis for the refund; and
- (6) if applicable, a copy of an amended return for each tax period for which the refund is claimed.

B. A claim for refund that meets the requirements of Subsection A of this section and that is filed within the time limitations provided by Subsections F and G of this section is deemed to be properly before the department for consideration,

regardless of whether the department requests additional documentation after receipt of the claim for refund.

C. If the department requests additional relevant documentation from a taxpayer who has submitted a claim for refund, the claim for refund shall not be considered incomplete provided the taxpayer submits sufficient information for the department to make a determination.

D. The secretary or the secretary's delegate may allow the claim in whole or in part or may deny the claim. If the:

(1) claim is denied in whole or in part in writing, the person shall not refile the denied claim, but the person, within ninety days after either the mailing or delivery of the denial of all or any part of the claim, may elect to pursue only one of the remedies provided in Subsection E of this section; and

(2) department has neither granted nor denied any portion of a complete claim for refund within one hundred eighty days after the claim was mailed or otherwise delivered to the department, the person may elect to treat the claim as denied and elect to pursue only one of the remedies provided in Subsection E of this section.

E. A person may elect to pursue only one of the remedies provided in this subsection. A person who timely pursues more than one remedy is deemed to have elected the first. The person may:

(1) direct to the secretary, pursuant to the provisions of Section 7-1-24 NMSA 1978, a written protest that sets forth:

(a) the circumstances of: 1) an alleged overpayment; 2) a denied credit; 3) a denied rebate; or 4) a denial of a prior right to property levied upon by the department;

(b) an allegation that, because of that overpayment or denial, the state is indebted to the taxpayer for a specified amount, including any allowed interest, or for the property;

(c) a demand for the refund to the taxpayer of that amount or that property; and

(d) a recitation of the facts of the claim for refund; or

(2) commence a civil action in the district court for Santa Fe county by filing a complaint setting forth the circumstance of the claimed overpayment, denied credit or rebate or denial of a prior right to property levied upon by the department alleging that on account thereof the state is indebted to the plaintiff in the amount or property stated, together with any interest allowable, demanding the refund to the plaintiff of that amount or property and reciting the facts of the claim for refund. The plaintiff or the secretary may appeal from any final decision or order of the district court to the court of appeals.

F. Except as otherwise provided in Subsection G of this section, a credit or refund of any amount of overpaid tax, penalty or interest may be allowed or made to a person if a claim is properly filed:

(1) only within three years after the end of the calendar year in which the applicable event occurs:

(a) in the case of tax paid with an original or amended state return, the date the related tax was originally due;

(b) in the case of tax paid in response to an assessment by the department pursuant to Section 7-1-17 NMSA 1978, the date the tax was paid;

(c) in the case of tax with respect to which a net-negative federal adjustment, as that term is used in Section 7-1-13 NMSA 1978, relates, the final

determination date of that federal adjustment, as provided in Section 7-1-13 NMSA 1978;

(d) the final determination of value occurs with respect to any overpayment that resulted from a disapproval by any agency of the United States or the state of New Mexico or any court of increase in value of a product subject to taxation pursuant to the Oil and Gas Severance Tax Act, the Oil and Gas Conservation Tax Act, the Oil and Gas Emergency School Tax Act, the Oil and Gas Ad Valorem Production Tax Act or the Natural Gas Processors Tax Act; or

(e) in the case of a claim related to property taken by levy, the date the property was levied upon as provided in the Tax Administration Act;

(2) in the case of a denial of a claim for credit pursuant to the Investment Credit Act, Laboratory Partnership with Small Business Tax Credit Act or Technology Jobs and Research and Development Tax Credit Act or for the rural job tax credit provided by Section 7-2E-1.1 NMSA 1978 or similar credit, only within one year after the date of the denial;

(3) in the case of a taxpayer under audit by the department who has signed a waiver of the limitation on assessments on or after July 1, 1993 pursuant to Subsection F of Section 7-1-18 NMSA 1978, only for a refund of the same tax paid for the same period for which the waiver was given, and only until a date one year after the later of the date of the mailing of an assessment issued pursuant to the audit, the date of the mailing of final audit findings to the taxpayer or the date a proceeding is begun in court by the department with respect to the same tax and the same period;

(4) in the case of a payment of an amount of tax not made within three years of the end of the calendar year in which the original due date of the tax or date of the assessment of the department occurred, only for a claim for refund of that amount of tax and only within one year of the date on which the tax was paid; or

(5) in the case of a taxpayer who has been assessed a tax on or after July 1, 1993 pursuant to Subsection B, C or D of Section 7-1-18 NMSA 1978 and an assessment that applies to a period ending at least three years prior to the beginning of the year in which the assessment was made, only for a refund for the same tax for the period of the assessment or for any period following that period within one year of the date of the assessment unless a longer period for claiming a refund is provided in this section.

G. No credit or refund shall be allowed or made to a person claiming a refund of gasoline tax pursuant to Section 7-13-11 NMSA 1978 unless notice of the destruction of the gasoline was given to the department within thirty days of the actual destruction and the claim for refund is made within six months of the date of destruction. No credit or refund shall be allowed or made to a person claiming a refund of gasoline tax pursuant to Section 7-13-17 NMSA 1978 unless the refund is claimed within six months of the date of purchase of the gasoline and the gasoline has been used at the time the claim for refund is made.

H. If, as a result of an audit by the department or a managed audit covering multiple periods, an overpayment of tax is found in any period under the audit and if the taxpayer files a claim for refund for the overpayments identified in the audit, that overpayment may be credited against an underpayment of the same tax found in another period under audit pursuant to Section 7-1-29 NMSA 1978.

I. A refund of tax paid under any tax or tax act administered pursuant to Subsection B of Section 7-1-2 NMSA 1978 may be made, at the discretion of the department, in the form of credit against future tax payments if future tax liabilities in an amount at least equal to the credit amount reasonably may be expected to become due.

J. For the purposes of this section, "oil and gas tax return" means a return reporting tax due with respect to oil, natural gas, liquid hydrocarbons, carbon dioxide, helium or nonhydrocarbon gas pursuant to the Oil and Gas Severance Tax Act, the Oil and Gas Conservation Tax Act, the Oil and Gas Emergency School Tax Act, the Oil and

Gas Ad Valorem Production Tax Act, the Natural Gas Processors Tax Act or the Oil and Gas Production Equipment Ad Valorem Tax Act.

K. The filing of a fully completed original income tax return, corporate income tax return, corporate income and franchise tax return, estate tax return or special fuel excise tax return that shows a balance due the taxpayer or a fully completed amended income tax return, an amended corporate income tax return, an amended corporate income and franchise tax return, an amended estate tax return, an amended special fuel excise tax return or an amended oil and gas tax return that shows a lesser tax liability than the original return constitutes the filing of a claim for refund for the difference in tax due shown on the original and amended returns.

L. In no case may a credit or refund be claimed if the related federal adjustment is taken into account by a partnership in the partnership's tax return for the adjustment year and allocated to the partners in a manner similar to other partnership tax items."

## **Chapter 83 Section 4 Laws 2021**

SECTION 4. Section 7-1-29 NMSA 1978 (being Laws 1965, Chapter 248, Section 31, as amended) is amended to read:

"7-1-29. AUTHORITY TO MAKE REFUNDS OR CREDITS.--

A. In response to a claim for refund, credit or rebate made as provided in Section 7-1-26 NMSA 1978, but before a court acquires jurisdiction of the matter, the secretary or the secretary's delegate may authorize payment to a person in the amount of the credit or rebate claimed or refund an overpayment of tax determined by the secretary or the secretary's delegate to have been erroneously made by the person, together with allowable interest. A payment of a credit rebate claimed or a refund of tax and interest erroneously paid amounting to twenty thousand dollars (\$20,000) or more shall be made with the prior approval of the attorney general, except that the secretary

or the secretary's delegate may make refunds with respect to the Oil and Gas Severance Tax Act, the Oil and Gas Conservation Tax Act, the Oil and Gas Emergency School Tax Act, the Oil and Gas Ad Valorem Production Tax Act, the Natural Gas Processors Tax Act or the Oil and Gas Production Equipment Ad Valorem Tax Act, Section 7-13-17 NMSA 1978 and the Cigarette Tax Act without the prior approval of the attorney general regardless of the amount.

B. Pursuant to the final order of the district court, the court of appeals, the supreme court of New Mexico or a federal court, from which order, appeal or review is not successfully taken, adjudging that a person has properly claimed a credit, rebate or a refund of overpaid tax, the secretary shall authorize the payment to the person of the amount thereof. After a court acquires jurisdiction but before it issues a final order, the secretary may authorize payment of a credit, rebate or refund pursuant to a closing agreement pursuant to Section 7-1-20 NMSA 1978.

C. In the discretion of the secretary, any amount of credit or rebate to be paid or tax to be refunded may be offset against any amount of tax for which the person due to receive the credit, rebate payment or refund is liable. The secretary or the secretary's delegate shall give notice to the taxpayer that the credit, rebate payment or refund will be made in this manner, and the taxpayer shall be entitled to interest pursuant to Section 7-1-68 NMSA 1978 until the tax liability is credited with the credit, rebate or refund amount.

D. In an audit by the department or a managed audit covering multiple reporting periods in which both underpayments and overpayments of a tax have been made in different reporting periods, the department shall credit the tax overpayments against the underpayments; provided that the taxpayer files a claim for refund of the overpayments. An overpayment shall be applied as a credit first to the earliest underpayment and then to succeeding underpayments. An underpayment of tax to which an overpayment is credited pursuant to this section shall be deemed paid in the period in which the overpayment was made or the period to which the overpayment was credited against an underpayment, whichever is later. If the overpayments credited



pursuant to this section exceed the underpayments of a tax, the amount of the net overpayment for the periods covered in the audit shall be refunded to the taxpayer.

E. When a taxpayer makes a payment identified to a particular return or assessment, and the department determines that the payment exceeds the amount due pursuant to that return or assessment, the secretary may apply the excess to the taxpayer's other liabilities pursuant to the tax acts to which the return or assessment applies, without requiring the taxpayer to file a claim for a refund. The liability to which an overpayment is applied pursuant to this section shall be deemed paid in the period in which the overpayment was made or the period to which the overpayment was applied, whichever is later.

F. If the department determines, upon review of an original or amended income tax return, corporate income and franchise tax return, estate tax return, special fuels excise tax return or oil and gas tax return, that there has been an overpayment of tax for the taxable period to which the return or amended return relates in excess of the amount due to be refunded to the taxpayer pursuant to the provisions of Subsection K of Section 7-1-26 NMSA 1978, the department may refund that excess amount to the taxpayer without requiring the taxpayer to file a refund claim.

G. Records of refunds and credits made in excess of ten thousand dollars (\$10,000) shall be available for inspection by the public. The department shall keep such records for a minimum of three years from the date of the refund or credit.

H. In response to a timely refund claim pursuant to Section 7-1-26 NMSA 1978 and notwithstanding any other provision of the Tax Administration Act, the secretary or the secretary's delegate may refund or credit a portion of an assessment of tax paid, including applicable penalties and interest representing the amount of tax previously paid by another person on behalf of the taxpayer on the same transaction; provided that the requirements of equitable recoupment are met. For purposes of this subsection, the refund claim may be filed by the taxpayer to whom the assessment was issued or by another person who claims to have previously paid the tax on behalf of the taxpayer. Prior to granting the refund or credit, the secretary may require a waiver of all

rights to claim a refund or credit of the tax previously paid by another person paying a tax on behalf of the taxpayer.

I. If, as a result of an audit by the department or a managed audit, a person is determined to owe gross receipts tax on receipts from the sale of property or services, the department may credit against the amount owed an amount of compensating tax paid by the purchaser if the person can demonstrate that the purchaser timely paid the compensating tax on the same property or services. The credit provided by this subsection shall not be denied solely because the purchaser cannot timely file for a refund of the compensating tax paid and, if the credit is to be granted, the department shall require, for the purpose of granting the credit, that the purchaser give up any right to claim a refund of that tax."

## **Chapter 83 Section 5 Laws 2021**

SECTION 5. A new section of the Withholding Tax Act is enacted to read:

"COMPOSITE RETURNS.--

A. A pass-through entity may file a composite income tax return on behalf of electing nonresident members reporting and paying income tax at the highest marginal rate provided in Section 7-2A-5 NMSA 1978 on the members' pro rata or distributive shares of income of the pass-through entity from doing business in, or deriving income from sources within, this state.

B. A nonresident member whose only source of income within a state is from one or more pass-through entities may elect to be included in a composite income tax return filed pursuant to this section.

C. A nonresident member that has been included in a composite income tax return may file an individual income tax return and shall receive credit for tax paid on the member's behalf by the pass-through entity.

D. As used in this section:

(1) "pass-through entity" means a corporation that for the applicable tax year is treated as an S corporation pursuant to Section 1362(a) of the Internal Revenue Code and any entity with one or more members that is not taxed as a corporation pursuant to Subchapter C of the Internal Revenue Code;

(2) "member" means a shareholder of an S corporation; a partner in a general partnership, a limited partnership or a limited liability partnership; a member of a limited liability company; or a beneficiary of a trust; and

(3) "nonresident" means an individual who is not a resident of or domiciled in the state, a business entity that does not have its commercial domicile in the state or a trust not organized in the state."

### **Chapter 83 Section 6 Laws 2021**

SECTION 6. APPLICABILITY.--The provisions of Sections 1 and 4 of this act apply to federal adjustments with a final determination date occurring on and after January 1, 2021.

### **Chapter 83 Section 7 Laws 2021**

SECTION 7. EFFECTIVE DATE.--The effective date of the provisions of Section 5 of this act is January 1, 2022.

## **LAWS 2021, CHAPTER 84**

**HTRC/House Bill 15, aa**  
**Approved April 6, 2021**

AN ACT

RELATING TO TAXATION; CREATING THE 2021 SUSTAINABLE BUILDING TAX CREDITS PURSUANT TO THE INCOME TAX ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT; ACCELERATING THE TERMINATION OF THE NEW SUSTAINABLE BUILDING TAX CREDITS PURSUANT TO THE INCOME TAX ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT AND CHANGING THE NAME OF THE CREDITS TO THE "2015 SUSTAINABLE BUILDING TAX CREDIT".

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

## **Chapter 84 Section 1 Laws 2021**

SECTION 1. Section 7-2-18.29 NMSA 1978 (being Laws 2015, Chapter 130, Section 1) is amended to read:

"7-2-18.29. 2015 SUSTAINABLE BUILDING TAX CREDIT.--

A. The tax credit provided by this section may be referred to as the "2015 sustainable building tax credit". The 2015 sustainable building tax credit shall be available for the construction in New Mexico of a sustainable building, the renovation of an existing building in New Mexico into a sustainable building or the permanent installation of manufactured housing, regardless of where the housing is manufactured, that is a sustainable building; provided that the construction, renovation or installation project is completed prior to April 1, 2023. The tax credit provided in this section may not be claimed with respect to the same sustainable building for which the 2015 sustainable building tax credit provided in the Corporate Income and Franchise Tax Act or the 2021 sustainable building tax credit pursuant to the Income Tax Act or the Corporate Income and Franchise Tax Act has been claimed.

B. The purpose of the 2015 sustainable building tax credit is to encourage the construction of sustainable buildings and the renovation of existing buildings into sustainable buildings.

C. A taxpayer who files an income tax return is eligible to be granted a 2015 sustainable building tax credit by the department if the taxpayer submits a document issued pursuant to Subsection K of this section with the taxpayer's income tax return.

D. For taxable years ending on or before December 31, 2024, the 2015 sustainable building tax credit may be claimed with respect to a sustainable commercial building. The credit shall be calculated based on the certification level the building has achieved in the LEED green building rating system and the amount of qualified occupied square footage in the building, as indicated on the following chart:

LEED Rating Level	Qualified Occupied Square Footage	Tax Credit per Square Foot
LEED-NC Silver	First 10,000	\$3.50
	Next 40,000	\$1.75
	Over 50,000 up to 500,000	\$ .70
LEED-NC Gold	First 10,000	\$4.75
	Next 40,000	\$2.00
	Over 50,000 up to 500,000	\$1.00
LEED-NC Platinum	First 10,000	\$6.25
	Next 40,000	\$3.25
	Over 50,000 up to 500,000	\$2.00
LEED-EB or CS Silver	First 10,000	\$2.50
	Next 40,000	\$1.25
	Over 50,000 up to 500,000	\$ .50
LEED-EB or CS Gold	First 10,000	\$3.35
	Next 40,000	\$1.40
	Over 50,000 up to 500,000	\$ .70

LEED-EB or CS Platinum	First 10,000	\$4.40
	Next 40,000	\$2.30
	Over 50,000	
LEED-CI Silver	up to 500,000	\$1.40
	First 10,000	\$1.40
	Next 40,000	\$ .70
LEED-CI Gold	Over 50,000	
	up to 500,000	\$ .30
	First 10,000	\$1.90
LEED-CI Platinum	Next 40,000	\$ .80
	Over 50,000	
	up to 500,000	\$ .40
	First 10,000	\$2.50
	Next 40,000	\$1.30
	Over 50,000	
	up to 500,000	\$ .80.

E. For taxable years ending on or before December 31, 2024, the 2015 sustainable building tax credit may be claimed with respect to a sustainable residential building. The credit shall be calculated based on the amount of qualified occupied square footage, as indicated on the following chart:

Rating System/Level	Qualified Occupied Square Footage	Tax Credit per Square Foot
LEED-H Silver or Build Green NM Silver	Up to 2,000	\$3.00
LEED-H Gold or Build Green NM Gold	Up to 2,000	\$4.50
LEED-H Platinum or Build Green NM Emerald	Up to 2,000	\$6.50
Manufactured Housing	Up to 2,000	\$3.00.

F. A person that is a building owner may apply for a certificate of eligibility for the 2015 sustainable building tax credit from the energy, minerals and natural resources department after the construction, installation or renovation of the sustainable building is complete. Applications shall be considered in the order received. If the energy, minerals and natural resources department determines that the building owner meets the requirements of this subsection and that the building with respect to which the tax credit application is made meets the requirements of this section as a sustainable residential building or a sustainable commercial building, the energy, minerals and natural resources department may issue a certificate of eligibility to the building owner, subject to the limitations in Subsection G of this section. The certificate shall include the rating system certification level awarded to the building, the amount of qualified occupied square footage in the building and a calculation of the maximum amount of 2015 sustainable building tax credit for which the building owner would be eligible. The energy, minerals and natural resources department may issue rules governing the procedure for administering the provisions of this subsection. If the certification level for the sustainable residential building is awarded on or after January 1, 2017 but prior to April 1, 2023, the energy, minerals and natural resources department may issue a certificate of eligibility to a building owner who is:

(1) the owner of the sustainable residential building at the time the certification level for the building is awarded; or

(2) the subsequent purchaser of a sustainable residential building with respect to which no tax credit has been previously claimed.

G. Except as provided in Subsection H of this section, the energy, minerals and natural resources department may issue a certificate of eligibility only if the total amount of 2015 sustainable building tax credits represented by certificates of eligibility issued by the energy, minerals and natural resources department pursuant to this section and pursuant to the Corporate Income and Franchise Tax Act shall not exceed in any calendar year an aggregate amount of:

(1) one million two hundred fifty thousand dollars (\$1,250,000) with respect to sustainable commercial buildings;

(2) three million three hundred seventy-five thousand dollars (\$3,375,000) with respect to sustainable residential buildings that are not manufactured housing; and

(3) three hundred seventy-five thousand dollars (\$375,000) with respect to sustainable residential buildings that are manufactured housing.

H. For any taxable year that the energy, minerals and natural resources department determines that applications for sustainable building tax credits for any type of sustainable building pursuant to Paragraph (1), (2) or (3) of Subsection G of this section are less than the aggregate limit for that type of sustainable building for that taxable year, the energy, minerals and natural resources department shall allow the difference between the aggregate limit and the applications to be added to the aggregate limit of another type of sustainable building for which applications exceeded the aggregate limit for that taxable year. Any excess not used in a taxable year shall not be carried forward to subsequent taxable years.

I. Installation of a solar thermal system or a photovoltaic system eligible for the solar market development tax credit pursuant to Section 7-2-18.14 NMSA 1978 may not be used as a component of qualification for the rating system certification level used in determining eligibility for the 2015 sustainable building tax credit, unless a solar market development tax credit pursuant to Section 7-2-18.14 NMSA 1978 has not been claimed with respect to that system and the building owner and the taxpayer claiming the 2015 sustainable building tax credit certify that such a tax credit will not be claimed with respect to that system.

J. To be eligible for the 2015 sustainable building tax credit, the building owner shall provide to the taxation and revenue department a certificate of eligibility issued by the energy, minerals and natural resources department pursuant to the requirements of Subsection F of this section and any other information the taxation and



revenue department may require to determine the amount of the tax credit for which the building owner is eligible.

K. If the requirements of this section have been complied with, the department shall issue to the building owner a document granting a 2015 sustainable building tax credit. The document shall be numbered for identification and declare its date of issuance and the amount of the tax credit allowed pursuant to this section. The document may be submitted by the building owner with that taxpayer's income tax return, if applicable, or may be sold, exchanged or otherwise transferred to another taxpayer. The parties to such a transaction shall notify the department of the sale, exchange or transfer within ten days of the sale, exchange or transfer.

L. If the approved amount of a 2015 sustainable building tax credit for a taxpayer in a taxable year represented by a document issued pursuant to Subsection K of this section is:

(1) less than one hundred thousand dollars (\$100,000), a maximum of twenty-five thousand dollars (\$25,000) shall be applied against the taxpayer's income tax liability for the taxable year for which the credit is approved and the next three subsequent taxable years as needed depending on the amount of credit; or

(2) one hundred thousand dollars (\$100,000) or more, increments of twenty-five percent of the total credit amount in each of the four taxable years, including the taxable year for which the credit is approved and the three subsequent taxable years, shall be applied against the taxpayer's income tax liability.

M. If the sum of all 2015 sustainable building tax credits that can be applied to a taxable year for a taxpayer, calculated according to Paragraph (1) or (2) of Subsection L of this section, exceeds the taxpayer's income tax liability for that taxable year, the excess may be carried forward for a period of up to seven years.

N. A taxpayer who otherwise qualifies and claims a 2015 sustainable building tax credit with respect to a sustainable building owned by a partnership or other

business association of which the taxpayer is a member may claim a credit only in proportion to that taxpayer's interest in the partnership or association. The total credit claimed in the aggregate by all members of the partnership or association with respect to the sustainable building shall not exceed the amount of the credit that could have been claimed by a sole owner of the property.

O. Married individuals who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the 2015 sustainable building tax credit that would have been allowed on a joint return.

P. The department shall compile an annual report on the 2015 sustainable building tax credit created pursuant to this section that shall include the number of taxpayers approved by the department to receive the tax credit, the aggregate amount of tax credits approved and any other information necessary to evaluate the effectiveness of the tax credit. Beginning in 2019 and every three years thereafter that the credit is in effect, the department shall compile and present the annual reports to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the tax credit and whether the tax credit is performing the purpose for which it was created.

Q. For the purposes of this section:

(1) "build green New Mexico rating system" means the certification standards adopted by build green New Mexico in November 2014, which include water conservation standards;

(2) "LEED-CI" means the LEED rating system for commercial interiors;

(3) "LEED-CS" means the LEED rating system for the core and shell of buildings;

(4) "LEED-EB" means the LEED rating system for existing buildings;

(5) "LEED gold" means the rating in compliance with, or exceeding, the second-highest rating awarded by the LEED certification process;

(6) "LEED" means the most current leadership in energy and environmental design green building rating system guidelines developed and adopted by the United States green building council;

(7) "LEED-H" means the LEED rating system for homes;

(8) "LEED-NC" means the LEED rating system for new buildings and major renovations;

(9) "LEED platinum" means the rating in compliance with, or exceeding, the highest rating awarded by the LEED certification process;

(10) "LEED silver" means the rating in compliance with, or exceeding, the third-highest rating awarded by the LEED certification process;

(11) "manufactured housing" means a multisectioned home that is:

(a) a manufactured home or modular home;

(b) a single-family dwelling with a heated area of at least thirty-six feet by twenty-four feet and a total area of at least eight hundred sixty-four square feet;

(c) constructed in a factory to the standards of the United States department of housing and urban development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or New Mexico construction codes up to the date of the unit's construction; and

(d) installed consistent with the Manufactured Housing Act and rules adopted pursuant to that act relating to permanent foundations;

(12) "qualified occupied square footage" means the occupied spaces of the building as determined by:

(a) the United States green building council for those buildings obtaining LEED certification;

(b) the administrators of the build green New Mexico rating system for those homes obtaining build green New Mexico certification; and

(c) the United States environmental protection agency for ENERGY STAR-certified manufactured homes;

(13) "person" does not include state, local government, public school district or tribal agencies;

(14) "sustainable building" means either a sustainable commercial building or a sustainable residential building;

(15) "sustainable commercial building" means a multifamily dwelling unit, as registered and certified under the LEED-H or build green New Mexico rating system, that is certified by the United States green building council as LEED-H silver or higher or by build green New Mexico as silver or higher and has achieved a home energy rating system index of sixty or lower as developed by the residential energy services network or a building that has been registered and certified under the LEED-NC, LEED-EB, LEED-CS or LEED-CI rating system and that:

(a) is certified by the United States green building council at LEED silver or higher;

(b) achieves any prerequisite for and at least one point related to commissioning under LEED "energy and atmosphere", if included in the applicable rating system; and

(c) has reduced energy consumption beginning January 1, 2012, by sixty percent based on the national average for that building type as published by the United States department of energy as substantiated by the United States environmental protection agency target finder energy performance results form, dated no sooner than the schematic design phase of development;

(16) "sustainable residential building" means:

(a) a building used as a single-family residence as registered and certified under the build green New Mexico or LEED-H rating system that: 1) is certified by the United States green building council as LEED-H silver or higher or by build green New Mexico as silver or higher; 2) has achieved a home energy rating system index of sixty or lower as developed by the residential energy services network; 3) has indoor plumbing fixtures and water-using appliances that, on average, have flow rates equal to or lower than the flow rates required for certification by WaterSense; 4) if landscape area is available at the front of the property, has at least one water line outside the building below the frost line that may be connected to a drip irrigation system; and 5) if landscape area is available at the rear of the property, has at least one water line outside the building below the frost line that may be connected to a drip irrigation system; or

(b) manufactured housing that is ENERGY STAR-qualified by the United States environmental protection agency;

(17) "tribal" means of, belonging to or created by a federally recognized Indian nation, tribe or pueblo; and

(18) "WaterSense" means a program created by the federal environmental protection agency that certifies water-using products that meet the environmental protection agency's criteria for efficiency and performance."

## **Chapter 84 Section 2 Laws 2021**

SECTION 2. A new section of the Income Tax Act is enacted to read:

"2021 SUSTAINABLE BUILDING TAX CREDIT.--

A. The tax credit provided by this section may be referred to as the "2021 sustainable building tax credit". For taxable years prior to January 1, 2030, a taxpayer who is a building owner and files an income tax return is eligible to be granted a 2021 sustainable building tax credit by the department if the requirements of this section are met. The 2021 sustainable building tax credit shall be available for the construction in New Mexico of a sustainable building, the renovation of an existing building in New Mexico, the permanent installation of manufactured housing, regardless of where the housing is manufactured, that is a sustainable building or the installation of energy-conserving products to existing buildings in New Mexico, as provided in this section. The tax credit provided in this section may not be claimed with respect to the same sustainable building for which the 2021 sustainable building tax credit provided in the Corporate Income and Franchise Tax Act or the 2015 sustainable building tax credit pursuant to the Income Tax Act or the Corporate Income and Franchise Tax Act has been claimed.

B. The amount of a 2021 sustainable building tax credit shall be determined as follows:

(1) for the construction of a new sustainable commercial building that is broadband ready and electric vehicle ready and is completed on or after April 1, 2023, the amount of credit shall be calculated:

(a) based on the certification level the building has achieved in the rating level and the amount of qualified occupied square footage in the building, as indicated on the following chart:

Rating Level	Qualified Occupied Square Footage	Tax Credit per Square Foot
LEED-NC Platinum	First 10,000	\$5.25
	Next 40,000	\$2.25
	Over 50,000 up to 200,000	\$1.00
LEED-EB or CS Platinum	First 10,000	\$3.40
	Next 40,000	\$1.30
	Over 50,000 up to 200,000	\$0.35
LEED-CI Platinum	First 10,000	\$1.50
	Next 40,000	\$0.40
	Over 50,000 up to 200,000	\$0.30
LEED-NC Gold	First 10,000	\$3.00
	Next 40,000	\$1.00
	Over 50,000 up to 200,000	\$0.25
LEED-EB or -CS Gold	First 10,000	\$2.00
	Next 40,000	\$1.00
	Over 50,000 up to 200,000	\$0.25
LEED-CI Gold	First 10,000	\$0.90
	Next 40,000	\$0.40
	Over 50,000 up to 200,000	\$0.10; and

(b) with additional amounts based on the additional criteria and the amount of qualified occupied square footage, as indicated in the following chart:

Additional Criteria	Qualified Occupied Square Footage	Tax Credit per Square Foot
Fully Electric Building	First 50,000	\$1.00
	Over 50,000 up to 200,000	\$0.50
Zero Carbon, Energy, Waste or Water Certified	First 50,000	\$0.25
	Over 50,000 up to 200,000	\$0.10;

(2) for the renovation of a commercial building that was built at least ten years prior to the date of the renovation, has twenty thousand square feet or more of space in which temperature is controlled and is broadband ready and electric vehicle ready, the amount of credit shall be calculated by multiplying two dollars twenty-five cents (\$2.25) by the amount of qualified occupied square footage in the building, up to a maximum of one hundred fifty thousand dollars (\$150,000) per renovation; provided that the renovation reduces total energy and power costs by fifty percent when compared to the most current energy standard for buildings except low-rise residential buildings, as developed by the American society of heating, refrigerating and air-conditioning engineers;

(3) for the installation of the following energy-conserving products to an existing commercial building with less than twenty thousand square feet of space in which temperature is controlled that is broadband ready, the amount of credit shall be based on the cost of the product installed, which shall include installation costs, and if the building is affordable housing, per product installed:

Product	Amount of Credit
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	Affordable Housing	Non-Affordable Housing
Energy Star Air Source Heat Pump	\$2,000	\$1,000
Energy Star Ground Source Heat Pump	\$2,000	\$1,000
Energy Star Windows and Doors	100% of product cost up to \$1,000	50% of product cost up to \$500
Insulation Improvements That Meet Rules of the Energy, Minerals and Natural Resources Department	100% of product cost up to \$2,000	50% of product cost up to \$1,000
Energy Star Heat Pump Water Heater	\$700	\$350
Electric Vehicle Ready	100% of product cost up to \$3,000	50% of product cost up to \$1,500;

(4) for the construction of a new sustainable residential building that is broadband ready and electric vehicle ready and is completed on or after April 1, 2023, the amount of credit shall be calculated:

(a) based on the certification level the building has achieved in the rating level and the amount of qualified occupied square footage in the building, as indicated on the following chart:

Rating Level	Qualified Occupied Square Footage	Tax Credit per Square Foot
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LEED-H Platinum	Up to 2,000	\$5.50
LEED-H Gold	Up to 2,000	\$3.80
Build Green Emerald	Up to 2,000	\$5.50
Build Green Gold	Up to 2,000	\$3.80
Manufactured Housing	Up to 2,000	\$2.00; and

(b) with additional amounts based on the additional criteria and the amount of qualified occupied square footage, as indicated in the following chart:

Additional Criteria	Qualified Occupied Square Footage	Tax Credit per Square Foot
Fully Electric Building	Up to 2,000	\$1.00
Zero Carbon, Energy, Waste or Water Certified	Up to 2,000	\$0.25; and

(5) for the installation of the following energy-conserving products to an existing residential building, the amount of credit shall be based on the cost of the product installed, which shall include installation costs, and if the building is affordable housing or the taxpayer is a low-income taxpayer, per product installed:

Product	Amount of Credit	
	Affordable Housing and Low-Income	Non-Affordable Housing and Non-Low Income
Energy Star Air Source Heat Pump	\$2,000	\$1,000
Energy Star Ground Source Heat Pump	\$2,000	\$1,000
Energy Star Windows and Doors	100% of product cost up to \$1,000	50% of product cost up to \$500

Insulation Improvements That Meet Rules of the Energy, Minerals and Natural Resources Department	100% of product cost up to \$2,000	50% of product cost up to \$1,000
Energy Star Heat Pump Water Heater	\$700	\$350
Electric Vehicle Ready	\$1,000	\$500.

C. A person who is a building owner may apply for a certificate of eligibility for the 2021 sustainable building tax credit from the energy, minerals and natural resources department after the construction, installation or renovation of the sustainable building or installation of energy-conserving products in an existing building is complete. Applications shall be considered in the order received. If the energy, minerals and natural resources department determines that the building owner meets the requirements of this subsection and that the building with respect to which the application is made meets the requirements of this section for a 2021 sustainable building tax credit, the energy, minerals and natural resources department may issue a certificate of eligibility to the building owner, subject to the limitations in Subsection D of this section. The certificate shall include the rating system certification level awarded to the building, the amount of qualified occupied square footage in the building, a calculation of the maximum amount of 2021 sustainable building tax credit for which the building owner would be eligible, the identification number, date of issuance and the first taxable year that the credit shall be claimed. The energy, minerals and natural resources department may issue rules governing the procedure for administering the provisions of this subsection. If the certification level for the sustainable residential building is awarded on or after January 1, 2021, the energy, minerals and natural resources department may issue a certificate of eligibility to a building owner who is:

(1) the owner of the sustainable residential building at the time the certification level for the building is awarded; or

(2) the subsequent purchaser of a sustainable residential building with respect to which no tax credit has been previously claimed.

D. Except as provided in Subsection E of this section, the energy, minerals and natural resources department may issue a certificate of eligibility only if the total amount of 2021 sustainable building tax credits represented by certificates of eligibility issued by the energy, minerals and natural resources department pursuant to this section and pursuant to the Corporate Income and Franchise Tax Act shall not exceed in any calendar year an aggregate amount of:

(1) one million dollars (\$1,000,000) with respect to the construction of new sustainable commercial buildings;

(2) two million dollars (\$2,000,000) with respect to the construction of new sustainable residential buildings that are not manufactured housing;

(3) two hundred fifty thousand dollars (\$250,000) with respect to the construction of new sustainable residential buildings that are manufactured housing;

(4) one million dollars (\$1,000,000) with respect to the renovation of large commercial buildings; and

(5) two million nine hundred thousand dollars (\$2,900,000) with respect to the installation of energy-conserving products in existing commercial buildings pursuant to Paragraph (3) of Subsection B of this section and existing residential buildings pursuant to Paragraph (5) of Subsection B of this section.

E. For any taxable year that the energy, minerals and natural resources department determines that applications for sustainable building tax credits for any type of sustainable building pursuant to Subsection D of this section are less than the aggregate limit for that type of sustainable building for that taxable year, the energy, minerals and natural resources department shall allow the difference between the aggregate limit and the applications to be added to the aggregate limit of another type of

sustainable building for which applications exceeded the aggregate limit for that taxable year. Any excess not used in a taxable year shall not be carried forward to subsequent taxable years.

F. Installation of a solar thermal system or a photovoltaic system eligible for the solar market development tax credit pursuant to Section 7-2-18.14 NMSA 1978 shall not be used as a component of qualification for the rating system certification level used in determining eligibility for the 2021 sustainable building tax credit, unless a solar market development tax credit pursuant to Section 7-2-18.14 NMSA 1978 has not been claimed with respect to that system and the building owner and the taxpayer claiming the 2021 sustainable building tax credit certify that such a tax credit will not be claimed with respect to that system.

G. To claim the 2021 sustainable building tax credit, the building owner shall provide to the taxation and revenue department a certificate of eligibility issued by the energy, minerals and natural resources department pursuant to the requirements of Subsection C of this section and any other information the taxation and revenue department may require.

H. If the approved amount of a 2021 sustainable building tax credit for a taxpayer in a taxable year represented by a document issued pursuant to Subsection C of this section is:

(1) less than one hundred thousand dollars (\$100,000), a maximum of twenty-five thousand dollars (\$25,000) shall be applied against the taxpayer's income tax liability for the taxable year for which the credit is approved and the next three subsequent taxable years as needed depending on the amount of credit; or

(2) one hundred thousand dollars (\$100,000) or more, increments of twenty-five percent of the total credit amount in each of the four taxable years, including the taxable year for which the credit is approved and the three subsequent taxable years, shall be applied against the taxpayer's income tax liability.

I. If the sum of all 2021 sustainable building tax credits that can be applied to a taxable year for a taxpayer, calculated according to Paragraph (1) or (2) of Subsection H of this section, exceeds the taxpayer's income tax liability for that taxable year, the excess may be carried forward for a period of up to seven years; provided that if the taxpayer is a low-income taxpayer, the excess shall be refunded to the taxpayer.

J. A taxpayer who otherwise qualifies and claims a 2021 sustainable building tax credit with respect to a sustainable building owned by a partnership or other business association of which the taxpayer is a member may claim a credit only in proportion to that taxpayer's interest in the partnership or association. The total credit claimed in the aggregate by all members of the partnership or association with respect to the sustainable building shall not exceed the amount of the credit that could have been claimed by a sole owner of the property.

K. Married individuals who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the 2021 sustainable building tax credit that would have been allowed on a joint return.

L. If the requirements of this section have been complied with, the department shall issue to the building owner a document granting a 2021 sustainable building tax credit. The document shall be numbered for identification and declare its date of issuance and the amount of the tax credit allowed pursuant to this section. The document may be submitted by the building owner with that taxpayer's income tax return, if applicable, or may be sold, exchanged or otherwise transferred to another taxpayer. The parties to such a transaction shall notify the department of the sale, exchange or transfer within ten days of the sale, exchange or transfer.

M. The department and the energy, minerals and natural resources department shall compile an annual report on the 2021 sustainable building tax credit created pursuant to this section that shall include the number of taxpayers approved to receive the tax credit, the aggregate amount of tax credits approved and any other information necessary to evaluate the effectiveness of the tax credit. The department shall present the report to the revenue stabilization and tax policy committee and the

legislative finance committee with an analysis of the effectiveness and cost of the tax credit.

N. For the purposes of this section:

(1) "broadband ready" means a building with an internet connection capable of connecting to a broadband provider;

(2) "build green emerald" means the emerald level certification standard adopted by build green New Mexico, which includes water conservation standards and uses forty percent less energy than is required by the prescriptive path of the most current residential energy conservation code promulgated by the construction industries division of the regulation and licensing department;

(3) "build green gold" means the gold level certification standard adopted by build green New Mexico, which includes water conservation standards and uses thirty percent less energy than is required by the prescriptive path of the most current residential energy conservation code promulgated by the construction industries division of the regulation and licensing department;

(4) "electric vehicle ready" means a property that for commercial buildings provides at least ten percent of parking spaces and for residential buildings at least one parking space with one forty-ampere, two-hundred-eight-volt or two-hundred-forty-volt dedicated branch circuit for servicing electric vehicles that terminates in a suitable termination point, such as a receptacle or junction box, and is located in reasonably close proximity to the proposed location of the parking spaces;

(5) "energy rating system index" means a numerical score given to a building where one hundred is equivalent to the 2006 international energy conservation code and zero is equivalent to a net-zero home. As used in this paragraph, "net-zero home" means an energy-efficient home where, on a source energy basis, the actual annual delivered energy is less than or equal to the on-site renewable exported energy;

(6) "Energy Star" means products and devices certified under the energy star program administered by United States environmental protection agency and United States department of energy that meet the specified performance requirements at the installed locations;

(7) "fully electric building" means a building that uses a permanent supply of electricity as the source of energy for all space heating, water heating, including pools and spas, cooking appliances and clothes drying appliances and, in the case of a new building, has no natural gas or propane plumbing installed in the building or, in the case of an existing building, has no connected natural gas or propane plumbing;

(8) "LEED" means the most current leadership in energy and environmental design green building rating system guidelines developed and adopted by the United States green building council;

(9) "LEED-CI" means the LEED rating system for commercial interiors;

(10) "LEED-CS" means the LEED rating system for the core and shell of buildings;

(11) "LEED-EB" means the LEED rating system for existing buildings;

(12) "LEED gold" means the rating in compliance with, or exceeding, the second-highest rating awarded by the LEED certification process;

(13) "LEED-H" means the LEED rating system for homes;

(14) "LEED-NC" means the LEED rating system for new buildings and major renovations;

(15) "LEED platinum" means the rating in compliance with, or exceeding, the highest rating awarded by the LEED certification process;



(16) "low-income taxpayer" means a taxpayer with an annual household adjusted gross income equal to or less than two hundred percent of the federal poverty level guidelines published by the United States department of health and human services;

(17) "manufactured housing" means a multisectioned home that is:

(a) a manufactured home or modular home;

(b) a single-family dwelling with a heated area of at least thirty-six feet by twenty-four feet and a total area of at least eight hundred sixty-four square feet;

(c) constructed in a factory to the standards of the United States department of housing and urban development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or New Mexico construction codes up to the date of the unit's construction; and

(d) installed consistent with the Manufactured Housing Act and rules adopted pursuant to that act relating to permanent foundations;

(18) "qualified occupied square footage" means the occupied spaces of the building as determined by:

(a) the United States green building council for those buildings obtaining LEED certification;

(b) the administrators of the build green New Mexico rating system for those homes obtaining build green New Mexico certification; and

(c) the United States environmental protection agency for Energy Star-certified manufactured homes;

(19) "person" does not include state, local government, public school district or tribal agencies;

(20) "sustainable building" means either a sustainable commercial building or a sustainable residential building;

(21) "sustainable commercial building" means:

(a) a commercial building that is certified as any LEED platinum or gold for commercial buildings;

(b) a multifamily dwelling unit that is certified as LEED-H platinum or gold or build green emerald or gold and uses at least thirty percent less energy than is required by the prescriptive path of the most current applicable energy conservation code promulgated by the construction industries division of the regulation and licensing department for build green gold or LEED-H, or uses at least forty percent less energy than is required by the prescriptive path of the most current residential energy conservation code promulgated by the construction industries division of the regulation and licensing department for build green emerald or LEED platinum; or

(c) a building that: 1) is certified at LEED-NC, LEED-EB, LEED-CS or LEED-CI platinum or gold levels; 2) achieves any prerequisite for and at least one point related to commissioning under the LEED energy and atmosphere category, if included in the applicable rating system; and 3) has reduced energy consumption beginning January 1, 2012 by forty percent based on the national average for that building type as published by the United States department of energy as substantiated by the United States environmental protection agency target finder energy performance results form, dated no sooner than the schematic design phase of development;

(22) "sustainable residential building" means:

(a) a building used as a single-family residence that: 1) is certified as LEED-H platinum or gold or build green emerald or gold; 2) uses at least

thirty percent less energy than is required by the prescriptive path of the most current residential energy conservation code promulgated by the construction industries division of the regulation and licensing department for build green gold or LEED-H, or uses at least forty percent less energy than is required by the prescriptive path of the most current residential energy conservation code promulgated by the construction industries division of the regulation and licensing department for build green emerald or LEED platinum; 3) has indoor plumbing fixtures and water-using appliances that, on average, have flow rates equal to or lower than the flow rates required for certification by WaterSense; 4) if landscape area is available at the front of the property, has at least one water line outside the building below the frost line that may be connected to a drip irrigation system; and 5) if landscape area is available at the rear of the property, has at least one water line outside the building below the frost line that may be connected to a drip irrigation system; or

(b) manufactured housing that is Energy Star-qualified;

(23) "tribal" means of, belonging to or created by a federally recognized Indian nation, tribe or pueblo;

(24) "WaterSense" means a program created by the federal environmental protection agency that certifies water-using products that meet the environmental protection agency's criteria for efficiency and performance;

(25) "zero carbon certified" means a building that is certified as LEED zero carbon by achieving a carbon-dioxide-equivalent balance of zero for the building;

(26) "zero energy certified" means a building that is certified as LEED zero energy by achieving a source energy use balance of zero for the building;

(27) "zero waste certified" means a building that is certified as LEED zero waste by achieving green building certification incorporated's true zero waste certification at the platinum level; and

(28) "zero water certified" means a building that is certified as LEED zero water by achieving a potable water use balance of zero for the building."

## **Chapter 84 Section 3 Laws 2021**

SECTION 3. Section 7-2A-28 NMSA 1978 (being Laws 2015, Chapter 130, Section 2) is amended to read:

"7-2A-28. 2015 SUSTAINABLE BUILDING TAX CREDIT.--

A. The tax credit provided by this section may be referred to as the "2015 sustainable building tax credit". The 2015 sustainable building tax credit shall be available for the construction in New Mexico of a sustainable building, the renovation of an existing building in New Mexico into a sustainable building or the permanent installation of manufactured housing, regardless of where the housing is manufactured, that is a sustainable building; provided that the construction, renovation or installation project is completed prior to April 1, 2023. The tax credit provided in this section may not be claimed with respect to the same sustainable building for which the 2015 sustainable building tax credit provided in the Income Tax Act or the 2021 sustainable building tax credit pursuant to the Income Tax Act or the Corporate Income and Franchise Tax Act has been claimed.

B. The purpose of the 2015 sustainable building tax credit is to encourage the construction of sustainable buildings and the renovation of existing buildings into sustainable buildings.

C. A taxpayer that files a corporate income tax return is eligible to be granted a 2015 sustainable building tax credit by the department if the taxpayer submits a document issued pursuant to Subsection K of this section with the taxpayer's corporate income tax return.

D. For taxable years ending on or before December 31, 2024, the 2015 sustainable building tax credit may be claimed with respect to a sustainable commercial building. The credit shall be calculated based on the certification level the building has achieved in the LEED green building rating system and the amount of qualified occupied square footage in the building, as indicated on the following chart:

LEED Rating Level	Qualified Occupied Square Footage	Tax Credit per Square Foot
LEED-NC Silver	First 10,000	\$3.50
	Next 40,000	\$1.75
	Over 50,000	\$ .70
LEED-NC Gold	First 10,000	\$4.75
	Next 40,000	\$2.00
	Over 50,000	\$1.00
LEED-NC Platinum	First 10,000	\$6.25
	Next 40,000	\$3.25
	Over 50,000	\$2.00
LEED-EB or CS Silver	First 10,000	\$2.50
	Next 40,000	\$1.25
	Over 50,000	\$ .50
LEED-EB or CS Gold	First 10,000	\$3.35
	Next 40,000	\$1.40
	Over 50,000	\$ .70
LEED-EB or CS Platinum	First 10,000	\$4.40
	Next 40,000	\$2.30
	Over 50,000	

LEED-CI Silver	up to 500,000	\$1.40
	First 10,000	\$1.40
	Next 40,000	\$ .70
	Over 50,000	
LEED-CI Gold	up to 500,000	\$ .30
	First 10,000	\$1.90
	Next 40,000	\$ .80
	Over 50,000	
LEED-CI Platinum	up to 500,000	\$ .40
	First 10,000	\$2.50
	Next 40,000	\$1.30
	Over 50,000	
	up to 500,000	\$ .80.

E. For taxable years ending on or before December 31, 2024, the 2015 sustainable building tax credit may be claimed with respect to a sustainable residential building. The credit shall be calculated based on the amount of qualified occupied square footage, as indicated on the following chart:

Rating System/Level	Qualified Occupied Square Footage	Tax Credit per Square Foot
LEED-H Silver or Build Green NM Silver	Up to 2,000	\$3.00
LEED-H Gold or Build Green NM Gold	Up to 2,000	\$4.50
LEED-H Platinum or Build Green NM Emerald	Up to 2,000	\$6.50
Manufactured Housing	Up to 2,000	\$3.00.

F. A person that is a building owner may apply for a certificate of eligibility for the 2015 sustainable building tax credit from the energy, minerals and natural resources department after the construction, installation or renovation of the sustainable building is

complete. Applications shall be considered in the order received. If the energy, minerals and natural resources department determines that the building owner meets the requirements of this subsection and that the building with respect to which the tax credit application is made meets the requirements of this section as a sustainable residential building or a sustainable commercial building, the energy, minerals and natural resources department may issue a certificate of eligibility to the building owner, subject to the limitations in Subsection G of this section. The certificate shall include the rating system certification level awarded to the building, the amount of qualified occupied square footage in the building and a calculation of the maximum amount of 2015 sustainable building tax credit for which the building owner would be eligible. The energy, minerals and natural resources department may issue rules governing the procedure for administering the provisions of this subsection. If the certification level for the sustainable residential building is awarded on or after January 1, 2017 but prior to April 1, 2023, the energy, minerals and natural resources department may issue a certificate of eligibility to a building owner who is:

- (1) the owner of the sustainable residential building at the time the certification level for the building is awarded; or
- (2) the subsequent purchaser of a sustainable residential building with respect to which no tax credit has been previously claimed.

G. Except as provided in Subsection H of this section, the energy, minerals and natural resources department may issue a certificate of eligibility only if the total amount of 2015 sustainable building tax credits represented by certificates of eligibility issued by the energy, minerals and natural resources department pursuant to this section and pursuant to the Income Tax Act shall not exceed in any calendar year an aggregate amount of:

- (1) one million two hundred fifty thousand dollars (\$1,250,000) with respect to sustainable commercial buildings;

(2) three million three hundred seventy-five thousand dollars (\$3,375,000) with respect to sustainable residential buildings that are not manufactured housing; and

(3) three hundred seventy-five thousand dollars (\$375,000) with respect to sustainable residential buildings that are manufactured housing.

H. For any taxable year that the energy, minerals and natural resources department determines that applications for sustainable building tax credits for any type of sustainable building pursuant to Paragraph (1), (2) or (3) of Subsection G of this section are less than the aggregate limit for that type of sustainable building for that taxable year, the energy, minerals and natural resources department shall allow the difference between the aggregate limit and the applications to be added to the aggregate limit of another type of sustainable building for which applications exceeded the aggregate limit for that taxable year. Any excess not used in a taxable year shall not be carried forward to subsequent taxable years.

I. Installation of a solar thermal system or a photovoltaic system eligible for the solar market development tax credit pursuant to Section 7-2-18.14 NMSA 1978 may not be used as a component of qualification for the rating system certification level used in determining eligibility for the 2015 sustainable building tax credit, unless a solar market development tax credit pursuant to Section 7-2-18.14 NMSA 1978 has not been claimed with respect to that system and the building owner and the taxpayer claiming the 2015 sustainable building tax credit certify that such a tax credit will not be claimed with respect to that system.

J. To be eligible for the 2015 sustainable building tax credit, the building owner shall provide to the taxation and revenue department a certificate of eligibility issued by the energy, minerals and natural resources department pursuant to the requirements of Subsection F of this section and any other information the taxation and revenue department may require to determine the amount of the tax credit for which the building owner is eligible.



K. If the requirements of this section have been complied with, the department shall issue to the building owner a document granting a 2015 sustainable building tax credit. The document shall be numbered for identification and declare its date of issuance and the amount of the tax credit allowed pursuant to this section. The document may be submitted by the building owner with that taxpayer's income tax return, if applicable, or may be sold, exchanged or otherwise transferred to another taxpayer. The parties to such a transaction shall notify the department of the sale, exchange or transfer within ten days of the sale, exchange or transfer.

L. If the approved amount of a 2015 sustainable building tax credit for a taxpayer in a taxable year represented by a document issued pursuant to Subsection K of this section is:

(1) less than one hundred thousand dollars (\$100,000), a maximum of twenty-five thousand dollars (\$25,000) shall be applied against the taxpayer's corporate income tax liability for the taxable year for which the credit is approved and the next three subsequent taxable years as needed depending on the amount of credit; or

(2) one hundred thousand dollars (\$100,000) or more, increments of twenty-five percent of the total credit amount in each of the four taxable years, including the taxable year for which the credit is approved and the three subsequent taxable years, shall be applied against the taxpayer's corporate income tax liability.

M. If the sum of all 2015 sustainable building tax credits that can be applied to a taxable year for a taxpayer, calculated according to Paragraph (1) or (2) of Subsection L of this section, exceeds the taxpayer's corporate income tax liability for that taxable year, the excess may be carried forward for a period of up to seven years.

N. A taxpayer that otherwise qualifies and claims a 2015 sustainable building tax credit with respect to a sustainable building owned by a partnership or other business association of which the taxpayer is a member may claim a credit only in proportion to that taxpayer's interest in the partnership or association. The total credit claimed in the aggregate by all members of the partnership or association with respect

to the sustainable building shall not exceed the amount of the credit that could have been claimed by a sole owner of the property.

O. The department shall compile an annual report on the 2015 sustainable building tax credit created pursuant to this section that shall include the number of taxpayers approved by the department to receive the tax credit, the aggregate amount of tax credits approved and any other information necessary to evaluate the effectiveness of the tax credit. Beginning in 2019 and every three years thereafter that the credit is in effect, the department shall compile and present the annual reports to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the tax credit and whether the tax credit is performing the purpose for which it was created.

P. For the purposes of this section:

(1) "build green New Mexico rating system" means the certification standards adopted by build green New Mexico in November 2014, which include water conservation standards;

(2) "LEED-CI" means the LEED rating system for commercial interiors;

(3) "LEED-CS" means the LEED rating system for the core and shell of buildings;

(4) "LEED-EB" means the LEED rating system for existing buildings;

(5) "LEED gold" means the rating in compliance with, or exceeding, the second-highest rating awarded by the LEED certification process;

(6) "LEED" means the most current leadership in energy and environmental design green building rating system guidelines developed and adopted by the United States green building council;

- (7) "LEED-H" means the LEED rating system for homes;
- (8) "LEED-NC" means the LEED rating system for new buildings and major renovations;
- (9) "LEED platinum" means the rating in compliance with, or exceeding, the highest rating awarded by the LEED certification process;
- (10) "LEED silver" means the rating in compliance with, or exceeding, the third-highest rating awarded by the LEED certification process;
- (11) "manufactured housing" means a multisectioned home that is:
  - (a) a manufactured home or modular home;
  - (b) a single-family dwelling with a heated area of at least thirty-six feet by twenty-four feet and a total area of at least eight hundred sixty-four square feet;
  - (c) constructed in a factory to the standards of the United States department of housing and urban development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or New Mexico construction codes up to the date of the unit's construction; and
  - (d) installed consistent with the Manufactured Housing Act and rules adopted pursuant to that act relating to permanent foundations;
- (12) "qualified occupied square footage" means the occupied spaces of the building as determined by:
  - (a) the United States green building council for those buildings obtaining LEED certification;

(b) the administrators of the build green New Mexico rating system for those homes obtaining build green New Mexico certification; and

(c) the United States environmental protection agency for ENERGY STAR-certified manufactured homes;

(13) "person" does not include state, local government, public school district or tribal agencies;

(14) "sustainable building" means either a sustainable commercial building or a sustainable residential building;

(15) "sustainable commercial building" means a multifamily dwelling unit, as registered and certified under the LEED-H or build green New Mexico rating system, that is certified by the United States green building council as LEED-H silver or higher or by build green New Mexico as silver or higher and has achieved a home energy rating system index of sixty or lower as developed by the residential energy services network or a building that has been registered and certified under the LEED-NC, LEED-EB, LEED-CS or LEED-CI rating system and that:

(a) is certified by the United States green building council at LEED silver or higher;

(b) achieves any prerequisite for and at least one point related to commissioning under LEED "energy and atmosphere", if included in the applicable rating system; and

(c) has reduced energy consumption beginning January 1, 2012, by sixty percent based on the national average for that building type as published by the United States department of energy as substantiated by the United States environmental protection agency target finder energy performance results form, dated no sooner than the schematic design phase of development;

(16) "sustainable residential building" means:

(a) a building used as a single-family residence as registered and certified under the build green New Mexico or LEED-H rating systems that: 1) is certified by the United States green building council as LEED-H silver or higher or by build green New Mexico as silver or higher; 2) has achieved a home energy rating system index of sixty or lower as developed by the residential energy services network; 3) has indoor plumbing fixtures and water-using appliances that, on average, have flow rates equal to or lower than the flow rates required for certification by WaterSense; 4) if landscape area is available at the front of the property, has at least one water line outside the building below the frost line that may be connected to a drip irrigation system; and 5) if landscape area is available at the rear of the property, has at least one water line outside the building below the frost line that may be connected to a drip irrigation system; or

(b) manufactured housing that is ENERGY STAR-qualified by the United States environmental protection agency;

(17) "tribal" means of, belonging to or created by a federally recognized Indian nation, tribe or pueblo; and

(18) "WaterSense" means a program created by the federal environmental protection agency that certifies water-using products that meet the environmental protection agency's criteria for efficiency and performance."

## **Chapter 84 Section 4 Laws 2021**

SECTION 4. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

"2021 SUSTAINABLE BUILDING TAX CREDIT.--

A. The tax credit provided by this section may be referred to as the "2021 sustainable building tax credit". For taxable years prior to January 1, 2030, a taxpayer that is a building owner and files a corporate income tax return is eligible to be granted a 2021 sustainable building tax credit by the department if the requirements of this section are met. The 2021 sustainable building tax credit shall be available for the construction in New Mexico of a sustainable building, the renovation of an existing building in New Mexico, the permanent installation of manufactured housing, regardless of where the housing is manufactured, that is a sustainable building or the installation of energy-conserving products to existing buildings in New Mexico, as provided in this section. The tax credit provided in this section may not be claimed with respect to the same sustainable building for which the 2021 sustainable building tax credit provided in the Income Tax Act or the 2015 sustainable building tax credit pursuant to the Income Tax Act or the Corporate Income and Franchise Tax Act has been claimed.

B. The amount of a 2021 sustainable building tax credit shall be determined as follows:

(1) for the construction of a new sustainable commercial building that is broadband ready and electric vehicle ready and is completed on or after April 1, 2023, the amount of credit shall be calculated:

(a) based on the certification level the building has achieved in the rating level and the amount of qualified occupied square footage in the building, as indicated on the following chart:

Rating Level	Qualified Occupied Square Footage	Tax Credit per Square Foot
LEED-NC Platinum	First 10,000	\$5.25
	Next 40,000	\$2.25
	Over 50,000 up to 200,000	\$1.00
LEED-EB or CS Platinum	First 10,000	\$3.40

	Next 40,000	\$1.30
	Over 50,000	
	up to 200,000	\$0.35
LEED-CI Platinum	First 10,000	\$1.50
	Next 40,000	\$0.40
	Over 50,000	
	up to 200,000	\$0.30
LEED-NC Gold	First 10,000	\$3.00
	Next 40,000	\$1.00
	Over 50,000	
	up to 200,000	\$0.25
LEED-EB or -CS Gold	First 10,000	\$2.00
	Next 40,000	\$1.00
	Over 50,000	
	up to 200,000	\$0.25
LEED-CI Gold	First 10,000	\$0.90
	Next 40,000	\$0.40
	Over 50,000	
	up to 200,000	\$0.10; and

(b) with additional amounts based on the additional criteria and the amount of qualified occupied square footage, as indicated in the following chart:

Additional Criteria	Qualified Occupied Square Footage	Tax Credit per Square Foot
Fully Electric Building	First 50,000	\$1.00
	Over 50,000	
	up to 200,000	\$0.50
Zero Carbon, Energy, Waste or Water Certified	First 50,000	\$0.25
	Over 50,000	
	up to 200,000	\$0.10;

(2) for the renovation of a commercial building that was built at least ten years prior to the date of the renovation, has twenty thousand square feet or more of space in which temperature is controlled and is broadband ready and electric vehicle ready, the amount of credit shall be calculated by multiplying two dollars twenty-five cents (\$2.25) by the amount of qualified occupied square footage in the building, up to a maximum of one hundred fifty thousand dollars (\$150,000) per renovation; provided that the renovation reduces total energy and power costs by fifty percent when compared to the most current energy standard for buildings except low-rise residential buildings, as developed by the American society of heating, refrigerating and air-conditioning engineers;

(3) for the installation of the following energy-conserving products to an existing commercial building with less than twenty thousand square feet of space in which temperature is controlled that is broadband ready, the amount of credit shall be based on the cost of the product installed, which shall include installation costs, and if the building is affordable housing, per product installed:

Product	Amount of Credit	
	Affordable Housing	Non-Affordable Housing
Energy Star Air Source Heat Pump	\$2,000	\$1,000
Energy Star Ground Source Heat Pump	\$2,000	\$1,000
Energy Star Windows and Doors	100% of product cost up to \$1,000	50% of product cost up to \$500
Insulation Improvements That Meet Rules of the Energy, Minerals and Natural Resources Department	100% of product cost up to	50% of product cost up to



	\$2,000	\$1,000
Energy Star Heat Pump Water Heater	\$700	\$350
Electric Vehicle Ready	100% of product cost up to \$3,000	50% of product cost up to \$1,500;

(4) for the construction of a new sustainable residential building that is broadband ready and electric vehicle ready and is completed on or after April 1, 2023, the amount of credit shall be calculated:

(a) based on the certification level the building has achieved in the rating level and the amount of qualified occupied square footage in the building, as indicated on the following chart:

Rating Level	Qualified Occupied Square Footage	Tax Credit per Square Foot
LEED-H Platinum	Up to 2,000	\$5.50
LEED-H Gold	Up to 2,000	\$3.80
Build Green Emerald	Up to 2,000	\$5.50
Build Green Gold	Up to 2,000	\$3.80
Manufactured Housing	Up to 2,000	\$2.00; and

(b) with additional amounts based on the additional criteria and the amount of qualified occupied square footage, as indicated in the following chart:

Additional Criteria	Qualified Occupied Square Footage	Tax Credit per Square Foot
Fully Electric Building	Up to 2,000	\$1.00
Zero Carbon, Energy, Waste or Water Certified	Up to 2,000	\$0.25; and

(5) for the installation of the following energy-conserving products to an existing residential building, the amount of credit shall be based on the cost of the product installed, which shall include installation costs, and if the building is affordable housing or the taxpayer is a low-income taxpayer, per product installed:

Product	Amount of Credit	
	Affordable Housing and Low-Income	Non-Affordable Housing and Non-Low Income
Energy Star Air Source Heat Pump	\$2,000	\$1,000
Energy Star Ground Source Heat Pump	\$2,000	\$1,000
Energy Star Windows and Doors	100% of product cost up to \$1,000	50% of product cost up to \$500
Insulation Improvements That Meet Rules of the Energy, Minerals and Natural Resources Department	100% of product cost up to \$2,000	50% of product cost up to \$1,000
Energy Star Heat Pump Water Heater	\$700	\$350
Electric Vehicle Ready	\$1,000	\$500.

C. A person that is a building owner may apply for a certificate of eligibility for the 2021 sustainable building tax credit from the energy, minerals and natural resources department after the construction, installation or renovation of the sustainable building or installation of energy-conserving products in an existing building is complete. Applications shall be considered in the order received. If the energy, minerals and natural resources department determines that the building owner meets the

requirements of this subsection and that the building with respect to which the application is made meets the requirements of this section for a 2021 sustainable building tax credit, the energy, minerals and natural resources department may issue a certificate of eligibility to the building owner, subject to the limitations in Subsection D of this section. The certificate shall include the rating system certification level awarded to the building, the amount of qualified occupied square footage in the building, a calculation of the maximum amount of 2021 sustainable building tax credit for which the building owner would be eligible, the identification number, date of issuance and the first taxable year that the credit shall be claimed. The energy, minerals and natural resources department may issue rules governing the procedure for administering the provisions of this subsection. If the certification level for the sustainable residential building is awarded on or after January 1, 2021, the energy, minerals and natural resources department may issue a certificate of eligibility to a building owner who is:

- (1) the owner of the sustainable residential building at the time the certification level for the building is awarded; or
- (2) the subsequent purchaser of a sustainable residential building with respect to which no tax credit has been previously claimed.

D. Except as provided in Subsection E of this section, the energy, minerals and natural resources department may issue a certificate of eligibility only if the total amount of 2021 sustainable building tax credits represented by certificates of eligibility issued by the energy, minerals and natural resources department pursuant to this section and pursuant to the Income Tax Act shall not exceed in any calendar year an aggregate amount of:

- (1) one million dollars (\$1,000,000) with respect to the construction of new sustainable commercial buildings;
- (2) two million dollars (\$2,000,000) with respect to the construction of new sustainable residential buildings that are not manufactured housing;

(3) two hundred fifty thousand dollars (\$250,000) with respect to the construction of new sustainable residential buildings that are manufactured housing;

(4) one million dollars (\$1,000,000) with respect to the renovation of large commercial buildings; and

(5) two million nine hundred thousand dollars (\$2,900,000) with respect to the installation of energy-conserving products in existing commercial buildings pursuant to Paragraph (3) of Subsection B of this section and existing residential buildings pursuant to Paragraph (5) of Subsection B of this section.

E. For any taxable year that the energy, minerals and natural resources department determines that applications for sustainable building tax credits for any type of sustainable building pursuant to Subsection D of this section are less than the aggregate limit for that type of sustainable building for that taxable year, the energy, minerals and natural resources department shall allow the difference between the aggregate limit and the applications to be added to the aggregate limit of another type of sustainable building for which applications exceeded the aggregate limit for that taxable year. Any excess not used in a taxable year shall not be carried forward to subsequent taxable years.

F. Installation of a solar thermal system or a photovoltaic system eligible for the solar market development tax credit pursuant to Section 7-2-18.14 NMSA 1978 shall not be used as a component of qualification for the rating system certification level used in determining eligibility for the 2021 sustainable building tax credit, unless a solar market development tax credit pursuant to Section 7-2-18.14 NMSA 1978 has not been claimed with respect to that system and the building owner and the taxpayer claiming the 2021 sustainable building tax credit certify that such a tax credit will not be claimed with respect to that system.

G. To claim the 2021 sustainable building tax credit, the building owner shall provide to the taxation and revenue department a certificate of eligibility issued by the energy, minerals and natural resources department pursuant to the requirements of

Subsection C of this section and any other information the taxation and revenue department may require.

H. If the approved amount of a 2021 sustainable building tax credit for a taxpayer in a taxable year represented by a document issued pursuant to Subsection C of this section is:

(1) less than one hundred thousand dollars (\$100,000), a maximum of twenty-five thousand dollars (\$25,000) shall be applied against the taxpayer's corporate income tax liability for the taxable year for which the credit is approved and the next three subsequent taxable years as needed depending on the amount of credit; or

(2) one hundred thousand dollars (\$100,000) or more, increments of twenty-five percent of the total credit amount in each of the four taxable years, including the taxable year for which the credit is approved and the three subsequent taxable years, shall be applied against the taxpayer's corporate income tax liability.

I. If the sum of all 2021 sustainable building tax credits that can be applied to a taxable year for a taxpayer, calculated according to Paragraph (1) or (2) of Subsection H of this section, exceeds the taxpayer's corporate income tax liability for that taxable year, the excess may be carried forward for a period of up to seven years.

J. A taxpayer that otherwise qualifies and claims a 2021 sustainable building tax credit with respect to a sustainable building owned by a partnership or other business association of which the taxpayer is a member may claim a credit only in proportion to that taxpayer's interest in the partnership or association. The total credit claimed in the aggregate by all members of the partnership or association with respect to the sustainable building shall not exceed the amount of the credit that could have been claimed by a sole owner of the property.

K. If the requirements of this section have been complied with, the department shall issue to the building owner a document granting a 2021 sustainable building tax credit. The document shall be numbered for identification and declare its

date of issuance and the amount of the tax credit allowed pursuant to this section. The document may be submitted by the building owner with that taxpayer's income tax return, if applicable, or may be sold, exchanged or otherwise transferred to another taxpayer. The parties to such a transaction shall notify the department of the sale, exchange or transfer within ten days of the sale, exchange or transfer.

L. The department and the energy, minerals and natural resources department shall compile an annual report on the 2021 sustainable building tax credit created pursuant to this section that shall include the number of taxpayers approved to receive the tax credit, the aggregate amount of tax credits approved and any other information necessary to evaluate the effectiveness of the tax credit. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the tax credit.

M. For the purposes of this section:

(1) "broadband ready" means a building with an internet connection capable of connecting to a broadband provider;

(2) "build green emerald" means the emerald level certification standard adopted by build green New Mexico, which includes water conservation standards and uses forty percent less energy than is required by the prescriptive path of the most current residential energy conservation code promulgated by the construction industries division of the regulation and licensing department;

(3) "build green gold" means the gold level certification standard adopted by build green New Mexico, which includes water conservation standards and uses thirty percent less energy than is required by the prescriptive path of the most current residential energy conservation code promulgated by the construction industries division of the regulation and licensing department;

(4) "electric vehicle ready" means a property that provides for commercial buildings at least ten percent of parking spaces and for residential buildings at least one parking space with one forty-ampere, two-hundred-eight-volt or two-hundred-forty-volt dedicated branch circuit for servicing electric vehicles that terminates in a suitable termination point, such as a receptacle or junction box, and is located in reasonably close proximity to the proposed location of the parking spaces;

(5) "energy rating system index" means a numerical score given to a building where one hundred is equivalent to the 2006 international energy conservation code and zero is equivalent to a net-zero home. As used in this paragraph, "net-zero home" means an energy-efficient home where, on a source energy basis, the actual annual delivered energy is less than or equal to the on-site renewable exported energy;

(6) "Energy Star" means products and devices certified under the energy star program administered by United States environmental protection agency and United States department of energy that meet the specified performance requirements at the installed locations;

(7) "fully electric building" means a building that uses a permanent supply of electricity as the source of energy for all space heating, water heating, including pools and spas, cooking appliances and clothes drying appliances and, in the case of a new building, has no natural gas or propane plumbing installed in the building or, in the case of an existing building, has no connected natural gas or propane plumbing;

(8) "LEED" means the most current leadership in energy and environmental design green building rating system guidelines developed and adopted by the United States green building council;

(9) "LEED-CI" means the LEED rating system for commercial interiors;

(10) "LEED-CS" means the LEED rating system for the core and shell of buildings;

(11) "LEED-EB" means the LEED rating system for existing buildings;

(12) "LEED gold" means the rating in compliance with, or exceeding, the second-highest rating awarded by the LEED certification process;

(13) "LEED-H" means the LEED rating system for homes;

(14) "LEED-NC" means the LEED rating system for new buildings and major renovations;

(15) "LEED platinum" means the rating in compliance with, or exceeding, the highest rating awarded by the LEED certification process;

(16) "low-income taxpayer" means a taxpayer with an annual household adjusted gross income equal to or less than two hundred percent of the federal poverty level guidelines published by the United States department of health and human services;

(17) "manufactured housing" means a multisectioned home that is:

(a) a manufactured home or modular home;

(b) a single-family dwelling with a heated area of at least thirty-six feet by twenty-four feet and a total area of at least eight hundred sixty-four square feet;

(c) constructed in a factory to the standards of the United States department of housing and urban development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or New Mexico construction codes up to the date of the unit's construction; and



(d) installed consistent with the Manufactured Housing Act and rules adopted pursuant to that act relating to permanent foundations;

(18) "qualified occupied square footage" means the occupied spaces of the building as determined by:

(a) the United States green building council for those buildings obtaining LEED certification;

(b) the administrators of the build green New Mexico rating system for those homes obtaining build green New Mexico certification; and

(c) the United States environmental protection agency for Energy Star-certified manufactured homes;

(19) "person" does not include state, local government, public school district or tribal agencies;

(20) "sustainable building" means either a sustainable commercial building or a sustainable residential building;

(21) "sustainable commercial building" means:

(a) a commercial building that is certified as any LEED platinum or gold for commercial buildings;

(b) a multifamily dwelling unit that is certified as LEED-H platinum or gold or build green emerald or gold and uses at least thirty percent less energy than is required by the prescriptive path of the most current applicable energy conservation code promulgated by the construction industries division of the regulation and licensing department for build green gold or LEED-H, or uses at least forty percent less energy than is required by the prescriptive path of the most current residential

energy conservation code promulgated by the construction industries division of the regulation and licensing department for build green emerald or LEED platinum; or

(c) a building that: 1) is certified at LEED-NC, LEED-EB, LEED-CS or LEED-CI platinum or gold levels; 2) achieves any prerequisite for and at least one point related to commissioning under the LEED energy and atmosphere category, if included in the applicable rating system; and 3) has reduced energy consumption beginning January 1, 2012 by forty percent based on the national average for that building type as published by the United States department of energy as substantiated by the United States environmental protection agency target finder energy performance results form, dated no sooner than the schematic design phase of development;

(22) "sustainable residential building" means:

(a) a building used as a single-family residence that: 1) is certified as LEED-H platinum or gold or build green emerald or gold; 2) uses at least thirty percent less energy than is required by the prescriptive path of the most current residential energy conservation code promulgated by the construction industries division of the regulation and licensing department for build green gold or LEED-H, or uses at least forty percent less energy than is required by the prescriptive path of the most current residential energy conservation code promulgated by the construction industries division of the regulation and licensing department for build green emerald or LEED platinum; 3) has indoor plumbing fixtures and water-using appliances that, on average, have flow rates equal to or lower than the flow rates required for certification by WaterSense; 4) if landscape area is available at the front of the property, has at least one water line outside the building below the frost line that may be connected to a drip irrigation system; and 5) if landscape area is available at the rear of the property, has at least one water line outside the building below the frost line that may be connected to a drip irrigation system; or

(b) manufactured housing that is Energy Star-qualified;

(23) "tribal" means of, belonging to or created by a federally recognized Indian nation, tribe or pueblo;

(24) "WaterSense" means a program created by the federal environmental protection agency that certifies water-using products that meet the environmental protection agency's criteria for efficiency and performance;

(25) "zero carbon certified" means a building that is certified as LEED zero carbon by achieving a carbon-dioxide-equivalent balance of zero for the building;

(26) "zero energy certified" means a building that is certified as LEED zero energy by achieving a source energy use balance of zero for the building;

(27) "zero waste certified" means a building that is certified as LEED zero waste by achieving green building certification incorporated's true zero waste certification at the platinum level; and

(28) "zero water certified" means a building that is certified as LEED zero water by achieving a potable water use balance of zero for the building."

## **Chapter 84 Section 5 Laws 2021**

SECTION 5. APPLICABILITY.--The provisions of Sections 2 and 4 of this act apply to taxable years beginning on or after January 1, 2021.

# **LAWS 2021, CHAPTER 85**

**House Bill 23, aa**  
**Approved April 6, 2021**

AN ACT

RELATING TO HIGHER EDUCATION; ADDING REQUIREMENTS FOR THE LICENSURE OF MEDICAL SCHOOLS.

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

## **Chapter 85 Section 1 Laws 2021**

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

"MEDICAL SCHOOL LICENSURE REQUIREMENTS.--

A. Prior to issuing or renewing a license to operate a medical school in New Mexico, the higher education department shall require a medical school to:

(1) for the purpose of providing third- and fourth-year medical student training, demonstrate that the school has obtained executed agreements with at least four clinical affiliates in New Mexico that have sufficient capacity to provide access to a comprehensive training program for its students. The medical school shall ensure that these agreements represent urban, rural and frontier areas;

(2) obtain the required number of executed agreements and faculty credentialed appointments from New Mexico-based preceptors as defined by the medical school applicant's programmatic accreditor; and

(3) for the purpose of building new graduate medical education residency training, demonstrate the ability to facilitate the creation of such new graduate medical education residency programs within New Mexico, with a preference for primary care programs as defined by the state, in urban, frontier and rural medical facilities. At a minimum, the medical school applicant shall demonstrate and provide documentation that the applicant is the procuring cause for the creation of at least one first-year resident position in New Mexico for every ten students in the applicant's initial approved

class size. When possible, preference shall be given to primary care programs in urban, frontier and rural areas.

B. The higher education department shall maintain an appeals process for medical schools in New Mexico that have had a license denied by the higher education department.

C. As used in this section:

(1) "clinical affiliate" means a hospital, physician office, outpatient medical clinic or center, surgical center or health department;

(2) "comprehensive training" means that the clinical affiliate has the capability to provide all of the following services within its premises: inpatient adult medical and surgical services, pediatrics, labor and delivery, emergency room and critical care services;

(3) "executed agreement" means an agreement signed by the designated medical school official and designated official of the institution providing access for medical students to clinical rotations and education;

(4) "faculty credentialed" means the process by which the medical school ensures that the physicians providing clinical education have the required education, training and licensure to practice medicine;

(5) "graduate medical education" means any type of formal medical education pursued after receipt of an allopathic or osteopathic physician degree. Graduate medical education includes internship, residency, subspecialty and fellowship programs, in all fields of medicine and surgery, recognized by and enabling state licensure in New Mexico;

(6) "medical school" means a tertiary educational institution, or part of such an institution, that teaches medicine and awards a professional degree for

physicians and surgeons, including a bachelor of medicine, bachelor of surgery, doctor of medicine or doctor of osteopathic medicine;

(7) "preceptors" means licensed, practicing allopathic or osteopathic physicians who, under a faculty appointment with a medical school, mentor medical students and provide clinical education for core and elective clerkship rotations;

(8) "primary care" means family medicine, general psychiatry, general internal medicine, general pediatrics and pediatric medicine;

(9) "procuring cause" means evidence that the medical school has created graduate medical education positions in the state, either at the medical school's own medical facility or through partnerships with third-party clinical affiliates; and

(10) "programmatic accreditor" means, for allopathic physicians, the liaison committee on medical education and for osteopathic physicians, the commission on osteopathic college accreditation."

## **LAWS 2021, CHAPTER 86**

**House Bill 66, aa**  
**Approved April 6, 2021**

AN ACT

RELATING TO SECURED TRANSACTIONS; CONFORMING PROVISIONS OF THE UNIFORM COMMERCIAL CODE TO THE OFFICIAL TEXT; MAKING CONFORMING AMENDMENTS; REPEALING SECTION 55-1-110 NMSA 1978 (BEING LAWS 2015, CHAPTER 54, SECTION 8).

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

## Chapter 86 Section 1 Laws 2021

SECTION 1. Section 55-9-102 NMSA 1978 (being Laws 2001, Chapter 139, Section 2, as amended) is amended to read:

"55-9-102. DEFINITIONS AND INDEX OF DEFINITIONS.--

(a) In Chapter 55, Article 9 NMSA 1978:

(1) "accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost;

(2) "account", except as used in "account for":

(A) means a right to payment of a monetary obligation, whether or not earned by performance:

(i) for property that has been or is to be sold, leased, licensed, assigned or otherwise disposed of;

(ii) for services rendered or to be rendered;

(iii) for a policy of insurance issued or to be issued;

(iv) for a secondary obligation incurred or to be incurred;

(v) for energy provided or to be provided;

(vi) for the use or hire of a vessel under a charter or other contract;

(vii) arising out of the use of a credit or charge card or information contained on or for use with the card; or

(viii) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state or person licensed or authorized to operate the game by a state or governmental unit of a state; and

(B) includes health-care-insurance receivables; but

(C) does not include:

instrument;

(i) rights to payment evidenced by chattel paper or an

(ii) commercial tort claims;

(iii) deposit accounts;

(iv) investment property;

(v) letter-of-credit rights or letters of credit; or

(vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card;

(3) "account debtor" means a person obligated on an account, chattel paper or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper;

(4) "accounting", except as used in "accounting for", means a record:



- (A) authenticated by a secured party;
  - (B) indicating the aggregate unpaid secured obligations as of a date not more than thirty-five days earlier or thirty-five days later than the date of the record; and
  - (C) identifying the components of the obligations in reasonable detail;
- (5) "agricultural lien" means an interest in farm products:
- (A) that secures payment or performance of an obligation for:
    - (i) goods or services furnished in connection with a debtor's farming operation; or
    - (ii) rent on real property leased by a debtor in connection with its farming operation;
  - (B) that is created by statute in favor of a person that:
    - (i) in the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation; or
    - (ii) leased real property to a debtor in connection with the debtor's farming operation; and
  - (C) whose effectiveness does not depend on the person's possession of the personal property;
- (6) "as-extracted collateral" means:

(A) oil, gas or other minerals that are subject to a security interest that:

(i) is created by a debtor having an interest in the minerals before extraction; and

(ii) attaches to the minerals as extracted; or

(B) accounts arising out of the sale at the wellhead or minehead of oil, gas or other minerals in which the debtor had an interest before extraction;

(7) "authenticate" means to:

(A) sign; or

(B) with present intent to adopt or accept a record, to attach to or logically associate with the record an electronic sound, symbol or process;

(8) "bank" means an organization that is engaged in the business of banking and includes savings banks, savings and loan associations, credit unions and trust companies;

(9) "cash proceeds" means proceeds that are money, checks, deposit accounts or the like;

(10) "certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. The term includes another record maintained as an alternative to a certificate of title by the governmental unit that issues certificates of title if a statute permits the security interest in question to be indicated on the record as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral;

(11) "chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods or a lease of specific goods and license of software used in the goods. In this paragraph, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term does not include:

(A) charters or other contracts involving the use or hire of a vessel; or

(B) records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card. If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper;

(12) "collateral" means the property subject to a security interest or agricultural lien and includes:

(A) proceeds to which a security interest attaches;

(B) accounts, chattel paper, payment intangibles and promissory notes that have been sold; and

(C) goods that are the subject of a consignment;

(13) "commercial tort claim" means a claim arising in tort with respect to which:

(A) the claimant is an organization; or

(B) the claimant is an individual and the claim:

(i) arose in the course of the claimant's business or profession; and

(ii) does not include damages arising out of personal injury to or the death of an individual;

(14) "commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer;

(15) "commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option or another contract if the contract or option is:

(A) traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

(B) traded on a foreign commodity board of trade, exchange or market, and is carried on the books of a commodity intermediary for a commodity customer;

(16) "commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books;

(17) "commodity intermediary" means a person that:

(A) is registered as a futures commission merchant under federal commodities law; or

(B) in the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law;

(18) "communicate" means:

(A) to send a written or other tangible record;

(B) to transmit a record by any means agreed upon by the persons sending and receiving the record; or

(C) in the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule;

(19) "consignee" means a merchant to which goods are delivered in a consignment;

(20) "consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

(A) the merchant:

(i) deals in goods of that kind under a name other than the name of the person making delivery;

(ii) is not an auctioneer; and

(iii) is not generally known by its creditors to be substantially engaged in selling the goods of others;

(B) with respect to each delivery, the aggregate value of the goods is one thousand dollars (\$1,000) or more at the time of delivery;

(C) the goods are not consumer goods immediately before delivery; and

(D) the transaction does not create a security interest that secures an obligation;

(21) "consignor" means a person that delivers goods to a consignee in a consignment;

(22) "consumer debtor" means a debtor in a consumer transaction;

(23) "consumer goods" means goods that are used or bought for use primarily for personal, family or household purposes;

(24) "consumer-goods transaction" means a consumer transaction in which:

(A) an individual incurs an obligation primarily for personal, family or household purposes; and

(B) a security interest in consumer goods secures the obligation;

(25) "consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family or household purposes;

(26) "consumer transaction" means a transaction in which:

(A) an individual incurs an obligation primarily for personal, family or household purposes;

(B) a security interest secures the obligation; and

(C) the collateral is held or acquired primarily for personal, family or household purposes. The term includes consumer-goods transactions;

(27) "continuation statement" means an amendment of a financing statement that:

(A) identifies, by its file number, the initial financing statement to which it relates; and

(B) indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement;

(28) "debtor" means:

(A) a person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

(B) a seller of accounts, chattel paper, payment intangibles or promissory notes; or

(C) a consignee;

(29) "deposit account" means a demand, time, savings, passbook or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument;

(30) "document" means a document of title or a receipt of the type described in Subsection (b) of Section 55-7-201 NMSA 1978;

(31) "electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium;

(32) "encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property;

(33) "equipment" means goods other than inventory, farm products or consumer goods;

(34) "farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and that are:

(A) crops grown, growing or to be grown, including:

(i) crops produced on trees, vines and bushes; and

(ii) aquatic goods produced in aquacultural operations;

(B) livestock, born or unborn, including aquatic goods produced in aquacultural operations;

(C) supplies used or produced in a farming operation; or

(D) products of crops or livestock in their unmanufactured states;

(35) "farming operation" means raising, cultivating, propagating, fattening, grazing or any other farming, livestock or aquacultural operation;

(36) "file number" means the number assigned to an initial financing statement pursuant to Subsection (a) of Section 55-9-519 NMSA 1978;

(37) "filing office" means an office designated in Section 55-9-501 NMSA 1978 as the place to file a financing statement;

(38) "filing-office rule" means a rule adopted pursuant to Section 55-9-526 NMSA 1978;



(39) "financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement;

(40) "fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying Subsections (a) and (b) of Section 55-9-502 NMSA 1978. The term includes the filing of a financing statement covering goods of a transmitting utility that are or are to become fixtures;

(41) "fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law;

(42) "general intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money and oil, gas or other minerals before extraction. The term includes payment intangibles and software;

(43) "good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing;

(44) "goods" means all things that are movable when a security interest attaches and:

(A) includes:

(i) fixtures;

(ii) standing timber that is to be cut and removed under a conveyance or contract for sale;

(iii) the unborn young of animals;

(iv) crops grown, growing or to be grown, even if the crops are produced on trees, vines or bushes;

(v) manufactured homes; and

(vi) a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if the program is associated with the goods in such a manner that it customarily is considered part of the goods, or by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods; but

(B) does not include:

(i) a computer program embedded in goods that consist solely of the medium in which the program is embedded; or

(ii) accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money or oil, gas or other minerals before extraction;

(45) "governmental unit" means a subdivision, agency, department, county, parish, municipality or other unit of the government of the United States, a state or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States;

(46) "health-care-insurance receivable" means an interest in or claim under a policy of insurance that is a right to payment of a monetary obligation for health care goods or services provided or to be provided;

(47) "instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security

agreement or lease and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment. The term does not include:

(A) investment property;

(B) letters of credit; or

(C) writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card;

(48) "inventory" means goods, other than farm products, that:

(A) are leased by a person as lessor;

(B) are held by a person for sale or lease or to be furnished under a contract of service;

(C) are furnished by a person under a contract of service; or

(D) consist of raw materials, work in process or materials used or consumed in a business;

(49) "investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract or commodity account;

(50) "jurisdiction of organization", with respect to a registered organization, means the jurisdiction under whose law the organization is formed or organized;

(51) "letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time

entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit;

(52) "lien creditor" means:

(A) a creditor that has acquired a lien on the property involved by attachment, levy or the like;

(B) an assignee for benefit of creditors from the time of assignment;

(C) a trustee in bankruptcy from the date of the filing of the petition; or

(D) a receiver in equity from the time of appointment;

(53) "manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States secretary of housing and urban development and complies with the standards established under 42 USCA;

(54) "manufactured-home transaction" means a secured transaction:

(A) that creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

(B) in which a manufactured home, other than a manufactured home held as inventory, is the primary collateral;

(55) "mortgage" means a consensual interest in real property, including fixtures, that secures payment or performance of an obligation;

(56) "new debtor" means a person that becomes bound as debtor under Subsection (d) of Section 55-9-203 NMSA 1978 by a security agreement previously entered into by another person;

(57) "new value" means:

(A) money;

(B) money's worth in property, services or new credit; or

(C) release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation;

(58) "noncash proceeds" means proceeds other than cash proceeds;

(59) "obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral:

(A) owes payment or other performance of the obligation;

(B) has provided property other than the collateral to secure payment or other performance of the obligation; or

(C) is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit;

(60) "original debtor", except as used in Subsection (c) of Section 55-9-310 NMSA 1978, means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under Subsection (d) of Section 55-9-203 NMSA 1978;

(61) "payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation;

(62) "person related to", with respect to an individual, means:

(A) the spouse of the individual;

(B) a brother, brother-in-law, sister or sister-in-law of the individual;

(C) an ancestor or lineal descendant of the individual or the individual's spouse; or

(D) any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual;

(63) "person related to", with respect to an organization, means:

(A) a person directly or indirectly controlling, controlled by or under common control with the organization;

(B) an officer or director of, or a person performing similar functions with respect to, the organization;

(C) an officer or director of, or a person performing similar functions with respect to, a person described in Subparagraph (A) of this paragraph;

(D) the spouse of an individual described in Subparagraph (A), (B) or (C) of this paragraph; or

(E) an individual who is related by blood or marriage to an individual described in Subparagraph (A), (B), (C) or (D) of this paragraph and shares the same home with the individual;

(64) "proceeds", except as used in Subsection (b) of Section 55-9-609 NMSA 1978, means:

(A) whatever is acquired upon the sale, lease, license, exchange or other disposition of collateral;

(B) whatever is collected on, or distributed on account of, collateral;

(C) rights arising out of collateral;

(D) to the extent of the value of collateral, claims arising out of the loss, nonconformity or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

(E) to the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral;

(65) "promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds;

(66) "proposal" means a record authenticated by a secured party, which record includes the terms on which the secured party is willing to accept collateral in full

or partial satisfaction of the obligation it secures pursuant to Sections 55-9-620 through 55-9-622 NMSA 1978;

(67) "public-finance transaction" means a secured transaction in connection with which:

(A) debt securities are issued;

(B) all or a portion of the securities issued have an initial stated maturity of at least twenty years; and

(C) the debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation or assignor or assignee of a security interest is a state or a governmental unit of a state;

(68) "public organic record" means a record that is available to the public for inspection and is:

(A) a record consisting of the record initially filed with or issued by a state or the United States to form or organize an organization and any record filed with or issued by the state or the United States that amends or restates the initial record;

(B) an organic record of a business trust consisting of the record initially filed with a state and any record filed with the state that amends or restates the initial record if a statute of the state governing business trusts requires that the record be filed with the state; or

(C) a record consisting of legislation enacted by the legislature of a state or the congress of the United States that forms or organizes an organization; any record amending the legislation; and any record filed with or issued by the state or the United States that amends or restates the name of the organization;



(69) "pursuant to commitment", with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation;

(70) "record", except as used in "for record", "of record", "record or legal title" and "record owner", means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(71) "registered organization" means an organization formed or organized solely under the law of a single state or the United States by the filing of a public organic record with, the issuance of a public organic record by or the enactment of legislation by the state or the United States. The term includes a business trust that is formed or organized under the law of a single state if a statute of the state governing business trusts requires that the business trust's organic record be filed with the state;

(72) "secondary obligor" means an obligor to the extent that:

(A) the obligor's obligation is secondary; or

(B) the obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor or property of either;

(73) "secured party" means:

(A) a person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

(B) a person that holds an agricultural lien;

(C) a consignor;

(D) a person to which accounts, chattel paper, payment intangibles or promissory notes have been sold;

(E) a trustee, indenture trustee, agent, collateral agent or other representative in whose favor a security interest or agricultural lien is created or provided for; or

(F) a person that holds a security interest arising under Section 55-2-401, Section 55-2-505, Subsection (3) of Section 55-2-711, Subsection (5) of Section 55-2A-508, Section 55-4-210 or Section 55-5-118 NMSA 1978;

(74) "security agreement" means an agreement that creates or provides for a security interest;

(75) "send", in connection with a record or notification, means:

(A) to deposit in the mail, deliver for transmission or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

(B) to cause the record or notification to be received within the time that it would have been received if properly sent under Subparagraph (A) of this paragraph;

(76) "software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods;

(77) "state" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States;

(78) "supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument or investment property;

(79) "tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium;

(80) "termination statement" means an amendment of a financing statement that:

(A) identifies, by its file number, the initial financing statement to which it relates; and

(B) indicates either that it is a termination statement or that the identified financing statement is no longer effective; and

(81) "transmitting utility" means an organization primarily engaged in the business of:

(A) operating a railroad, subway, street railway or trolley bus;

(B) transmitting communications electrically, electromagnetically or by light;

(C) transmitting goods by pipeline or sewer; or

(D) transmitting or producing and transmitting electricity, steam, gas or water.

(b) "Control", as provided in Section 55-7-106 NMSA 1978, and the following definitions in other articles apply to this article:

"applicant"

Section 55-5-102 NMSA 1978;

"beneficiary"	Section 55-5-102 NMSA 1978;
"broker"	Section 55-8-102 NMSA 1978;
"certificated security"	Section 55-8-102 NMSA 1978;
"check"	Section 55-3-104 NMSA 1978;
"clearing corporation"	Section 55-8-102 NMSA 1978;
"contract for sale"	Section 55-2-106 NMSA 1978;
"customer"	Section 55-4-104 NMSA 1978;
"entitlement holder"	Section 55-8-102 NMSA 1978;
"financial asset"	Section 55-8-102 NMSA 1978;
"holder in due course"	Section 55-3-302 NMSA 1978;
"issuer" (with respect to a letter of credit or letter-of-credit right)	Section 55-5-102 NMSA 1978;
"issuer" (with respect to a security)	Section 55-8-201 NMSA 1978;
"issuer" (with respect to documents of title)	Section 55-7-102 NMSA 1978;
"lease"	Section 55-2A-103 NMSA 1978;
"lease agreement"	Section 55-2A-103 NMSA 1978;
"lease contract"	Section 55-2A-103 NMSA 1978;
"leasehold interest"	Section 55-2A-103 NMSA 1978;
"lessee"	Section 55-2A-103 NMSA 1978;
"lessee in ordinary course of business"	Section 55-2A-103 NMSA 1978;
"lessor"	Section 55-2A-103 NMSA 1978;
"lessor's residual interest"	Section 55-2A-103 NMSA 1978;
"letter of credit"	Section 55-5-102 NMSA 1978;
"merchant"	Section 55-2-104 NMSA 1978;
"negotiable instrument"	Section 55-3-104 NMSA 1978;
"nominated person"	Section 55-5-102 NMSA 1978;
"note"	Section 55-3-104 NMSA 1978;
"proceeds of a letter of credit"	Section 55-5-114 NMSA 1978;
"prove"	Section 55-3-103 NMSA 1978;
"sale"	Section 55-2-106 NMSA 1978;
"securities account"	Section 55-8-501 NMSA 1978;
"securities intermediary"	Section 55-8-102 NMSA 1978;
"security"	Section 55-8-102 NMSA 1978;

"security certificate"  
"security entitlement"  
"uncertificated security"

Section 55-8-102 NMSA 1978;  
Section 55-8-102 NMSA 1978; and  
Section 55-8-102 NMSA 1978.

(c) Chapter 55, Article 1 NMSA 1978 contains general definitions and principles of construction and interpretation applicable throughout Chapter 55, Article 9 NMSA 1978."

## **Chapter 86 Section 2 Laws 2021**

SECTION 2. Section 55-9-109 NMSA 1978 (being Laws 2001, Chapter 139, Section 9) is amended to read:

"55-9-109. SCOPE.--

(a) Except as otherwise provided in Subsections (c) and (d) of this section, Chapter 55, Article 9 NMSA 1978 applies to:

(1) a transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;

(2) an agricultural lien;

(3) a sale of accounts, chattel paper, payment intangibles or promissory notes;

(4) a consignment;

(5) a security interest arising under Section 55-2-401, 55-2-505, Subsection (3) of Section 55-2-711 or Subsection (5) of Section 55-2A-508 NMSA 1978, as provided in Section 55-9-110 NMSA 1978; and

(6) a security interest arising under Section 55-4-210 or 55-5-118 NMSA 1978.

(b) The application of Chapter 55, Article 9 NMSA 1978 to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this article does not apply.

(c) Chapter 55, Article 9 NMSA 1978 does not apply to the extent that:

(1) a statute, regulation or treaty of the United States preempts the article;

(2) another statute of this state expressly governs the creation, perfection, priority or enforcement of a security interest created by this state or a governmental unit of this state;

(3) a statute of another state, a foreign country or a governmental unit of another state or a foreign country, other than a statute generally applicable to security interests, expressly governs creation, perfection, priority or enforcement of a security interest created by the state, country or governmental unit; or

(4) the rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under Section 55-5-114 NMSA 1978.

(d) Chapter 55, Article 9 NMSA 1978 does not apply to:

(1) a landlord's lien, other than an agricultural lien;

(2) a lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but Section 55-9-333 NMSA 1978 applies with respect to priority of the lien;

(3) an assignment of a claim for wages, salary or other compensation of an employee;

(4) a sale of accounts, chattel paper, payment intangibles or promissory notes as part of a sale of the business out of which they arose;

(5) an assignment of accounts, chattel paper, payment intangibles or promissory notes which is for the purpose of collection only;

(6) an assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;

(7) an assignment of a single account, payment intangible or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;

(8) a transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but Sections 55-9-315 and 55-9-322 NMSA 1978 apply with respect to proceeds and priorities in proceeds;

(9) an assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;

(10) a right of recoupment or set-off, but:

(A) Section 55-9-340 NMSA 1978 applies with respect to the effectiveness of rights of recoupment or set-off against deposit accounts; and

(B) Section 55-9-404 NMSA 1978 applies with respect to defenses or claims of an account debtor;

(11) the creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:

(A) liens on real property in Sections 55-9-203 and 55-9-308 NMSA 1978;

(B) fixtures in Section 55-9-334 NMSA 1978;

(C) fixture filings in Sections 55-9-501, 55-9-502, 55-9-512, 55-9-516 and 55-9-519 NMSA 1978; and

(D) security agreements covering personal and real property in Section 55-9-604 NMSA 1978;

(12) an assignment of a claim arising in tort, other than a commercial tort claim, but Sections 55-9-315 and 55-9-322 NMSA 1978 apply with respect to proceeds and priorities in proceeds;

(13) an assignment of a deposit account in a consumer transaction, but Sections 55-9-315 and 55-9-322 NMSA 1978 apply with respect to proceeds and priorities in proceeds; or

(14) a public-finance transaction or other transfer by a state or a governmental unit of a state."

## **Chapter 86 Section 3 Laws 2021**

SECTION 3. Section 55-9-620 NMSA 1978 (being Laws 2001, Chapter 139, Section 117) is amended to read:



"55-9-620. ACCEPTANCE OF COLLATERAL IN FULL OR PARTIAL SATISFACTION OF OBLIGATION--COMPULSORY DISPOSITION OF COLLATERAL.-

(a) Except as otherwise provided in Subsection (g) of this section, a secured party may accept collateral in full or partial satisfaction of the obligation it secures only if:

(1) the debtor consents to the acceptance under Subsection (c) of this section;

(2) the secured party does not receive, within the time set forth in Subsection (d) of this section, a notification of objection to the proposal authenticated by:

(A) a person to which the secured party was required to send a proposal under Section 55-9-621 NMSA 1978; or

(B) any other person, other than the debtor, holding an interest in the collateral subordinate to the security interest that is the subject of the proposal;

(3) if the collateral is consumer goods, the collateral is not in the possession of the debtor when the debtor consents to the acceptance; and

(4) Subsection (e) of this section does not require the secured party to dispose of the collateral or the debtor waives the requirement pursuant to Section 55-9-624 NMSA 1978.

(b) A purported or apparent acceptance of collateral under this section is ineffective unless:

(1) the secured party consents to the acceptance in an authenticated record or sends a proposal to the debtor; and

(2) the conditions of Subsection (a) of this section are met.

(c) For purposes of this section:

(1) a debtor consents to an acceptance of collateral in partial satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default; and

(2) a debtor consents to an acceptance of collateral in full satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default or the secured party:

(A) sends to the debtor after default a proposal that is unconditional or subject only to a condition that collateral not in the possession of the secured party be preserved or maintained;

(B) in the proposal, proposes to accept collateral in full satisfaction of the obligation it secures; and

(C) does not receive a notification of objection authenticated by the debtor within twenty days after the proposal is sent.

(d) To be effective under Paragraph (2) of Subsection (a) of this section, a notification of objection must be received by the secured party:

(1) in the case of a person to which the proposal was sent pursuant to Section 55-9-621 NMSA 1978, within twenty days after notification was sent to that person; and

(2) in other cases:

(A) within twenty days after the last notification was sent pursuant to Section 55-9-621 NMSA 1978; or

(B) if a notification was not sent, before the debtor consents to the acceptance under Subsection (c) of this section.

(e) A secured party that has taken possession of collateral shall dispose of the collateral pursuant to Section 55-9-610 NMSA 1978 within the time specified in Subsection (f) of this section if:

(1) sixty percent of the cash price has been paid in the case of a purchase-money security interest in consumer goods; or

(2) sixty percent of the principal amount of the obligation secured has been paid in the case of a non-purchase-money security interest in consumer goods.

(f) To comply with Subsection (e) of this section, the secured party shall dispose of the collateral:

(1) within ninety days after taking possession; or

(2) within any longer period to which the debtor and all secondary obligors have agreed in an agreement to that effect entered into and authenticated after default.

(g) In a consumer transaction, a secured party may not accept collateral in partial satisfaction of the obligation it secures."

## **Chapter 86 Section 4 Laws 2021**

SECTION 4. REPEAL.--Section 55-1-110 NMSA 1978 (being Laws 2015, Chapter 54, Section 8) is repealed.

# **LAWS 2021, CHAPTER 87**

**House Bill 67**  
**Approved April 6, 2021**

AN ACT

RELATING TO HEALTH; ENACTING THE PRIMARY CARE COUNCIL ACT;  
CREATING A PRIMARY CARE COUNCIL; ASSIGNING DUTIES.

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

## **Chapter 87 Section 1 Laws 2021**

SECTION 1. SHORT TITLE.--This act may be cited as the "Primary Care Council Act".

## **Chapter 87 Section 2 Laws 2021**

SECTION 2. DEFINITIONS.--As used in the Primary Care Council Act:

- A. "department" means the human services department;
- B. "primary care" means integrated, accessible health care services, provided by clinicians accountable for addressing the majority of a patient's personal health care needs, developing a sustained partnership with patients and practicing in the context of family and community; and
- C. "secretary" means the secretary of human services.

## Chapter 87 Section 3 Laws 2021

### SECTION 3. PRIMARY CARE COUNCIL CREATED--DUTIES.--

- A. The secretary shall create the "primary care council" to:
- (1) develop a shared description of primary care practitioners and services;
  - (2) analyze annually the proportion of health care delivery expenditures allocated to primary care statewide;
  - (3) review national and state models of optimal primary care investment with the objectives of increasing access to primary care, improving the quality of primary care services and lowering the cost of primary care delivery statewide;
  - (4) review New Mexico state and county data and information about barriers to accessing primary care services faced by New Mexico residents;
  - (5) recommend policies, regulations and legislation to increase access to primary care, improve the quality of primary care services and lower the cost of primary care delivery while reducing overall health care costs;
  - (6) coordinate efforts with the graduate medical education expansion review board and other primary care workforce development initiatives to devise a plan that addresses primary care workforce shortages within the state;
  - (7) report annually to the interim legislative health and human services committee and the legislative finance committee on ways that primary care investment could increase access to primary care, improve the quality of primary care services, lower the cost of primary care delivery, address the shortage of primary care providers and reduce overall health care costs; and

(8) develop and present to the secretary a five-year plan to determine how primary care investment could increase access to primary care, improve the quality of primary care services, lower the cost of primary care delivery, address the shortage of primary care providers and reduce overall health care costs.

B. The primary care council shall include nine voting members and thirteen advisory members, appointed by the secretary, and shall consist of:

(1) one member from the department;

(2) one member from the department of health;

(3) one member from the office of superintendent of insurance;

(4) one member from a statewide organization representing federally qualified health centers in New Mexico;

(5) five members from statewide organizations representing primary care providers or statewide health professional societies or associations; and

(6) thirteen nonvoting members representing health care and other stakeholders, in an advisory capacity.

C. The chair of the primary care council shall be elected by the voting members of the council.

D. The council shall meet at the call of the chair.

E. Members of the council shall not be paid per diem and mileage or other compensation for their services.

F. The secretary shall provide staff support for the council in the performance of its duties.

G. A simple majority of the voting members of the council constitutes a quorum.

H. The council shall hold its first meeting no later than October 1, 2021.

## **LAWS 2021, CHAPTER 88**

**House Bill 68**  
**Approved April 6, 2021**

### AN ACT

RELATING TO TORT CLAIMS; EXPANDING DEFINITIONS IN THE SPACE FLIGHT INFORMED CONSENT ACT; MAKING THE PROVISIONS OF THE SPACE FLIGHT INFORMED CONSENT ACT PERMANENT BY ELIMINATING THE DELAYED REPEAL IN LAWS 2013, CHAPTER 131, SECTION 4.

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

### **Chapter 88 Section 1 Laws 2021**

SECTION 1. Section 41-14-2 NMSA 1978 (being Laws 2010, Chapter 8, Section 2, as amended) is amended to read:

"41-14-2. DEFINITIONS.--As used in the Space Flight Informed Consent Act:

A. "crew" means an employee of a space flight entity who performs activities in the course of that employment directly relating to the launch, reentry or other operation of or in a launch vehicle or reentry vehicle that carries human beings;

B. "launch" means placing or trying to place a launch vehicle or reentry vehicle and any payload, crew or participant in a suborbital trajectory, in earth orbit in

outer space or otherwise in outer space. "Launch" includes activities involved in the preparation of a launch vehicle or payload for launch when those activities take place at a launch site in New Mexico;

C. "launch vehicle" means:

(1) a vehicle built to operate in, or place a payload or human beings in, outer space; or

(2) a vehicle built to operate in, or transport a payload or human being by, suborbital flight;

D. "participant" means an individual who is not crew and who is carried within a launch vehicle or reentry vehicle;

E. "participant injury" means an injury sustained by a participant, including bodily injury, emotional distress, death, property damage or any other loss arising from the participant's participation in space flight activities;

F. "payload" means an object that a person undertakes to place in outer space by means of a launch vehicle or reentry vehicle, including components of the vehicle specifically designed or adapted for that object;

G. "reenter" or "reentry" means to purposefully return or attempt to return a reentry vehicle and its payload, crew or participants from earth orbit or from outer space to earth;

H. "reentry vehicle" means a vehicle, including a reusable launch vehicle, designed to return from earth orbit or outer space to earth substantially intact;

I. "space flight activities" means:



(1) activities, including crew training, involved in the preparation of a launch vehicle, payload, crew or participant for launch;

(2) the conduct of a launch;

(3) activities, including crew training, involved in the preparation of a reentry vehicle and payload, crew or participant; and

(4) the conduct of a reentry; and

J. "space flight entity" means:

(1) a public or private entity holding a United States federal aviation administration launch, reentry, operator or launch site license, permit or other authorization for space flight activities; or

(2) a manufacturer or supplier of components, services or vehicles used by the entity that has been reviewed by the United States federal aviation administration as part of issuing such a license, permit or authorization."

## **Chapter 88 Section 2 Laws 2021**

SECTION 2. REPEAL.--Laws 2013, Chapter 131, Section 4 is repealed.

# **LAWS 2021, CHAPTER 89**

**House Bill 76, aa**  
**Approved April 6, 2021**

AN ACT

RELATING TO THE ENVIRONMENT; AMENDING A SECTION OF THE AIR QUALITY CONTROL ACT TO ALLOW THE DEPARTMENT OF ENVIRONMENT TO DENY A PERMIT APPLICATION BASED ON POOR COMPLIANCE HISTORY.

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

## **Chapter 89 Section 1 Laws 2021**

SECTION 1. Section 74-2-7 NMSA 1978 (being Laws 1972, Chapter 51, Section 4, as amended) is amended to read:

"74-2-7. PERMITS--PERMIT APPEALS TO THE ENVIRONMENTAL IMPROVEMENT BOARD OR THE LOCAL BOARD--PERMIT FEES.--

A. By regulation, the environmental improvement board or the local board shall require:

(1) a person intending to construct or modify any source, except as otherwise specifically provided by regulation, to obtain a construction permit from the department or the local agency prior to such construction or modification; and

(2) a person intending to operate any source for which an operating permit is required by the 1990 amendments to the federal act, except as otherwise specifically provided by regulation, to obtain an operating permit from the department or the local agency.

B. Regulations adopted by the environmental improvement board or the local board shall include at least the following provisions:

(1) requirements for the submission of relevant information, including information the department or the local agency deems necessary to determine that

regulations and standards under the Air Quality Control Act or the federal act will not be violated;

(2) specification of the deadlines for processing permit applications; provided that the deadline for a final decision by the department or the local agency on a construction permit application may not exceed:

(a) ninety days after the application is determined to be administratively complete, if the application is not subject to requirements for prevention of significant deterioration, unless the secretary or the director grants an extension not to exceed ninety days for good cause, including the need to have public hearings; or

(b) one hundred eighty days after the application is determined to be administratively complete, if the application is subject to requirements for prevention of significant deterioration, unless the secretary or the director grants an extension not to exceed ninety days for good cause, including the need to have public hearings;

(3) that if the department or local agency fails to take final action on a construction permit application within the deadlines specified in Paragraph (2) of this subsection, the department or local agency shall notify the applicant in writing that an extension of time is required to process the application and specify in detail the grounds for the extension;

(4) a description of elements required before the department or local agency shall deem an application administratively complete;

(5) specification of the public notice, comment period and public hearing, if any, required prior to the issuance of a permit; provided that the permit regulations adopted:

(a) by the environmental improvement board shall include provisions governing notice to nearby states; and

(b) by any local board shall include provisions requiring that notice be given to the department of all permit applications by any source that emits, or has a potential emission rate of, one hundred tons per year or more of any regulated air contaminant, including any source of fugitive emissions of each regulated air contaminant, at least sixty days prior to the date on which construction or major modification is to commence;

(6) a schedule of construction permit fees sufficient to cover the reasonable costs of:

(a) reviewing and acting upon any application for such permit;  
and

(b) implementing and enforcing the terms and conditions of the permit, excluding any court costs or other costs associated with an enforcement action;

(7) a schedule of emission fees consistent with the provisions of Section 502(b)(3) of the 1990 amendments to the federal act;

(8) a method for accelerated permit processing that may be requested at the sole discretion of the applicant at the time the applicant submits a construction permit application and that:

(a) allows the department or local agency to contract with qualified outside firms to assist the department or local agency in its accelerated review of the construction permit application; provided that the department or local agency can contract with a qualified firm that does not have a conflict of interest; and

(b) establishes a process for the department or local agency to account for the expenditure of the accelerated permit processing fees;

(9) allowance for additional permit application fees, sufficient to cover the reasonable costs of an accelerated permit application review process. Before the

applicant is notified that the permit application has been determined to be complete, the department or local agency shall give the applicant a reasonable estimate of costs of an accelerated permit application review process;

(10) specification of the maximum length of time for which a permit shall be valid; provided that for an operating permit such period may not exceed five years; and

(11) for an operating permit only:

(a) provisions consistent with Sections 502(b) and 505(b) of the federal act providing: 1) notice to and review and comment by the United States environmental protection agency; and 2) that if the department or local agency receives notice of objection from the United States environmental protection agency before the operating permit is issued, the department or the local agency shall not issue the permit unless it is revised and issued under Section 505(c) of the federal act;

(b) provisions governing renewal of the operating permit; and

(c) specification of the conditions under which the operating permit may be terminated, modified or revoked and reissued prior to the expiration of the term of the operating permit.

C. Except as provided in Subsection O of this section, the department or the local agency may deny any application for:

(1) a construction permit if it appears that the construction or modification:

(a) will not meet applicable standards, rules or requirements of the Air Quality Control Act or the federal act;

(b) will cause or contribute to air contaminant levels in excess of a national or state standard or, within the boundaries of a local authority, applicable local ambient air quality standards; or

(c) will violate any other provision of the Air Quality Control Act or the federal act; and

(2) an operating permit if the source will not meet the applicable standards, rules or requirements pursuant to the Air Quality Control Act or the federal act.

D. The department or the local agency may specify conditions to any permit granted under this section, including:

(1) for a construction permit:

(a) a requirement that such source install and operate control technology, determined on a case-by-case basis, sufficient to meet the standards, rules and requirements of the Air Quality Control Act and the federal act;

(b) individual emission limits, determined on a case-by-case basis, but only as restrictive as necessary to meet the requirements of the Air Quality Control Act and the federal act or the emission rate specified in the permit application, whichever is more stringent;

(c) compliance with applicable federal standards of performance;

(d) reasonable restrictions and limitations not relating to emission limits or emission rates; or

(e) any combination of the conditions listed in this paragraph;  
and

(2) for an operating permit, terms and conditions sufficient to ensure compliance with the applicable standards, rules and requirements pursuant to the Air Quality Control Act and the federal act.

E. This section does not authorize the department or the local agency to require the use of machinery, devices or equipment from a particular manufacturer if the federal standards of performance, state regulations and permit conditions may be met by machinery, devices or equipment otherwise available.

F. The issuance of a permit does not relieve any person from the responsibility of complying with the provisions of the Air Quality Control Act and any applicable regulations of the environmental improvement board or the local board. Any conditions placed upon a permit by the department or the local agency shall be enforceable to the same extent as a regulation of its board.

G. A person who participated in a permitting action before the department or the local agency shall be notified by the department or the local agency of the action taken and the reasons for the action. Notification of the applicant shall be by certified mail.

H. A person who participated in a permitting action before the department or the local agency and who is adversely affected by such permitting action may file a petition for hearing before the environmental improvement board or the local board. The petition shall be made in writing to the environmental improvement board or the local board within thirty days from the date notice is given of the department's or the local agency's action. Unless a timely petition for hearing is made, the decision of the department or the local agency shall be final.

I. If a timely petition for hearing is made, the environmental improvement board or the local board shall hold a hearing within sixty days after receipt of the petition. The environmental improvement board or the local board shall notify the petitioner and the applicant or permittee, if other than the petitioner, by certified mail of the date, time and place of the hearing. If the subject of the petition is a permitting

action deemed by the environmental improvement board or the local board to substantially affect the public interest, the environmental improvement board or the local board shall ensure that the public receives notice of the date, time and place of the hearing. The public in such circumstances shall also be given a reasonable opportunity to submit data, views or arguments orally or in writing and to examine witnesses testifying at the hearing. Any person submitting data, views or arguments orally or in writing shall be subject to examination at the hearing.

J. The environmental improvement board or the local board may designate a hearing officer to take evidence in the hearing. All hearings shall be recorded.

K. The burden of proof shall be upon the petitioner. Based upon the evidence presented at the hearing, the environmental improvement board or the local board shall sustain, modify or reverse the action of the department or the local agency respectively.

L. Notwithstanding any other provision of law and subject to the provisions of Section 74-2-4 NMSA 1978, a final decision on a permit by the department, the environmental improvement board, the local agency, the local board or the court of appeals that a source will or will not meet applicable local, state and federal air pollution standards and regulations shall be conclusive and is binding on every other state agency and as an issue before any other state agency shall be deemed resolved in accordance with that final decision.

M. Subject to the provisions of Section 74-2-4 NMSA 1978, if the local board has adopted a permit regulation pursuant to this section, persons constructing or modifying any source within the boundaries of the local authority shall obtain a permit from the local agency and not from the department.

N. Fees collected pursuant to this section shall be deposited in:

(1) the state air quality permit fund created by Section 74-2-15 NMSA 1978 if collected by the department; or



(2) a fund created pursuant to Section 74-2-16 NMSA 1978 if collected by a local agency pursuant to a permit regulation adopted by the local board pursuant to this section.

O. The department may not deny an application for a construction permit for a cotton gin if the applicant proposes use of the best system of emissions reduction currently in use by cotton gins in the United States, as specified by regulation of the environmental improvement board, and the cotton gin has a potential emission rate, considering the use of the proposed emissions reduction system and the proposed hours of operation, of not more than fifty tons per year of any regulated air contaminant for which there is a national ambient air quality standard. The construction permit shall require that the applicant use the proposed emission reduction system and limit the hours of operation to the hours specified in the application. For purposes of this subsection, "best system of emissions reduction" for cotton gins means a system that will result in emissions reduction equal to or greater than that obtained by the use of condenser screens, seventy-mesh screen or equivalent on low-pressure exhausts and high-efficiency cyclone dust collectors on high-pressure exhausts.

P. The department or local agency may deny any permit application or revoke any permit issued pursuant to the Air Quality Control Act if, within ten years immediately preceding the date of submission of the permit application, the applicant or permittee has:

(1) knowingly misrepresented a material fact in an application for a permit;

(2) refused to disclose the information required by the provisions of the Air Quality Control Act;

(3) been convicted in any court of any state or the United States of:

(a) a felony related to environmental crime; or

(b) a crime defined by state or federal statute as involving or being in restraint of trade, price fixing, bribery or fraud;

(4) constructed or operated a facility for which a permit is sought without a permit required by the Air Quality Control Act, except when such an unpermitted facility is discovered after acquisition in the course of a timely environmental audit authorized by department or local board policy and except if:

(a) the operator of the facility using good engineering practices and established approved calculation methodologies estimated that the facility's emissions would not require a permit pursuant to the Air Quality Control Act; and

(b) upon discovery of the discrepancy between the calculated pre-construction maximum facility emissions and the calculated post-construction maximum facility emissions, the operator of the facility applies for the appropriate permit within thirty calendar days; or

(5) had any permit revoked or permanently suspended for cause under the environmental laws of any state or the United States.

Q. In making a finding under Subsection P of this section, the department or local agency may consider aggravating and mitigating factors.

R. If an applicant or permittee whose permit is being considered for denial or revocation on any basis provided by Subsection P of this section has submitted an action plan that has been approved in writing by the secretary or director, and plan approval includes a period of operation under a conditional permit that will allow the applicant or permittee a reasonable opportunity to demonstrate its rehabilitation, the secretary or director may issue a conditional permit for a reasonable period of time.

S. An applicant for a permit pursuant to the Air Quality Control Act shall file a disclosure statement with the department or local agency with the information listed in Subsection P of this section, and on a form developed by the department. An existing

permit holder shall provide such disclosure upon request by the department or local agency."

## **LAWS 2021, CHAPTER 90**

**House Bill 89**  
**Approved April 6, 2021**

AN ACT

RELATING TO TAXATION; CREATING AN OPTIONAL DESIGNATION FOR A PERSONAL INCOME TAX REFUND CONTRIBUTION FOR ADMINISTRATION OF THE HEALTHY SOIL PROGRAM.

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

### **Chapter 90 Section 1 Laws 2021**

SECTION 1. A new section of the Income Tax Act is enacted to read:

"OPTIONAL DESIGNATION OF TAX REFUND CONTRIBUTION--HEALTHY SOIL PROGRAM.--

A. An individual whose state income tax liability after application of allowable credits and tax rebates in a year is lower than the amount of money held by the department to the credit of such individual for that tax year may designate a portion of the income tax refund due to the individual to be paid to the board of regents of New Mexico state university for support of the healthy soil program in the New Mexico department of agriculture. In the case of a joint return, both individuals must make such a designation.

B. The department shall revise the state income tax form to allow the designation of such contributions in the following form:

"Healthy Soil Program - Check [ ] if you wish to contribute a part or all of your tax refund for the support of the healthy soil program in the New Mexico department of agriculture. Enter here \$\_\_\_\_\_ the amount of your contribution."

C. The provisions of this section do not apply to income tax refunds subject to interception under the provisions of the Tax Refund Intercept Program Act, and any designation made under the provisions of this section to such refunds is void."

## **Chapter 90 Section 2 Laws 2021**

SECTION 2. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2021.

# **LAWS 2021, CHAPTER 91**

**House Bill 105, aa, w/o ec**  
**Approved April 6, 2021**

## **AN ACT**

RELATING TO INDUSTRIAL REVENUE BONDS; CHANGING THE METHOD FOR DETERMINING AN ANNUAL IN-LIEU TAX PAYMENT FOR AN ELECTRIC GENERATION OR TRANSMISSION FACILITY PROJECT; PROVIDING FOR THE SHARING OF IN-LIEU TAX PAYMENTS AMONG CERTAIN SCHOOL DISTRICTS; CLARIFYING THAT CERTAIN PAYMENTS TO THE STATE FOR AN ELECTRIC TRANSMISSION PROJECT SHALL BE MADE BY THE PERSON PROPOSING THE ELECTRIC TRANSMISSION PROJECT; DECLARING AN EMERGENCY.

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

## **Chapter 91 Section 1 Laws 2021**

SECTION 1. Section 3-32-6 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-31-3, as amended) is amended to read:

"3-32-6. ADDITIONAL POWERS CONFERRED ON MUNICIPALITIES.--In addition to any other powers that it may now have, a municipality shall have the following powers:

A. to acquire, whether by construction, purchase, gift or lease, one or more projects that shall be located within this state and may be located within or without the municipality or partially within or partially without the municipality, but which shall not be located more than fifteen miles outside of the corporate limits of the municipality; provided that:

(1) urban transit buses qualifying as a project pursuant to Subsection B of Section 3-32-3 NMSA 1978 need not be continuously located within this state, but the commercial enterprise using the urban transit buses for leasing shall meet the location requirement of this subsection; and

(2) a municipality shall not acquire any electricity generation or transmission facility project unless the school districts within the municipality in which the project is located receive annual in-lieu tax payments; provided that the annual in-lieu tax payments required by this paragraph shall be:

(a) payable to the school districts for the period the municipality owns and leases the project;

(b) in an aggregate amount equal to the amount received by the municipality multiplied by the percentage determined by dividing the average of the

operating, capital improvement and bond mills imposed by the school districts in the municipality and state debt service mills as of the date of issuance of the bonds by the average of the mills imposed by all entities levying taxes on property in the municipality as of such date;

(c) shared among the school districts located within the municipality equally, if there is more than one school district in such municipality; and

(d) not be less than the amount due to the school districts in the tax year immediately preceding the issuance of the bonds from the property included in a project, had such project not been created;

B. to sell or lease or otherwise dispose of any or all of its projects upon such terms and conditions as the governing body may deem advisable and as shall not conflict with the provisions of the Industrial Revenue Bond Act;

C. to issue revenue bonds for the purpose of defraying the cost of acquiring by construction and purchase, or either, any project and to secure the payment of such bonds, all as provided in the Industrial Revenue Bond Act. No municipality shall have the power to operate any project as a business or in any manner except as lessor;

D. to refinance one or more hospital or 501(c)(3) corporation projects and to acquire any such hospital or 501(c)(3) corporation project whether by construction, purchase, gift or lease, which hospital or 501(c)(3) corporation project shall be located within this state and may be located within or without the municipality or partially within or partially without the municipality, but which shall not be located more than fifteen miles outside of the corporate limits of the municipality, and to issue revenue bonds to refinance and acquire a hospital or 501(c)(3) corporation project and to secure the payment of such bonds, all as provided in the Industrial Revenue Bond Act. A municipality shall not have the power to operate a hospital or 501(c)(3) corporation project as a business or in any manner except as lessor; and

E. to refinance one or more projects of any private institution of higher education and to acquire any such project, whether by construction, purchase, gift or lease; provided that the project shall be located within this state and may be located within or without the municipality or partially within or partially without the municipality, but the project shall not be located more than fifteen miles outside of the corporate limits of the municipality, and to issue revenue bonds to refinance and acquire any project of any private institution of higher education and to secure the payment of such bonds. A municipality shall not have the power to operate a project of a private institution of higher education as a business or in any manner except as lessor."

## **Chapter 91 Section 2 Laws 2021**

SECTION 2. Section 3-32-6.2 NMSA 1978 (being Laws 2020, Chapter 14, Section 3) is amended to read:

"3-32-6.2. ELECTRIC TRANSMISSION PROJECTS--PAYMENTS TO THE STATE.--A person proposing an electric transmission facility project pursuant to Paragraph (2) of Subsection A of Section 3-32-6 NMSA 1978 shall pay to the state annual payments equal to five percent of the total amount of in-lieu tax payments to be made in that calendar year by such person to counties, municipalities and other local entities authorized to levy taxes on property, including in-lieu tax payments made to school districts pursuant to Paragraph (2) of Subsection A of Section 3-32-6 NMSA 1978, and five percent of the value of any other consideration related to the project paid to local entities authorized to levy taxes on property by a person proposing an electric transmission project. A copy of any agreement providing for such in-lieu tax payments shall be provided to the secretary of finance and administration within thirty days of written approval of such agreement by all of the parties. Each annual payment to the state shall be made no later than the end of each fiscal year in which in-lieu tax payments are made to local taxing entities. Each annual payment shall be made to the department of finance and administration for deposit to the general fund."

## Chapter 91 Section 3 Laws 2021

SECTION 3. Section 4-59-4 NMSA 1978 (being Laws 1975, Chapter 286, Section 4, as amended) is amended to read:

"4-59-4. ADDITIONAL POWERS CONFERRED ON COUNTIES.--In addition to any other powers that it may now have, each county shall have the following powers:

A. to acquire, whether by construction, purchase, gift or lease, one or more projects, which shall be located within this state and shall be located within the county outside the boundaries of any incorporated municipality; provided, however, that:

(1) a class A county with a population of more than three hundred thousand may acquire projects located anywhere in the county; and

(2) a county shall not acquire any electricity generation or transmission facility project unless the school districts within the county in which the project is located receive annual in-lieu tax payments; provided that the annual in-lieu tax payments required by this paragraph shall be:

(a) payable to the school districts for the period the county owns and leases the project;

(b) in an aggregate amount equal to the amount received by the county multiplied by the percentage determined by dividing the average of the operating, capital improvement and bond mills imposed by the school districts in the county and state debt service mills as of the date of issuance of the bonds by the average of the mills imposed by all entities levying taxes on property in the county as of such date;

(c) shared among the school districts located within the county equally; and



(d) not be less than the amount due to the school districts in the tax year immediately preceding the issuance of the bonds from the property included in a project, had such project not been created;

B. to sell or lease or otherwise dispose of any or all of its projects upon such terms and conditions as the commission may deem advisable and as shall not conflict with the provisions of the County Industrial Revenue Bond Act; and

C. to issue revenue bonds for the purpose of defraying the cost of acquiring, by construction and purchase or either, any project and to secure the payment of such bonds, all as provided in the County Industrial Revenue Bond Act. No county shall have the power to operate any project as a business or in any manner except as lessor thereof."

## **Chapter 91 Section 4 Laws 2021**

SECTION 4. Section 4-59-4.2 NMSA 1978 (being Laws 2020, Chapter 14, Section 6) is amended to read:

"4-59-4.2. ELECTRIC TRANSMISSION PROJECTS--PAYMENTS TO THE STATE.--A person proposing an electric transmission facility project pursuant to Paragraph (2) of Subsection A of Section 4-59-4 NMSA 1978 shall pay to the state annual payments equal to five percent of the total amount of in-lieu tax payments to be made in that calendar year by such person to counties, municipalities and other local entities authorized to levy taxes on property, including in-lieu tax payments made to school districts pursuant to Paragraph (2) of Subsection A of Section 4-59-4 NMSA 1978, and five percent of the value of any other consideration related to the project paid to local entities authorized to levy taxes on property by a person proposing an electric transmission project. A copy of any agreement providing for such in-lieu tax payments shall be provided to the secretary of finance and administration within thirty days of written approval of such agreement by all of the parties. Each annual payment to the state shall be made no later than the end of each fiscal year in which in-lieu tax

payments are made to local taxing entities. Each annual payment shall be made to the department of finance and administration for deposit to the general fund."

## **Chapter 91 Section 5 Laws 2021**

SECTION 5. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

## **LAWS 2021, CHAPTER 92**

**House Bill 120, aa**  
**Approved April 6, 2021**

### **AN ACT**

RELATING TO LICENSURE; PROVIDING FOR A WAIVER OF FEES FOR AND EXPEDITED ISSUANCE OF CERTAIN PROFESSIONAL AND OCCUPATIONAL, SCHOOL PERSONNEL AND CONSTRUCTION INDUSTRY LICENSES, REGISTRATIONS, CERTIFICATES OF REGISTRATION, CERTIFICATES, PERMITS OR CERTIFICATIONS FOR MILITARY SERVICE MEMBERS, THEIR SPOUSES AND THEIR DEPENDENT CHILDREN AND FOR VETERANS.

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

## **Chapter 92 Section 1 Laws 2021**

SECTION 1. Section 22-10A-2 NMSA 1978 (being Laws 2019, Chapter 238, Section 1) is amended to read:

"22-10A-2. DEFINITIONS.--As used in the School Personnel Act:

A. "constitutional special school" means the New Mexico military institute, New Mexico school for the deaf and New Mexico school for the blind and visually impaired;

B. "discharge" means the act of severing the employment relationship with a licensed school employee prior to the expiration of the current employment contract;

C. "employed for three consecutive school years" means a licensed school employee has been offered and accepted in writing a notice of reemployment for the third consecutive school year;

D. "governing authority" means the policy setting body of a school district, charter school, constitutional special school or regional education cooperative, or the final decision maker of another state agency;

E. "instructional support provider" means a person who is employed to support the instructional program of a public school, including educational assistant, school counselor, social worker, school nurse, speech-language pathologist, psychologist, physical therapist, occupational therapist, recreational therapist, marriage and family therapist, interpreter for the deaf and diagnostician;

F. "just cause" means a reason that is rationally related to a school employee's competence or turpitude or the proper performance of the school employee's duties and that is not in violation of the school employee's civil or constitutional rights;

G. "military service member" means a person who is:

(1) serving in the armed forces of the United States as an active duty member or in an active reserve component of the armed forces of the United States, including the national guard;

(2) the spouse of a person who is serving in the armed forces of the United States as an active duty member or in an active reserve component of the armed forces of the United States, including the national guard; or a surviving spouse of a member who at the time of death was serving on active duty; or

(3) the child of a person who is serving in the armed forces of the United States as an active duty member or in an active reserve component of the armed forces of the United States, including the national guard; provided that child is also a dependent of that person for federal income tax purposes;

H. "public school" means a school district, charter school, constitutional special school, regional education cooperative or the educational program of another state agency;

I. "responsibility factor" means a value of 1.20 for an elementary school principal, 1.40 for a middle school or junior high school principal, 1.60 for a high school principal, 1.10 for an assistant elementary school principal, 1.15 for an assistant middle school or assistant junior high school principal and 1.25 for an assistant high school principal;

J. "sabbatical leave" means leave of absence with pay as approved by the governing authority during all or part of a regular school term for purposes of study or travel related to a licensed school employee's duties and of direct benefit to the instructional program;

K. "school administrator" means a person licensed to administer in a school district, charter school, constitutional special school or regional education cooperative or a person employed with another state agency who administers an educational program and includes local superintendents, school principals, central district administrators, business managers, charter school head administrators and state agency education supervisors;

L. "school employee" includes licensed and unlicensed employees of a public school;

M. "school premises" means:

(1) the buildings and grounds, including playgrounds, playing fields and parking areas and a school bus of a public school, in or on which school or school-related activities are being operated under the supervision of a local school board, charter school or state agency; or

(2) any other public buildings or grounds, including playing fields and parking areas that are not public school property, in or on which public school-related and -sanctioned activities are being performed;

N. "state agency" means a regional education cooperative or state institution;

O. "state institution" means the New Mexico boys' school, girls' welfare home, New Mexico youth diagnostic and development center, Sequoyah adolescent treatment center, Carrie Tingley crippled children's hospital, New Mexico behavioral health institute at Las Vegas and any other state agency responsible for educating resident children;

P. "substitute teacher" means a person who holds a certificate to substitute for a teacher in the classroom;

Q. "superintendent" means a local superintendent, head administrator of a charter school or regional education cooperative, superintendent or commandant of a special school or head administrator of the educational program of a state agency;

R. "teacher" means a person who holds a level one, level two or level three-A license and whose primary job is classroom instruction or the supervision, below the school principal level, of an instructional program or whose duties include curriculum

development, peer intervention, peer coaching or mentoring or serving as a resource teacher for other teachers;

S. "terminate" means the act of severing the employment relationship with a school employee;

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

U. "working day" means every school calendar day, excluding Saturdays, Sundays and legal holidays."

## **Chapter 92 Section 2 Laws 2021**

SECTION 2. Section 22-10A-3 NMSA 1978 (being Laws 2003, Chapter 153, Section 34, as amended) is amended to read:

"22-10A-3. LICENSE OR CERTIFICATE REQUIRED--APPLICATION FEE--GENERAL DUTIES.--

A. Except as otherwise provided in this subsection, any person teaching, supervising an instructional program or providing instructional support services in a public school; any person administering in a public school; and any person providing health care and administering medications or performing medical procedures in a public school shall hold a valid license or certificate from the department authorizing the person to perform that function. This subsection does not apply to a person performing the functions of a practice teacher or teaching intern as defined by the department.

B. Except as provided in Subsection C of this section, the department shall charge a reasonable fee for each application for or the renewal of a license or

certificate. The application fee may be waived if the applicant meets a standard of indigency established by the department.

C. No licensing or certificate fee shall be charged for the first three years a license or certificate required by this section is valid if the licensee or certificate holder is a military service member or a veteran.

D. A person performing the duties of a licensed school employee who does not hold a valid license or certificate or has not submitted a complete application for licensure or certification within the first three months from beginning employment duties shall not be compensated thereafter for services rendered until the person demonstrates that the person holds a valid license or certificate. This section does not apply to practice teachers or teaching interns as defined by rules of the department.

E. Each licensed school employee shall:

- (1) enforce all laws and rules applicable to the employee's public school;
- (2) if teaching, teach the prescribed courses of instruction;
- (3) exercise supervision over students on public school premises and while the students are under the control of the public school; and
- (4) furnish reports as required."

## **Chapter 92 Section 3 Laws 2021**

SECTION 3. Section 22-10A-12.1 NMSA 1978 (being Laws 2018, Chapter 8, Section 1, as amended) is amended to read:

"22-10A-12.1. EXPEDITED LICENSURE--MILITARY SERVICE MEMBERS, SPOUSES AND DEPENDENTS--WAIVER OF FEES--VETERANS.--

A. The department shall, no later than thirty days after a military service member or a veteran with a valid and current or an expired license from another jurisdiction files an application, and provides a background check if required, for a license or a substitute teacher certificate:

(1) process the application; and

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

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

C. A military service member or a veteran who is issued a license or certificate pursuant to this section shall not be charged a licensing or certificate fee for the first three years a license or certificate issued pursuant to this section is valid.

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



E. Each entity that issues a license or certificate pursuant to the Public School Code, upon the conclusion of the state fiscal year, shall prepare a report on the number and type of licenses or certificates that were issued during the fiscal year under this section. The report shall be provided to the director of the office of military base planning and support not later than ninety days after the end of the fiscal year."

## **Chapter 92 Section 4 Laws 2021**

SECTION 4. A new section of the Construction Industries Licensing Act is enacted to read:

"EXPEDITED LICENSURE--MILITARY SERVICE MEMBERS, SPOUSES AND DEPENDENTS--VETERANS--WAIVER OF FEES.--

A. The division shall, as soon as practicable but no later than thirty days after a military service member or a veteran files an application, and provides a background check if required, for a license or certificate issued pursuant to the Construction Industries Licensing Act accompanied by any required fees:

(1) process the application; and

(2) issue a license prima facie to a qualified applicant who submits satisfactory evidence that the applicant holds a license or certificate that is current and in good standing, issued by another jurisdiction, including a branch of the armed forces of the United States, and has met minimal licensing or certification requirements that are substantially equivalent to the licensing or certification requirements for the license or certificate that the applicant applies for pursuant to the Construction Industries Licensing Act.

B. A license or certificate issued pursuant to this section is not a provisional license and shall confer the same rights, privileges and responsibilities as a license issued pursuant to the Construction Industries Licensing Act.

C. A license issued pursuant to this section shall not be renewed unless the license holder satisfies the requirements for the issuance and the renewal of a license pursuant to the Construction Industries Licensing Act. Upon the issuance of a license pursuant to this section, the division shall notify the license holder of the requirements for renewing the license in writing.

D. Notwithstanding the provisions of Subsection A of this section, a military service member or a veteran who is issued a license pursuant to this section shall not be charged a licensing or certificate fee for the first three years a license or certificate issued pursuant to this section is valid.

E. Upon the conclusion of the state fiscal year, the division shall prepare a report on the number and type of licenses or certificates that were issued during the fiscal year under this section. The report shall be provided to the director of the office of military base planning and support not later than ninety days after the end of the fiscal year.

F. As used in this section:

(1) "military service member" means a person who is:

(a) serving in the armed forces of the United States as an active duty member or in an active reserve component of the armed forces of the United States, including the national guard;

(b) the spouse of a person who is serving in the armed forces of the United States as an active duty member or in an active reserve component of the armed forces of the United States, including the national guard; or a surviving spouse of a member who at the time of death was serving on active duty; or

(c) the child of a person who is serving in the armed forces of the United States as an active duty member or in an active reserve component of the

armed forces of the United States, including the national guard; provided that child is also a dependent of that person for federal income tax purposes; and

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

## **Chapter 92 Section 5 Laws 2021**

SECTION 5. Section 60-13-13 NMSA 1978 (being Laws 1967, Chapter 199, Section 16, as amended) is amended to read:

"60-13-13. APPLICATION FOR CONTRACTOR'S LICENSE.--

A. Applications for a contractor's license or a certificate of qualification shall be submitted to the division on forms prescribed and furnished by the division and shall contain the information and be accompanied by the attachments required by regulation of the commission.

B. Except as provided in Section 4 of this 2021 act, the application shall be accompanied by the prescribed fee."

## **Chapter 92 Section 6 Laws 2021**

SECTION 6. Section 60-13-18 NMSA 1978 (being Laws 1967, Chapter 199, Section 20, as amended) is amended to read:

"60-13-18. LICENSES--RENEWAL.--

A. Licenses issued by the division are not transferable.

B. Contractor's licenses shall expire two years after the issuance date or as determined by the division, but in no instance less than one year, and shall be renewable upon application to the division and payment of the prescribed renewal fee; provided that nothing in this subsection shall prohibit the division from establishing a staggered system of license expiration and a procedure for proration of fees for licenses issued for less than the two-year period or other period provided by the division pursuant to this subsection.

C. Licenses shall expire upon the date established by regulation of the commission, such regulation to provide for a staggered system of license expiration and for proration of fees for licenses issued for less than a full year. Thereafter, such licenses shall be issued for a period of two years or as otherwise provided by the division pursuant to Subsection B of this section. Except as provided in Section 4 of this 2021 act, licenses and certificates shall be subject to renewal upon application to the division and payment of the prescribed renewal fee.

D. Licensees and journeyman certificate holders may be required to complete and submit proof of continuing education as a prerequisite for renewal of a license. When required by rule adopted by the division, an applicant for a license renewal must submit with the application for license renewal proof of eight hours of instruction in code change and eight hours of instruction in other industry-related and division-approved subjects. The sixteen hours of continuing education must have been completed within the three years prior to the date of the license renewal application.

E. The director shall, at least thirty days prior to the expiration date of a license, notify the licensee of the approaching expiration. Notice shall be given by mail addressed to the licensee's last address on file with the division. The notice shall include a renewal application form, instructions and any other information prescribed by the division.

F. Failure of a licensee to make application for the renewal of the licensee's license, to furnish such other information required by the commission and, if required, to

pay the prescribed renewal fee by the last working day prior to the expiration of the license shall cause the license to be suspended by operation of law.

G. Unless the license is renewed within a three-month period, it shall be canceled. The suspended license may be renewed only after payment of a fee equal to one dollar (\$1.00) for each day, up to thirty days, that has elapsed since the expiration date of the license and thereafter for a fee equal to twice the amount of the renewal fee."

## **Chapter 92 Section 7 Laws 2021**

SECTION 7. Section 60-13-20 NMSA 1978 (being Laws 1967, Chapter 199, Section 22, as amended) is amended to read:

"60-13-20. FEES ESTABLISHED BY THE DIVISION--PAYMENT OF EXAMINATION AND LICENSING SERVICE FEES.--

A. The division shall by regulation establish and charge, except as provided in Section 4 of this 2021 act, reasonable candidate and applicant fees for each license and certificate classification for initial applications, initial and additional examinations, license issuance and renewals, certificate of qualification issuance and renewal and licensing verification services.

B. The division by regulation may provide that fees charged pursuant to Subsection A of this section shall be paid to the agency providing or administering the service if the service is provided pursuant to authority of the division."

## **Chapter 92 Section 8 Laws 2021**

SECTION 8. Section 61-1-34 NMSA 1978 (being Laws 2013, Chapter 33, Section 1, as amended) is amended to read:

"61-1-34. EXPEDITED LICENSURE--MILITARY SERVICE MEMBERS,  
SPOUSES AND DEPENDENTS AND VETERANS--WAIVER OF FEES.--

A. A state agency, board or commission that issues an occupational or professional license pursuant to Chapter 61 NMSA 1978 shall, as soon as practicable but no later than thirty days after a military service member or a veteran files an application, and provides a background check if required, for a license accompanied by any required fees:

(1) process the application; and

(2) issue a license prima facie to a qualified applicant who submits satisfactory evidence that the applicant holds a license that is current and in good standing, issued by another jurisdiction, including a branch of the armed forces of the United States, and has met minimal licensing requirements that are substantially equivalent to the licensing requirements for the occupational or professional license that the applicant applies for pursuant to Chapter 61 NMSA 1978.

B. A license issued pursuant to this section is not a provisional license and shall confer the same rights, privileges and responsibilities as a license issued pursuant to Chapter 61 NMSA 1978.

C. A license issued pursuant to this section shall not be renewed unless the license holder satisfies the requirements for the issuance and the renewal of a license pursuant to Chapter 61 NMSA 1978. Upon the issuance of a license pursuant to this section, the issuing state agency, board or commission shall notify the license holder of the requirements for renewing the license in writing.

D. Notwithstanding the provisions of Subsection A of this section, a military service member or a veteran who is issued a license pursuant to this section shall not be charged a licensing fee for the first three years a license issued pursuant to this section is valid.

E. Each state agency, board or commission that issues a license or certificate to practice a trade or profession shall, upon the conclusion of the state fiscal year, prepare a report on the number and type of licenses or certificates that were issued during the fiscal year under this section. The report shall be provided to the director of the office of military base planning and support not later than ninety days after the end of the fiscal year.

F. As used in this section:

(1) "license" means a license, registration, certificate of registration, certificate, permit or certification;

(2) "licensing fee" means a fee charged at the time an application for a professional or occupational license is submitted to the state agency, board or commission and any fee charged for the processing of the application for such license; "licensing fee" does not include a fee for an annual inspection or examination of a licensee or a fee charged for copies of documents, replacement licenses or other expenses related to a professional or occupational license;

(3) "military service member" means a person who is:

(a) serving in the armed forces of the United States as an active duty member, or in an active reserve component of the armed forces of the United States, including the national guard;

(b) the spouse of a person who is serving in the armed forces of the United States or in an active reserve component of the armed forces of the United States, including the national guard, or a surviving spouse of a member who at the time of the member's death was serving on active duty; or

(c) the child of a person who is serving in the armed forces of the United States as an active duty member, or in an active reserve component of the

armed forces of the United States, including the national guard; provided that child is also a dependent of that person for federal income tax purposes; and

(4) "veteran" means a person who has received an honorable discharge or separation from military service."

## **Chapter 92 Section 9 Laws 2021**

SECTION 9. Section 61-3-10.1 NMSA 1978 (being Laws 1993, Chapter 61, Section 2, as amended) is amended to read:

"61-3-10.1. HEMODIALYSIS TECHNICIANS--TRAINING PROGRAMS--CERTIFICATION.--

A. A statewide program for certification of hemodialysis technicians is created according to the rules adopted by the board.

B. Unless certified as a certified hemodialysis technician pursuant to the Nursing Practice Act, no person shall:

(1) practice as a certified hemodialysis technician; or

(2) use the title "certified hemodialysis technician", "hemodialysis technician" or other title, abbreviation, letters, figures, signs or devices to indicate or imply that the person is a certified hemodialysis technician.

C. The board shall:

(1) maintain a permanent register of all certified hemodialysis technicians;



(2) adopt rules for certified hemodialysis technician training programs, including standards and curricula;

(3) provide for periodic evaluation of training programs at least every two years;

(4) grant, deny or withdraw approval from a training program that fails to meet prescribed standards or fails to maintain a current contract with the board; and

(5) conduct disciplinary hearings of certified hemodialysis technicians or on the denial, suspension or revocation of certified hemodialysis technician certificates in accordance with the Uniform Licensing Act.

D. Except as provided in Section 61-1-34 NMSA 1978, every applicant for certification as a certified hemodialysis technician shall pay the required application fee, submit written evidence of having completed a board-approved training program for hemodialysis technicians and successfully complete a board-approved examination. The board shall issue a certificate to any person who fulfills the requirements for certification.

E. Every certificate issued by the board to practice as a certified hemodialysis technician shall be renewed every two years. The certified hemodialysis technician seeking renewal shall submit proof of employment as a certified hemodialysis technician and proof of having met continuing education requirements adopted by the board.

F. The board shall set the following nonrefundable fees:

(1) for initial certification by initial or subsequent examination, a fee not to exceed sixty dollars (\$60.00);

(2) for renewal of certification, a fee not to exceed sixty dollars (\$60.00);

(3) for reactivation of a lapsed certificate after failure to renew a certificate or following board action, a fee not to exceed sixty dollars (\$60.00);

(4) for initial review and approval of a training program, a fee not to exceed three hundred dollars (\$300);

(5) for subsequent review and approval of a training program that has changed, a fee not to exceed two hundred dollars (\$200);

(6) for subsequent review and approval of a training program when a change has been required by a change in board policy or rules, a fee not to exceed fifty dollars (\$50.00); and

(7) for periodic evaluation of a training program, a fee not to exceed two hundred dollars (\$200)."

## **Chapter 92 Section 10 Laws 2021**

SECTION 10. Section 61-3-10.2 NMSA 1978 (being Laws 1991, Chapter 209, Section 1, as amended by Laws 2005, Chapter 303, Section 1 and by Laws 2005, Chapter 307, Section 4) is amended to read:

"61-3-10.2. MEDICATION AIDES.--

A. A statewide program for certification of medication aides and approval of medication aide training programs is created under the board.

B. Unless certified as a certified medication aide under the Nursing Practice Act, no person shall:

(1) practice as a certified medication aide; or

(2) use the titles "certified medication aide" or "medication aide" or any other title, abbreviation, letters, figures, signs or devices to indicate or imply that the person is a certified medication aide.

C. The board shall:

(1) maintain a permanent register of all persons certified to practice as a certified medication aide;

(2) adopt rules for certified medication aide education and certification, including standards and curricula;

(3) adopt rules governing the supervision of certified medication aides by licensed nurses, including standards and performance evaluations of certified medication aides;

(4) conduct disciplinary hearings of certified medication aides or on the denial, suspension or revocation of certified medication aide certificates in accordance with the Uniform Licensing Act; and

(5) grant approval to a certified medication aide training program that meets all the requirements set by the board and deny or withdraw approval from medication aide training programs that fail to meet prescribed standards or fail to maintain a current contract.

D. Except as provided in Section 61-1-34 NMSA 1978, every applicant for certification as a certified medication aide shall pay the required application fee, submit written evidence of having completed a board-approved training program for certified medication aides and successfully complete a board-approved examination. The board shall issue a certificate to any person who fulfills the requirements for certification.

E. Every certificate issued by the board to practice as a certified medication aide shall be renewed every two years. The certified medication aide seeking renewal

shall submit proof of employment as a certified medication aide and proof of having met continuing education requirements adopted by the board.

F. The board shall set the following nonrefundable fees:

(1) for initial certification by initial or subsequent examination, a fee not to exceed sixty dollars (\$60.00);

(2) for renewal of certification, a fee not to exceed sixty dollars (\$60.00);

(3) for reactivation of a lapsed certificate after failure to renew a certificate or following board action, a fee not to exceed sixty dollars (\$60.00);

(4) for initial review and approval of a training program, a fee not to exceed three hundred dollars (\$300);

(5) for subsequent review and approval of a training program that has changed, a fee not to exceed two hundred dollars (\$200);

(6) for subsequent review and approval of a training program when a change has been required by a change in board policy or rules, a fee not to exceed fifty dollars (\$50.00); and

(7) for periodic evaluation of a training program, a fee not to exceed two hundred dollars (\$200)."

## **Chapter 92 Section 11 Laws 2021**

SECTION 11. Section 61-14F-9 NMSA 1978 (being Laws 2009, Chapter 169, Section 9) is amended to read:

"61-14F-9. REGISTRATION AND RENEWAL FEES.--Except as provided in Section 61-1-34 NMSA 1978, an application for registration or renewal of registration shall be accompanied by a fee in the following amount:

- A. two hundred fifty dollars (\$250) for an initial application for registration;
- B. two hundred dollars (\$200) for an application for registration based upon a certificate of registration or licensure issued by another state;
- C. two hundred fifty dollars (\$250) for an application for renewal of registration; or
- D. two hundred dollars (\$200) for an application for renewal of registration based upon an application for renewal of registration or licensure submitted in another state."

## **Chapter 92 Section 12 Laws 2021**

SECTION 12. Section 61-15-7 NMSA 1978 (being Laws 1931, Chapter 155, Section 6, as amended) is amended to read:

"61-15-7. CERTIFICATES OF REGISTRATION.--

A. The board shall issue a certificate of registration to each architect. An architect may, upon registration, obtain the seal of the design authorized by the board, which bears the registrant's name and the legend "Registered Architect--State of New Mexico". All plans, specifications, plats and reports prepared by an architect or under an architect's responsible charge shall be signed and sealed by that architect, including all plans and specifications prepared by an architect or under an architect's responsible charge on work described in Subsection B of Section 61-15-9 NMSA 1978.

B. Certificates of registration shall be valid for a period of time as set by rule and shall be invalid after the date of expiration unless renewed.

C. Except as provided in Section 61-1-34 NMSA 1978, issuance or renewal may be effected at any time prior to expiration by the payment of a fee in an amount set by the board. Fees shall be paid to the board.

D. The failure on the part of any registrant to renew a certificate prior to expiration shall not deprive that person of the right of renewal within three years of the expiration date of the certificate. Except as provided in Section 61-1-34 NMSA 1978, reinstatement of the certificate may be effected in a manner prescribed by rule and may include penalties and fees.

E. Except as provided in Section 61-1-34 NMSA 1978, renewal of a certificate that has been expired for more than three years shall require a demonstration of continued proficiency and qualification to practice architecture in addition to payment of penalties and fees and such other requirements as may be required by rule."

## **Chapter 92 Section 13 Laws 2021**

SECTION 13. Section 61-17B-5 NMSA 1978 (being Laws 2007, Chapter 181, Section 5, as amended) is amended to read:

"61-17B-5. LICENSE--APPLICATION--REVOCATION--SUSPENSION.--

A. A body artist shall obtain a body art license, and an operator shall obtain a body art establishment license, the requirements for which shall be defined by the board and shall include the requirement that a body artist applicant demonstrate that the body artist has the training and experience necessary to perform body piercing, tattooing or scarification and the requirement that a sanitary and sterile body art establishment be maintained; provided that the board shall grant credit for training and experience obtained from any source, whether obtained within or outside the state, if the applicant

demonstrates that the training and experience received by the applicant is equivalent to the training and experience required pursuant to the Body Art Safe Practices Act.

B. An operator or body artist shall possess and post in a conspicuous place a valid and unsuspended license issued by the board in accordance with the Body Art Safe Practices Act and the rules promulgated pursuant to that act. An operator or a body artist shall not display a license unless it has been issued to that operator or body artist by the board and has not been suspended or revoked.

C. An operator or body artist shall apply to the board for the issuance or renewal of a license annually and shall pay license fees established by the board. Except as provided in Section 61-1-34 NMSA 1978, the board shall set license fees, license renewal fees and late fees in amounts necessary to administer the provisions of the Body Art Safe Practices Act. If an operator or body artist fails to renew a license for the next year, the license is void; provided that the voided license may be restored at any time during the year following the license's expiration upon the payment of the appropriate license renewal fee and a late charge not to exceed one hundred dollars (\$100) as set forth by board rules. If the operator or body artist fails to restore a license within one year following the license's expiration, the operator or body artist may request restoration of the license pursuant to rules promulgated by the board.

D. The board shall promulgate rules for the revocation or suspension of a license for a body art establishment or a body artist who fails to comply with a provision of the Body Art Safe Practices Act or rules promulgated pursuant to that act. A license shall not be suspended or revoked pursuant to the Body Art Safe Practices Act without providing the operator or the body artist with an opportunity for an administrative hearing unless conditions in the body art establishment warrant immediate suspension pursuant to Section 61-17B-9 NMSA 1978. The hearing officer shall not be a person previously involved in the suspension or revocation action. An inspection made more than twenty-four months prior to the most recent inspection shall not be used as a basis for suspension or revocation.

E. Except as provided in Section 61-1-34 NMSA 1978, the board shall charge a fee not to exceed three hundred dollars (\$300) for the application to issue a new or renewed license. The applicant shall provide proof of current immunization as required by the board and proof of the applicant's attendance at a blood-borne pathogen training program and other training as required by the board before a license is issued or renewed.

F. A current body art license or body art establishment license shall not be transferable from one person to another.

G. The following information shall be kept on the premises of a body art establishment and shall be available for inspection by the board:

(1) the full names of all employees in the establishment and their exact duties;

(2) the board-issued license with identification photograph for the operator and any body artists;

(3) the body art establishment name and hours of operation;

(4) the name and address of the operator;

(5) a complete description of all body art performed at the body art establishment;

(6) a list of all instruments, body jewelry, sharps and inks used at the body art establishment, including names of manufacturers and serial or lot numbers or invoices or other documentation sufficient to identify and locate the manufacturer of those items; and

(7) a current copy of the Body Art Safe Practices Act.



H. An operator shall notify the board in writing not less than thirty days before changing the location of a body art establishment. The notice shall include the street address of the body art establishment's new location."

## **Chapter 92 Section 14 Laws 2021**

SECTION 14. Section 61-24C-14 NMSA 1978 (being Laws 1989, Chapter 53, Section 14) is amended to read:

"61-24C-14. LICENSE FEES.--Except as provided in Section 61-1-34 NMSA 1978, any fees for an original license or renewal of license, late charges or any other fees authorized by the provisions of the Interior Designers Act shall be set by rule of the board. The fee for initial licensure shall not exceed two hundred dollars (\$200)."

## **Chapter 92 Section 15 Laws 2021**

SECTION 15. Section 61-28B-27 NMSA 1978 (being Laws 1999, Chapter 179, Section 27, as amended) is amended to read:

"61-28B-27. FEES.--Except as provided in Section 61-1-34 NMSA 1978, the board may collect from certificate holders, permit holders, applicants and others the following fees:

A. for examination, a fee not to exceed four hundred dollars (\$400) per examination section;

B. for certificate issuance or renewal, a fee not to exceed one hundred seventy-five dollars (\$175) per year; provided, however, that the board may charge a biennial fee of not more than twice the annual fee;

C. for firm permits, a fee not to exceed one hundred dollars (\$100) per year; provided, however, that the board may charge a biennial fee of not more than twice the annual fee;

D. for incomplete or delinquent continuing education reports, certificate or permit renewals, a fee not to exceed one hundred dollars (\$100) each;

E. for preparing and providing licensure and examination information to others, a fee not to exceed seventy-five dollars (\$75.00) per report;

F. reasonable administrative fees for such services as research, record copies, duplicate or replacement certificates or permits;

G. a fee for fingerprinting and background check for an applicant for certification not to exceed one hundred dollars (\$100);

H. for certificate reinstatement, a fee not to exceed one hundred seventy-five dollars (\$175), plus past due fees and penalties;

I. for waiver to comply with continuing professional education requirements, a fee not to exceed seventy-five dollars (\$75.00) per application; and

J. for reentry into active certificate status and to comply with continuing education, a fee not to exceed seventy-five dollars (\$75.00) per application."

## **Chapter 92 Section 16 Laws 2021**

SECTION 16. Section 61-32-6 NMSA 1978 (being Laws 1993, Chapter 204, Section 6, as amended) is amended to read:

"61-32-6. BOARD POWERS.--

A. In addition to any other authority provided by law, the board has the power to:

(1) adopt, in accordance with the provisions of the Uniform Licensing Act, and file, in accordance with the State Rules Act, rules necessary to carry out the provisions of the Funeral Services Act;

(2) adopt rules implementing continuing education requirements;

(3) conduct hearings upon charges relating to the discipline of licensees and take administrative actions pursuant to Section 61-1-3 NMSA 1978;

(4) except as provided in Section 61-1-34 NMSA 1978, establish reasonable fees to carry out the provisions of the Funeral Services Act;

(5) provide for investigations necessary to determine violations of the Funeral Services Act;

(6) establish committees as the board deems necessary for carrying out the provisions of the Funeral Services Act;

(7) apply for injunctive relief to enforce the provisions of the Funeral Services Act or to restrain any violation of that act; and

(8) conduct criminal background checks on applicants for licensure.

B. No action or other legal proceedings for damages shall be instituted against the board, any board member or employee of the board for any act performed in good faith and in the intended performance of any power or duty granted under the Funeral Services Act or for any neglect or default in the good faith performance or exercise of any such power or duty."

## Chapter 92 Section 17 Laws 2021

SECTION 17. Section 61-33-5 NMSA 1978 (being Laws 1973, Chapter 394, Section 5, as amended) is amended to read:

"61-33-5. APPLICATION REQUIREMENTS--FEES--FUND CREATED--  
ENDORSEMENT.--

- A. An applicant for certification as a certified operator shall:
- (1) make application on forms furnished by the department;
  - (2) submit evidence satisfactory to the department that the applicant has reached the age of majority; and
  - (3) except as provided in Section 61-1-34 NMSA 1978, pay in advance to the department fees set by rule not to exceed:
    - (a) for examination for certification in each classification \$100;
    - (b) for renewal of a certificate after a period set by rule \$40.00; and
    - (c) for issuance of a certificate by endorsement \$100.
- B. Fees collected pursuant to Subsection A of this section shall be deposited with the state treasurer in the "public water supply system operator and public wastewater facility operator fund", hereby created. The fund shall be used solely for the purpose of administering and enforcing the Utility Operators Certification Act. The fund shall be administered by the department. Money in the fund shall be retained by the department for use, subject to appropriation by the legislature. Balances in the fund at

the end of any fiscal year shall not revert to the general fund, but shall accrue to the credit of the fund. Earnings on the fund shall be credited to the fund.

C. The department may, in its discretion, endorse for certification without examination an operator who submits evidence satisfactory to the department that the applicant has reached the age of majority and holds a valid license or certification in any state, territory or foreign jurisdiction having standards equal to or exceeding those of New Mexico.

D. Fees shall not be increased more than once per calendar year. The first increase of the fees shall not result in any fee greater than thirty dollars (\$30.00). Any subsequent increase of the fees shall not be more than five percent of the existing fee."

## **LAWS 2021, CHAPTER 93**

**House Bill 125, aa**  
**Approved April 6, 2021**

### AN ACT

RELATING TO LICENSING; MODIFYING LICENSING REQUIREMENTS FOR CERTAIN BEHAVIORAL HEALTH PRACTITIONERS; AMENDING THE PROFESSIONAL PSYCHOLOGIST ACT AND THE COUNSELING AND THERAPY PRACTICE ACT TO ALLOW THE APPLICATION OF TECHNOLOGY TO SUPERVISION; CHANGING THE COMPOSITION OF THE COUNSELING AND THERAPY PRACTICE BOARD; ADDING STATE RESIDENCY REQUIREMENTS FOR MEMBERS OF THE COUNSELING AND THERAPY PRACTICE BOARD AND THE BOARD OF SOCIAL WORK EXAMINERS.

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

## Chapter 93 Section 1 Laws 2021

SECTION 1. Section 61-9-6 NMSA 1978 (being Laws 1963, Chapter 92, Section 5, as amended) is amended to read:

"61-9-6. BOARD--MEETING--POWERS.--

A. The board shall, annually in the month of July, hold a meeting and elect from its membership a chair, vice chair and secretary-treasurer. The board shall meet at other times as it deems necessary or advisable or as deemed necessary and advisable by the chair or a majority of its members or the governor. Reasonable notice of all meetings shall be given in the manner prescribed by the board. A majority of the board constitutes a quorum at a meeting or hearing.

B. The board is authorized to:

(1) adopt and from time to time revise such rules not inconsistent with the law as may be necessary to carry into effect the provisions of the Professional Psychologist Act. The rules shall include a code of conduct for psychologists and psychologist associates in the state;

(2) adopt a seal, and the administrator shall have the care and custody of the seal;

(3) examine for, approve, deny, revoke, suspend and renew the licensure of psychologist and psychologist associate applicants as provided in the Professional Psychologist Act;

(4) conduct hearings upon complaints concerning the disciplining of a psychologist or psychologist associate; and

(5) cause the prosecution and enjoinder of persons violating the Professional Psychologist Act and incur related necessary expenses.

C. Within sixty days after the close of each fiscal year, the board shall submit a written report, reviewed and signed by the board members, to the governor concerning the work of the board during the preceding fiscal year. The report shall include the names of psychologists and psychologist associates to whom licenses have been granted; cases heard and decisions rendered in relation to the work of the board; the recommendations of the board as to future policies, including the appropriate application of technology for supervision; and an account of all money received and expended by the board."

## **Chapter 93 Section 2 Laws 2021**

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

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

## **Chapter 93 Section 3 Laws 2021**

SECTION 3. Section 61-9-10.1 NMSA 1978 (being Laws 2006, Chapter 6, Section 5) is amended to read:

"61-9-10.1. PROVISIONAL AND TEMPORARY LICENSURE.--

A. A temporary license may be issued to an applicant previously licensed in another jurisdiction and in good standing whose out-of-state license meets current licensing criteria for New Mexico. A temporary license shall be valid for six months and is not subject to extension or renewal, unless a federal or state public health emergency is declared pursuant to the Public Health Emergency Response Act and directly impacts the applicant; in which case, an applicant's temporary license shall be automatically extended for the duration of the public health emergency and for an additional six months, beginning on the day that the public health emergency ends.

B. The granting of a temporary license to the applicant does not include issuance of a conditional prescription certificate unless the board finds the applicant meets the requirements of Section 61-9-17.1 NMSA 1978.

C. A provisional license may be issued to an applicant never previously licensed and who does not meet New Mexico's experience requirements for psychology licensure, but who otherwise meets criteria for education and training. A provisionally licensed psychologist must practice under the supervision of a New Mexico licensed psychologist until fully licensed. A provisional license shall be valid for eighteen months and is not subject to extension or renewal, unless a federal or state public health emergency is declared pursuant to the Public Health Emergency Response Act and directly impacts the applicant; in which case, an applicant's provisional license shall be automatically extended for the duration of the public health emergency and for an additional six months, beginning on the day that the public health emergency ends."

## **Chapter 93 Section 4 Laws 2021**

SECTION 4. Section 61-9-11 NMSA 1978 (being Laws 1963, Chapter 92, Section 10, as amended) is amended to read:

"61-9-11. LICENSURE--EXAMINATION.--



A. The board shall issue a license as a psychologist to an applicant who files an application upon a form and in such manner as the board prescribes and, except as provided in Section 61-1-34 NMSA 1978, pays any fee required by the Professional Psychologist Act, and who furnishes evidence to the board that the applicant:

(1) has reached the age of majority;

(2) is not in violation of any of the provisions of the Professional Psychologist Act and the rules adopted pursuant to that act;

(3) is a graduate of:

(a) a doctoral program that is designated as a doctoral program in psychology by a nationally recognized designation system or that is accredited by a nationally recognized accreditation body and holds a degree with a major in clinical, counseling or school psychology from a university offering a full-time course of study in psychology; or

(b) a doctoral program outside the United States or Canada that is equivalent to a program in Subparagraph (a) of this paragraph and holds a degree with a major in clinical, counseling or school psychology from a university offering a full-time course of study in psychology; the board shall promulgate by rule a list of board-approved credential inspection and verification services to appraise foreign degree programs;

(4) has had at least two years of supervised experience in psychological work; provided that:

(a) up to one year of the supervised experience may be obtained in predoctoral practicum hours overseen by a graduate training program and consistent with the guidelines on practicum experience for licensure promulgated by the association of state and provincial psychology boards;

(b) up to one year of the supervised experience may be obtained in a predoctoral internship approved by the American psychological association;

(c) up to one-half year of the supervised experience may be obtained in a predoctoral internship that is not approved by the American psychological association; and

(d) any portion of the required supervised experience not satisfied pursuant to Subparagraphs (a), (b) and (c) of this paragraph shall be obtained in postdoctoral psychological work;

(5) demonstrates professional competence by passing the examination for professional practice in psychology promulgated by the association of state and provincial psychology boards with a total raw score of 140 (seventy percent), before January 1, 1993 or, if after January 1, 1993, a score equal to or greater than the passing score recommended by the association of state and provincial psychology boards;

(6) demonstrates an awareness and knowledge of New Mexico cultures to the board; and

(7) passes such jurisprudence examination as may be given by the board through an online testing and scoring mechanism.

B. Upon investigation of the application and other evidence submitted, including a criminal background check, the board shall, not less than thirty days prior to the examination, notify each applicant that the application and evidence submitted for licensure are satisfactory and accepted or unsatisfactory and rejected. If rejected, the notice shall state the reasons for rejection.

C. The place of examination shall be designated in advance by the board, and examinations shall be given at such time and place and under such supervision as the board may determine.

D. In the event an applicant fails to receive a passing grade, the applicant may apply for reexamination and shall be allowed to take a subsequent examination upon payment of the fee required by the Professional Psychologist Act.

E. The board shall keep a record of all examinations, and the grade assigned to each, as part of its records for at least two years subsequent to the date of examination."

## **Chapter 93 Section 5 Laws 2021**

SECTION 5. Section 61-9-11.1 NMSA 1978 (being Laws 1983, Chapter 334, Section 4, as amended) is amended to read:

"61-9-11.1. PSYCHOLOGIST ASSOCIATES--LICENSURE--EXAMINATION.--

A. The board shall issue a license as a psychologist associate to each applicant who files an application upon a form and in such manner as the board prescribes and, except as provided in Section 61-1-34 NMSA 1978, accompanied by the fee required by the Professional Psychologist Act, and who furnishes evidence satisfactory to the board that the applicant:

(1) has reached the age of majority and is not in violation of any of the provisions of the Professional Psychologist Act and the rules and regulations adopted pursuant to that act;

(2) holds a master's degree in psychology from a department of psychology of a school or college;

(3) demonstrates professional competence by passing the examination for professional practice in psychology promulgated by the association of state and provincial psychology boards with a score equivalent to or greater than the statistical mean as reported by the association of state and provincial psychology boards for all master's-level candidates taking the examination on that occasion;

(4) demonstrates awareness and knowledge of New Mexico cultures to the board; and

(5) passes such jurisprudence examination as may be given by the board through an online testing and scoring mechanism.

B. Upon investigation of the application and other evidence submitted, the board shall, not less than thirty days prior to the examination, notify each applicant that the application and evidence submitted for licensure is satisfactory and accepted or unsatisfactory and rejected. If rejected, the notice shall state the reasons for rejection.

C. The place of examination shall be designated in advance by the board, and examinations shall be given at such time and place and under such supervision as the board may determine.

D. In the event an applicant fails to receive a passing grade, the applicant may apply for reexamination and shall be allowed to take a subsequent examination upon payment of the fee required by the Professional Psychologist Act.

E. The board shall keep a record of all examinations, and the grade assigned to each, as part of its records for at least two years subsequent to the date of examination.

F. The board may adopt reasonable rules and regulations classifying areas and conditions of practice permissible for psychologist associates."

## Chapter 93 Section 6 Laws 2021

SECTION 6. Section 61-9A-7 NMSA 1978 (being Laws 1993, Chapter 49, Section 7, as amended) is amended to read:

"61-9A-7. BOARD CREATED--MEMBERS--APPOINTMENT--TERMS--COMPENSATION.--

A. There is created the "counseling and therapy practice board". The board is administratively attached to the department.

B. The board consists of seven members who are United States citizens, have been New Mexico residents for at least five years prior to their appointment and maintain New Mexico residency during their appointment. Of the seven members:

(1) five members shall be professional members, who shall be a professional mental health counselor, a professional clinical mental health counselor, a marriage and family therapist, a professional art therapist and an alcohol and drug abuse counselor, licensed under the Counseling and Therapy Practice Act and shall have engaged in a counselor and therapist practice for at least five years. The professional mental health counselor shall also represent the registered independent and licensed mental health counselors; and

(2) two members shall represent the public. The public members shall not have been licensed or have practiced as counselor or therapist practitioners or in any other regulated mental health profession, nor have any significant financial interest, either direct or indirect, in the professions regulated.

C. Members of the board shall be appointed by the governor for staggered terms of four years. A member shall hold office until a successor is appointed. Vacancies shall be filled in the same manner as original appointments. No appointee shall serve more than two terms.

D. The governor may appoint professional board members from a list of nominees submitted by qualified individuals and organizations, including the New Mexico counseling association, the New Mexico association for marriage and family therapy, the New Mexico art therapy association and the alcohol and drug directors association.

E. Members of the board shall be reimbursed as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

F. The board shall elect annually from its membership a chair and a secretary and other officers as necessary to carry out its duties.

G. The board shall meet once a year and at other times deemed necessary. Other meetings may be called by the chair upon the written request of three members of the board. A simple majority of the board members shall constitute a quorum of the board.

H. Any member failing to attend three meetings after proper notice shall be automatically recommended for removal as a board member, unless excused by the board chair for one of the following reasons:

- (1) extenuating circumstances beyond the member's control, including illness;
- (2) prearranged activities out of town; or
- (3) other severe circumstances that do not allow a member to attend."

## **Chapter 93 Section 7 Laws 2021**

SECTION 7. Section 61-9A-9 NMSA 1978 (being Laws 1993, Chapter 49, Section 9, as amended) is amended to read:

"61-9A-9. BOARD--POWERS AND DUTIES.--

A. The board may:

- (1) adopt and file in accordance with the State Rules Act rules necessary to carry out the provisions of the Counseling and Therapy Practice Act;
- (2) select and provide for the administration of, at least, semiannual examinations for licensure;
- (3) establish the passing scores for examinations;
- (4) take any disciplinary action allowed by and in accordance with the Uniform Licensing Act and necessary to carry out the provisions of the Counseling and Therapy Practice Act;
- (5) censure, reprimand or place a licensee or registrant on probation;
- (6) require and establish criteria for continuing education;
- (7) establish by rule procedures for receiving, investigating and resolving complaints;
- (8) approve appropriate supervision, and postgraduate experience for persons seeking licensure or registration;
- (9) provide for the issuance of licenses;
- (10) determine eligibility of individuals for licensure or registration;

(11) set fees for administrative services and registration, as authorized by the Counseling and Therapy Practice Act, and authorize all disbursements necessary to carry out the provisions of that act;

(12) except as provided in Section 61-1-34 NMSA 1978, set fees for licenses, as authorized by the Counseling and Therapy Practice Act, and authorize all disbursements necessary to carry out the provisions of that act;

(13) establish criteria for supervision and supervisory requirements, including the appropriate application of technology;

(14) establish a code of ethics; and

(15) establish committees.

B. The board may establish a standards committee for each licensed profession. The members of each standards committee shall be appointed by the board with the consent of the department and shall include at least one board member from the licensed profession and at least one public board member. The board member representing each respective profession shall chair its standards committee and the committee shall:

(1) recommend and periodically review a code of ethics;

(2) review license applications and recommend approval or disapproval;

(3) develop criteria for supervision, including the appropriate application of technology; and

(4) recommend rules.



C. Members of the standards committees or other committees may be reimbursed as provided in the Per Diem and Mileage Act, but shall receive no other compensation, perquisite or allowance."

## **Chapter 93 Section 8 Laws 2021**

SECTION 8. Section 61-9A-11 NMSA 1978 (being Laws 1993, Chapter 49, Section 11, as amended) is amended to read:

"61-9A-11. PROFESSIONAL CLINICAL MENTAL HEALTH COUNSELOR--REQUIREMENTS FOR LICENSURE.--The board shall issue a license as a professional clinical mental health counselor to a person who files a completed application and, except as provided in Section 61-1-34 NMSA 1978, pays any required fees and who submits satisfactory evidence that the applicant:

- A. has reached the age of twenty-one;
- B. holds a master's or doctoral degree in a counseling or counseling-related field, as defined by rule, from an accredited institution. The applicant shall have a master's degree and a total of no less than forty-eight graduate semester hours or seventy-two quarter hours in the mental health clinical core curriculum;
- C. demonstrates professional competency by passing the required examination as prescribed by the board;
- D. has a minimum of two years of professional clinical counseling experience, including at least three thousand clinical contact hours and at least one hundred hours of appropriate supervision. One thousand client clinical contact hours may be submitted from the applicant's internship or practicum; and
- E. observes the code of ethics."

## **Chapter 93 Section 9 Laws 2021**

SECTION 9. Section 61-9A-12 NMSA 1978 (being Laws 1993, Chapter 49, Section 12, as amended) is amended to read:

"61-9A-12. MARRIAGE AND FAMILY THERAPIST--REQUIREMENTS FOR LICENSURE.--The board shall issue a license as a marriage and family therapist to a person who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

- A. has reached the age of twenty-one;
- B. holds a master's or doctoral degree with a focus in marriage and family therapy and meets the requirements of the marriage and family therapy core curriculum, as defined by rule, in marriage and family therapy from an accredited institution;
- C. demonstrates professional competency by passing the examinations as prescribed by the board;
- D. has a minimum of two years of postgraduate marriage and family therapy experience consisting of one thousand client contact hours and two hundred hours of appropriate clinical supervision, of which one hundred hours of such supervision was on an individual basis; and
- E. observes the code of ethics."

## **Chapter 93 Section 10 Laws 2021**

SECTION 10. Section 61-9A-12.1 NMSA 1978 (being Laws 2005, Chapter 210, Section 11) is amended to read:

"61-9A-12.1. LICENSED ASSOCIATE MARRIAGE AND FAMILY THERAPIST OR COUNSELOR--REQUIREMENTS FOR LICENSURE.--The board shall issue a license as an associate marriage and family therapist or counselor to a person who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

- A. has reached the age of twenty-one;
- B. holds a master's or doctoral degree with a focus in marriage and family therapy or counselor from an accredited institution and meets the requirements of the marriage and family therapy or counselor core curriculum, as defined by rule;
- C. has arranged for appropriate clinical supervision, as defined by rule, to meet the requirements for a licensed associate marriage and family therapist;
- D. demonstrates professional competence by passing an examination within the applicant's discipline as prescribed by the board; and
- E. observes the code of ethics."

## **Chapter 93 Section 11 Laws 2021**

SECTION 11. Section 61-9A-13 NMSA 1978 (being Laws 1993, Chapter 49, Section 13, as amended) is amended to read:

"61-9A-13. PROFESSIONAL ART THERAPIST--REQUIREMENTS FOR LICENSURE.--The board shall issue a license as a professional art therapist to a person who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

- A. has reached the age of twenty-one;

B. demonstrates professional competency by passing an examination as prescribed by the board;

C. holds a master's or doctoral degree in art therapy, counseling or counseling-related field from an accredited institution or nationally approved art therapy program with a total of no less than forty-eight graduate semester hours or seventy-two quarter hours in the art therapy core curriculum;

D. meets the art therapy core curriculum as defined by rule;

E. has completed a minimum of two years post-graduate professional experience, three thousand client contact hours and one hundred hours of post-graduate experience under appropriate supervision. Seven hundred clinical client contact hours may be from the applicant's internship or practicum program beyond the requirements in Subsection C of this subsection. Supervision shall be under a New Mexico-licensed professional art therapist or certified board therapist for at least fifty percent of the working hours; and

F. observes the code of ethics."

## **Chapter 93 Section 12 Laws 2021**

SECTION 12. Section 61-9A-14 NMSA 1978 (being Laws 1993, Chapter 49, Section 14, as amended) is amended to read:

"61-9A-14. REQUIREMENTS FOR LICENSED MENTAL HEALTH COUNSELOR.--The board shall issue a license as a mental health associate to any person who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

A. has reached the age of twenty-one;

B. holds either a master's or doctoral degree from an accredited institution in a counseling or counseling-related field, as defined by rule and a total of no less than forty-eight graduate semester hours or seventy-two quarter hours in the core curriculum;

C. has arranged for an appropriate clinical supervision plan and a postgraduate experience plan, as defined by rule, to meet the licensing requirements for a:

- (1) professional art therapist;
- (2) professional mental health counselor; or
- (3) professional clinical mental health counselor;

D. demonstrates professional competence by passing an examination within the applicant's discipline as prescribed by the board; and

E. observes the code of ethics."

## **Chapter 93 Section 13 Laws 2021**

SECTION 13. Section 61-9A-14.1 NMSA 1978 (being Laws 1996, Chapter 61, Section 8, as amended) is amended to read:

"61-9A-14.1. SUBSTANCE ABUSE ASSOCIATE--REQUIREMENTS FOR LICENSURE.--

A. Effective July 1, 2005, the board shall license as a substance abuse associate any person who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant as defined by rule:

- (1) observes the code of ethics;

(2) has reached the age of twenty-one;

(3) holds an associate degree in a counseling, counseling-related field or substance abuse-related field from an accredited institution and has a total of ninety clock hours of education and training in the fields of alcohol and drug abuse counseling; and

(4) has arranged for an appropriate supervision plan, as defined by rule, to meet the requirements for licensure as a substance abuse associate.

B. The applicant shall also provide two letters of recommendation."

### **Chapter 93 Section 14 Laws 2021**

SECTION 14. Section 61-9A-14.2 NMSA 1978 (being Laws 1999, Chapter 161, Section 15, as amended) is amended to read:

"61-9A-14.2. ALCOHOL AND DRUG ABUSE COUNSELOR--REQUIREMENTS FOR LICENSURE.--Effective July 1, 2005, the board shall license as an alcohol and drug abuse counselor a person who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant, as defined by rule:

A. observes the code of ethics;

B. has reached the age of twenty-one;

C. demonstrates professional competency by passing the required examinations prescribed by the board; and

D. has one of the following combinations of education and experience:

(1) an associate degree in counseling, a counseling-related field or a substance abuse-related field from an accredited institution, and education and training that includes two hundred seventy-six clock hours with ninety hours in each of the fields of alcohol and drug abuse counseling, six hours of professional ethics, three years and three thousand client contact hours under appropriate supervision of experience in the practice of alcohol and drug abuse counseling and two hundred hours of appropriate supervision;

(2) a baccalaureate degree in counseling, a counseling-related field or a substance abuse-related field, as defined by rule, from an accredited institution and education and training that includes two hundred seventy-six clock hours with ninety hours in each of the fields of alcohol and drug abuse counseling and six hours of professional ethics, two years and two thousand client contact hours under appropriate supervision of experience in the practice of alcohol and drug abuse counseling and one hundred hours of appropriate supervision; or

(3) a master's degree in counseling, a counseling-related field or a substance abuse-related field, as defined by rule, from an accredited institution, and education and training that includes two hundred seventy-six clock hours with ninety hours in each of the fields of alcohol and drug abuse counseling and six hours of professional ethics, one year and one thousand client contact hours under appropriate supervision of experience in the practice of alcohol and drug abuse counseling and fifty hours of appropriate supervision hours."

## **Chapter 93 Section 15 Laws 2021**

SECTION 15. Section 61-9A-22 NMSA 1978 (being Laws 1993, Chapter 49, Section 22, as amended) is amended to read:

"61-9A-22. LICENSURE BY CREDENTIALS.--

A. The board shall issue a license in the same licensure level to a person who:

(1) files a completed application accompanied by the required fees;

(2) submits evidence that the applicant holds and has held for a minimum of two years a current license issued by the appropriate examining board under the law of any other state or territory of the United States, the District of Columbia or any foreign nation;

(3) is in good standing with no disciplinary action pending or brought against the applicant within the past two years; and

(4) possesses a master's or doctoral degree in counseling or a counseling-related field from an accredited institution.

B. Applicants who do not meet the licensure by credential must meet the current licensure requirements."

## **Chapter 93 Section 16 Laws 2021**

SECTION 16. Section 61-31-7 NMSA 1978 (being Laws 1989, Chapter 51, Section 7, as amended) is amended to read:

"61-31-7. BOARD CREATED.--

A. There is created the "board of social work examiners".

B. The board shall be administratively attached to the department.

C. The board shall consist of seven members who are representative of the geographic and ethnic groups within New Mexico, who have been New Mexico



residents prior to their appointment and maintain New Mexico residency during their appointment. Of the seven members:

(1) four members shall have been engaged in social work practice for at least five years; at least two of the four shall hold a master's degree in social work; and at least two shall hold a bachelor's degree in social work from schools of social work that are accredited by the council on social work education. At least one of these members shall be engaged primarily in clinical social work practice; one member shall be engaged primarily in education; one member shall be engaged primarily in administration or research in social work practice; and at least one member shall be engaged primarily in community organization, planning and development. These members may join professional organizations and associations organized exclusively to promote the improvement of the practice of social work for the protection of the health and welfare of the public or whose activities assist and facilitate the work of the board; and

(2) three members shall represent the public. The public members shall not have been licensed or have practiced as social workers. Public members shall not have any significant financial interest, whether direct or indirect, in social work practice.

D. Members of the board shall be appointed by the governor for staggered terms of three years. Each member shall hold office until a successor is appointed. Vacancies shall be filled for the unexpired term in the same manner as original appointments.

E. Except for the representatives of the public on the board, the governor shall appoint board members from a list of nominees submitted by social work organizations and individual social work professionals or from a pool of resumes submitted to the governor by individuals applying for membership.

F. Members of the board shall be reimbursed as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

G. The board shall elect a chair and other officers as deemed necessary to administer its duties.

H. A simple majority of the board members currently serving shall constitute a quorum of the board.

I. The board shall meet at least once a year and at such other times as it deems necessary. Other meetings may be called by the chair upon the written request of a quorum of the board. The board may permit electronic participation in board meetings in accordance with the Open Meetings Act and board rules.

J. The governor may remove any member from the board for:

(1) the neglect of any duty required by law;

(2) incompetence;

(3) improper or unprofessional conduct as defined by board rule;

(4) violation of the current professional code of ethics or professional standards promulgated by a national organization of social work professionals that provides guidance, research, advocacy and other services to social workers; or

(5) any reason that would justify the suspension or revocation of that member's license to practice social work.

K. A board member shall not serve more than two consecutive terms, and any member failing to attend, after proper notice, three consecutive meetings shall automatically be removed as a board member, unless excused for reasons set forth in board rules.

L. In the event of a vacancy for any reason, the board secretary shall immediately notify the governor and the board of the vacancy and the reason for its

occurrence to expedite the appointment of a new board member within a six-month period."

### **Chapter 93 Section 17 Laws 2021**

SECTION 17. Section 61-31-11 NMSA 1978 (being Laws 1989, Chapter 51, Section 11, as amended) is amended to read:

"61-31-11. PROVISIONAL LICENSURE.--Prior to examination, an applicant for licensure who holds a bachelor's degree or master's degree in social work may obtain a provisional license to engage in social work practice as long as the applicant meets all the requirements, except examination, pursuant to the Social Work Practice Act for the level of license sought. The provisional license is valid for a period not to exceed one year, unless a federal or state public health emergency is declared pursuant to the Public Health Emergency Response Act and directly impacts the applicant; in which case, an applicant's provisional license shall be automatically extended for the duration of the public health emergency and for an additional six months, beginning on the day that the public health emergency ends."

### **Chapter 93 Section 18 Laws 2021**

SECTION 18. Section 61-31-13 NMSA 1978 (being Laws 1989, Chapter 51, Section 13, as amended) is amended to read:

"61-31-13. LICENSURE BY CREDENTIALS.--

A. The board shall license an applicant for the licensure level sought, provided the applicant:

(1) possesses and has held for a minimum of two and one-half years a valid social worker license issued by the appropriate examining board under the laws of

any other state or territory of the United States, the District of Columbia or any foreign nation;

(2) is in good standing with no disciplinary action pending or brought against the applicant within the past two and one-half years;

(3) possesses a bachelor's or master's degree in social work from a program of social work accredited by the council on social work education;

(4) verifies that the applicant has taken and passed the national examination as defined by rule; and

(5) demonstrates an awareness and knowledge of New Mexico cultures to the board.

B. The applicant will not have to further verify the applicant's experience, schooling or degrees if the criteria pursuant to Subsection A of this section are met."

## **LAWS 2021, CHAPTER 94**

**HJC/House Bill 128, aa, w/cc**  
**Approved April 6, 2021**

### **AN ACT**

**RELATING TO SCHOOL PERSONNEL; REQUIRING REPORTS OF ETHICAL MISCONDUCT BY SCHOOL DISTRICT PERSONNEL, SCHOOL EMPLOYEES, SCHOOL VOLUNTEERS, CONTRACTORS OR CONTRACTORS' EMPLOYEES TO BE REPORTED TO THE PUBLIC EDUCATION DEPARTMENT OR A SUPERINTENDENT; REQUIRING APPLICANTS FOR SCHOOL EMPLOYMENT OR SCHOOL VOLUNTEER POSITIONS TO DISCLOSE PAST ETHICAL MISCONDUCT; REQUIRING LOCAL SCHOOL BOARDS TO ADOPT POLICIES TRACKING CHILD**

ABUSE AND ETHICAL MISCONDUCT ALLEGATIONS; PROVIDING DEFINITIONS; REQUIRING THE PUBLIC EDUCATION DEPARTMENT TO MAINTAIN A LIST OF REPORTS INVOLVING CHILD ABUSE OR ETHICAL MISCONDUCT; ALLOWING TERMINATION OF SCHOOL EMPLOYMENT OR SCHOOL VOLUNTEER POSITION DECISIONS TO BE PUBLIC; ADDING ETHICAL MISCONDUCT TO SCHOOL TRAINING PROGRAMS; REQUIRING SCHOOL DISTRICT PERSONNEL AND SCHOOL VOLUNTEERS TO COMPLETE SCHOOL TRAINING PROGRAMS; ADDING ETHICAL MISCONDUCT TO THE REASONS FOR POTENTIAL DENIAL, SUSPENSION OR REVOCATION OF A DEPARTMENT-ISSUED LICENSE.

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

## **Chapter 94 Section 1 Laws 2021**

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

"DUTY TO REPORT ETHICAL MISCONDUCT--RESPONSIBILITY TO INVESTIGATE ETHICAL MISCONDUCT--ETHICAL MISCONDUCT REPORT COORDINATION.--

A. School district personnel, a school employee, a contractor or a contractor's employee who knows or has a reasonable suspicion that a child or student has been subject to ethical misconduct by school district personnel, a school employee, a school volunteer, a contractor or a contractor's employee shall report the matter immediately to:

- (1) the superintendent; or
- (2) the department.

B. If a superintendent receives a report pursuant to Subsection A of this section, the superintendent shall immediately transmit to the department by telephone

the facts of the report and the name, address and telephone number of the reporter. The superintendent shall transmit the same information in writing within forty-eight hours.

C. If department staff receives a report pursuant to Subsection A of this section, department staff shall immediately transmit to the superintendent by telephone the facts of the report and the name, address and telephone number of the reporter. Department staff shall transmit the same information in writing within forty-eight hours.

D. A written report shall contain the name, address and age of the child or student; the child's or student's parents, guardians or custodians; the school district personnel, school employee, school volunteer, contractor or contractor's employee who is alleged to have committed ethical misconduct; and any evidence of ethical misconduct, including the nature and extent of any injuries and other information that the maker of the report believes might be helpful to investigate a report of ethical misconduct. The written report shall be submitted upon a standardized form developed by the department.

E. Upon receipt of a report of ethical misconduct pursuant to Subsection A of this section, the department shall immediately notify law enforcement if the allegation of ethical misconduct is criminal in nature; provided that the department shall notify a tribal law enforcement or social services agency for any Indian child residing in Indian country.

F. The recipient of a report pursuant to Subsection A of this section shall take immediate steps to ensure prompt investigation of the report. The investigation shall ensure that immediate steps are taken to protect the health or welfare of a student or child who is the subject of a report under Subsection A of this section. A school shall take immediate steps to ensure the safety of enrolled students.

G. After a report of suspected ethical misconduct against a student or child is made to a law enforcement agency, the department or a superintendent pursuant to this section, the office receiving the report shall notify the person making the report within

five days after the report was made that the office receiving the report is investigating the matter. Mailing a notice within five days shall constitute compliance with this subsection.

H. A law enforcement agency, the department or a superintendent shall have access to any of the records pertaining to an ethical misconduct case maintained by any of the persons enumerated in Subsection A of this section.

I. A local school board shall adopt policies providing for the coordination and internal tracking of reports made pursuant to this section. Such policies shall include measures to protect the identity of any alleged victims. No policy shall relieve any person having a duty to report pursuant to this section from that duty."

## **Chapter 94 Section 2 Laws 2021**

SECTION 2. A new section of the School Personnel Act is enacted to read:

"APPLICANTS FOR SCHOOL EMPLOYMENT, CONTRACTS OR VOLUNTEER POSITIONS--REQUIREMENTS FOR WORK HISTORY AND OTHER INFORMATION.-

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A. A public school shall require an applicant for employment to provide:

(1) a list of the applicant's current and former employers that were schools or that employed the applicant in a position involving unsupervised contact with children or students. The list shall include the name, address, telephone number and other relevant contact information for each of the applicant's listed employers;

(2) a written statement describing whether the applicant:

(a) has ever been under investigation for, or has been found to have violated, any state or federal statute relating to child abuse or neglect, sexual

misconduct or any sexual offense, including those offenses prohibited in Chapter 30, Article 3, 3A, 4, 6, 6A, 9, 37, 37A or 52 NMSA 1978, unless the allegations were false or unsubstantiated;

(b) has ever been under investigation for, or found to have violated, any ethical rule or policy approved by a former employer that previously employed the applicant, unless the allegations were false or unsubstantiated; or

(c) has ever had a professional license or certificate denied, suspended, surrendered or revoked due to a finding of child abuse or ethical misconduct or while allegations of child abuse or ethical misconduct were pending or under investigation; and

(3) a written authorization that authorizes disclosure of information requested under Subsection B or D of this section and the release of related records by the applicant's previous employers, releasing the applicant's previous employers from any liability related to the disclosure or release of records.

B. A public school shall conduct a review of the applicant's employment history and contact the applicant's current and former employers listed under Subsection A of this section and request:

(1) the applicant's dates of employment; and

(2) a written statement describing whether the applicant:

(a) has ever been under investigation for, or has been found to have violated, any state or federal statute relating to child abuse or neglect, sexual misconduct or any sexual offense, including those offenses prohibited in Chapter 30, Article 3, 3A, 4, 6, 6A, 9, 37, 37A or 52 NMSA 1978, unless the allegations were false or unsubstantiated;



(b) has ever been under investigation for, or found to have violated, any ethical rule or policy approved by a former employer that previously employed the applicant, unless the allegations were false or unsubstantiated; or

(c) has ever had a professional license or certificate denied, suspended, surrendered or revoked due to a finding of child abuse or ethical misconduct or while allegations of child abuse or ethical misconduct were pending or under investigation.

C. An applicant's current or former employer shall disclose the information requested under Subsection B of this section within thirty days of receiving the request.

D. During the course of a public school's review of the applicant's employment history, an applicant's current or former employer may disclose any other information the applicant's current or former employer deems pertinent and substantive to the prospective employee's suitability for employment in a position that includes unsupervised contact with children or students.

E. A public school shall make and document efforts to:

(1) verify the information provided under Subsections A and B of this section; and

(2) obtain from an applicant's current or former out-of-state employer the information required under Subsection B of this section.

F. A public school may terminate an individual's employment or contract or rescind an applicant's offer of employment or offer of a contract if the applicant is offered or commences employment with a public school after the effective date of this 2021 act and information regarding the applicant's history of child abuse or ethical misconduct that is determined to disqualify the applicant from employment or a contract is subsequently obtained by the public school.

G. When a reference on a former or current employee, contractor or volunteer is requested, the employer shall respond and provide the requested information pursuant to Subsection B of this section.

H. An applicant who provides false information or willfully neglects to disclose information required under this section shall be subject to discipline including termination or denial of employment or action to deny, suspend or revoke a license.

I. For the purposes of this section, "applicant" means an applicant for employment, an individual who is being considered as a contractor, a contractor's employee or an individual who wants to be a school volunteer."

## **Chapter 94 Section 3 Laws 2021**

SECTION 3. Section 22-5-4.2 NMSA 1978 (being Laws 1985, Chapter 94, Section 1) is amended to read:

"22-5-4.2. CHILD ABUSE--REPORT COORDINATION--CONFIRMATION.--

A. A local school board shall adopt policies providing for the coordination and internal tracking of reports made pursuant to Section 32A-4-3 NMSA 1978. Such policies, however, shall not require any notification to school district personnel before the report is made to the offices listed in Subsection A of Section 32A-4-3 NMSA 1978. Such policies shall include measures to protect the identity of any alleged victims. No policy shall purport to relieve any person having a duty to report under Section 32A-4-3 NMSA 1978 from that duty.

B. After a report is made pursuant to Section 32A-4-3 NMSA 1978, the office receiving the notification shall notify the person making the report within five days after the report was made that the office is investigating the matter. Mailing a notice within five days shall constitute compliance with this subsection."

## Chapter 94 Section 4 Laws 2021

SECTION 4. Section 22-10A-2 NMSA 1978 (being Laws 2019, Chapter 238, Section 1) is amended to read:

"22-10A-2. DEFINITIONS.--As used in the School Personnel Act:

A. "child abuse" means a child:

(1) who has suffered or who is at risk of suffering serious harm because of the action or inaction of the child's parent, guardian, custodian or other adult;

(2) who has suffered physical abuse, emotional abuse or psychological abuse inflicted or caused by the child's parent, guardian, custodian or other adult;

(3) who has suffered sexual abuse or sexual exploitation inflicted by the child's parent, guardian, custodian or other adult;

(4) whose parent, guardian, custodian or other adult has knowingly, intentionally or negligently placed the child in a situation that may endanger the child's life or health; or

(5) whose parent, guardian, custodian or other adult has knowingly or intentionally tortured, cruelly confined or cruelly punished the child;

B. "constitutional special school" means the New Mexico military institute, New Mexico school for the deaf and New Mexico school for the blind and visually impaired;

C. "contractor" means an individual who is under contract with a public school and is hired to provide services to the public school, but does not include a

general contractor or a building or maintenance contractor who is supervised and has no access to students at the public school;

D. "discharge" means the act of severing the employment relationship with a licensed school employee prior to the expiration of the current employment contract;

E. "employed for three consecutive school years" means a licensed school employee has been offered and accepted in writing a notice of reemployment for the third consecutive school year;

F. "ethical misconduct" means the following behavior or conduct by school district personnel, school employees, school volunteers, contractors or contractors' employees:

(1) discriminatory practice based on race, age, color, national origin, ethnicity, sex, pregnancy, sexual orientation, gender identity, mental or physical disability, marital status, religion, citizenship, domestic abuse reporting status or serious medical condition;

(2) sexual misconduct or any sexual offense prohibited by Chapter 30, Article 6A or 9 NMSA 1978 involving an adult or child, regardless of a child's enrollment status;

(3) fondling a child or student, including touching private body parts, such as breasts, buttocks, genitals, inner thighs, groin or anus; or

(4) any other behavior, including licentious, enticing or solicitous behavior, that is reasonably apparent to result in inappropriate sexual contact with a child or student or to induce a child or student into engaging in illegal, immoral or other prohibited behavior;

G. "governing authority" means the policy-setting body of a school district, charter school, constitutional special school or regional education cooperative, or the final decision maker of another state agency;

H. "instructional support provider" means a person who is employed to support the instructional program of a public school, including educational assistant, school counselor, social worker, school nurse, speech-language pathologist, psychologist, physical therapist, occupational therapist, recreational therapist, marriage and family therapist, interpreter for the deaf and diagnostician;

I. "just cause" means a reason that is rationally related to a school employee's competence or turpitude or the proper performance of the school employee's duties and that is not in violation of the school employee's civil or constitutional rights;

J. "moral turpitude" means an act or behavior that gravely violates the accepted standards of moral conduct, justice or honesty and may include ethical misconduct;

K. "public school" means a school district, charter school, constitutional special school, regional education cooperative or the educational program of another state agency;

L. "responsibility factor" means a value of 1.20 for an elementary school principal, 1.40 for a middle school or junior high school principal, 1.60 for a high school principal, 1.10 for an assistant elementary school principal, 1.15 for an assistant middle school or assistant junior high school principal and 1.25 for an assistant high school principal;

M. "sabbatical leave" means leave of absence with pay as approved by the governing authority during all or part of a regular school term for purposes of study or travel related to a licensed school employee's duties and of direct benefit to the instructional program;

N. "school administrator" means a person licensed to administer in a school district, charter school, constitutional special school or regional education cooperative or a person employed with another state agency who administers an educational program and includes local superintendents, school principals, central district administrators, business managers, charter school head administrators and state agency education supervisors;

O. "school employee" includes licensed and unlicensed employees of a public school;

P. "school premises" means:

(1) the buildings and grounds, including playgrounds, playing fields and parking areas and a school bus of a public school, in or on which school or school-related activities are being operated under the supervision of a local school board, charter school or state agency; or

(2) any other public buildings or grounds, including playing fields and parking areas that are not public school property, in or on which public school-related and -sanctioned activities are being performed;

Q. "school volunteer" means a person, including a relative of a student, who commits to serve on a regular basis at a school district, charter school or other educational entity without compensation;

R. "state agency" means a regional education cooperative or state institution;

S. "state institution" means the New Mexico boys' school, girls' welfare home, New Mexico youth diagnostic and development center, Sequoyah adolescent treatment center, Carrie Tingley crippled children's hospital, New Mexico behavioral health institute at Las Vegas and any other state agency responsible for educating resident children;

T. "substitute teacher" means a person who holds a certificate to substitute for a teacher in the classroom;

U. "superintendent" means a local superintendent, head administrator of a charter school or regional education cooperative, superintendent or commandant of a special school or head administrator of the educational program of a state agency;

V. "teacher" means a person who holds a level one, level two or level three-A license and whose primary job is classroom instruction or the supervision, below the school principal level, of an instructional program or whose duties include curriculum development, peer intervention, peer coaching or mentoring or serving as a resource teacher for other teachers;

W. "terminate" means the act of severing the employment relationship with a school employee;

X. "unsupervised contact with children or students" means access to or contact with, or the opportunity to have access to or contact with, a child or student for any length of time in the absence of:

(1) a licensed staff person from the same school or institution;

(2) a school volunteer who has undergone a background check pursuant to Section 22-10A-5 NMSA 1978; or

(3) any adult relative or guardian of the child or student; and

Y. "working day" means every school calendar day, excluding Saturdays, Sundays and legal holidays."

## Chapter 94 Section 5 Laws 2021

SECTION 5. Section 22-10A-5 NMSA 1978 (being Laws 1997, Chapter 238, Section 1, as amended by Laws 2019, Chapter 209, Section 2 and by Laws 2019, Chapter 238, Section 3) is amended to read:

"22-10A-5. BACKGROUND CHECKS--KNOWN CONVICTIONS-- ALLEGED ETHICAL MISCONDUCT--REPORTING REQUIRED--PENALTY FOR FAILURE TO REPORT.--

A. An applicant for initial licensure shall be fingerprinted only upon initial licensure and shall provide two fingerprint cards or the equivalent electronic fingerprints to the department or superintendent to obtain the applicant's federal bureau of investigation record. Convictions of felonies or misdemeanors contained in the federal bureau of investigation record shall be used in accordance with the Criminal Offender Employment Act. Other information contained in the federal bureau of investigation record, if supported by independent evidence, may form the basis for the denial, suspension or revocation of a license for just cause. Records and related information shall be privileged and shall not be disclosed to a person not directly involved in the licensure or employment decisions affecting the specific applicant. The applicant for initial licensure shall pay for the cost of obtaining the federal bureau of investigation record.

B. Governing authorities shall develop policies and procedures to require background checks on an applicant who has been offered employment or who applies to be a school volunteer or works for the public school as a contractor or a contractor's employee and who may have unsupervised contact with children or students on school premises.

C. An applicant who has been offered employment or a school volunteer, contractor or contractor's employee shall provide two fingerprint cards or the equivalent electronic fingerprints to the superintendent to obtain the applicant's, school volunteer's,



contractor's or contractor's employee's federal bureau of investigation record. The public school shall pay for an applicant's background check. A school volunteer, contractor or contractor's employee may be required to pay for the cost of obtaining a background check.

D. Convictions of felonies or misdemeanors contained in the federal bureau of investigation record shall be used in accordance with the Criminal Offender Employment Act; provided that other information contained in the federal bureau of investigation record, if supported by independent evidence, may form the basis for the employment decisions for just cause.

E. Records and related information shall be privileged and shall not be disclosed to a person not directly involved in the employment, volunteering or contracting decision affecting the specific applicant, school volunteer, contractor or contractor's employee who has been offered employment, a school volunteer position or a contract and will have unsupervised contact with children or students on school premises.

F. A superintendent shall report immediately to the department any known conviction of any felony or misdemeanor involving moral turpitude of school district personnel, a school employee, a school volunteer, a contractor or a contractor's employee.

G. A superintendent may appoint a designated representative to act on the superintendent's behalf. The superintendent or the designated representative shall investigate all allegations of ethical misconduct about any school district personnel, school employee, school volunteer, contractor or contractor's employee who resigns, is being discharged or terminated or otherwise leaves employment after an allegation has been made. If the investigation results in a finding of ethical misconduct by a licensed school employee, the superintendent or the superintendent's designated representative shall report the identity of the licensed school employee and attendant circumstances of the ethical misconduct on a standardized form to the department and the licensed school employee within thirty days following the separation from employment or

immediately if the finding of ethical misconduct is sexual misconduct with an adult or child. The superintendent or the superintendent's designated representative shall also report allegations of sexual assault or sexual abuse involving any school district personnel, school employee, school volunteer, contractor or a contractor's employee to the appropriate law enforcement agency. No agreement between a departing school employee and the governing authority or superintendent shall diminish or eliminate the responsibility of investigating and reporting the alleged ethical misconduct to the department or, if legally mandated, to law enforcement, and any such agreement to the contrary is void.

H. Unless the department has commenced its own investigation of a licensed school employee prior to receipt of the form, the department shall serve the licensed school employee with a notice of investigation and a notice of contemplated action pursuant to the Uniform Licensing Act within sixty days of receipt of the form.

I. The department shall maintain a list of the names of persons reported to the department, as required by Subsection F of this section, who have been convicted of a felony or misdemeanor involving moral turpitude and, as required by Subsection G of this section and Section 1 of this 2021 act, who have been found to have committed ethical misconduct. The department shall update that list each month. The department shall provide that list to a governing authority upon request.

J. The secretary may initiate action to suspend, revoke or refuse to renew the license of:

(1) a superintendent who fails to report as required by Subsections F and G of this section or Section 1 of this 2021 act;

(2) any licensed school district personnel or licensed school employee who fails to report child abuse or neglect pursuant to Section 32A-4-3 NMSA 1978; or

(3) any licensed school district personnel or school employee who fails to report ethical misconduct pursuant to Subsection G of this section or Section 1 of this 2021 act.

K. As used in this section, "designated representative" means a representative chosen by a superintendent and may include the staff of a regional education cooperative."

## **Chapter 94 Section 6 Laws 2021**

SECTION 6. Section 22-10A-24 NMSA 1978 (being Laws 1986, Chapter 33, Section 22, as amended) is amended to read:

"22-10A-24. TERMINATION DECISIONS--LOCAL SCHOOL BOARD--GOVERNING AUTHORITY OF A STATE AGENCY--PROCEDURES.--

A. A local school board or governing authority of a state agency may terminate a licensed school employee, excluding licensed educational assistants who have not been offered and accepted the third consecutive contract, for any reason it deems sufficient. A local school board or governing authority of a state agency may terminate a nonlicensed school employee or a licensed educational assistant with less than one year of employment for any reason it deems sufficient. Upon request of the employee, the local superintendent or state agency administrator shall provide written reasons for the decision to terminate. The reasons shall be provided within ten working days of the request. The reasons shall not provide a basis for contesting the decision under the School Personnel Act.

B. Before terminating a nonlicensed school employee or a licensed educational assistant, the local school board or governing authority shall serve the employee or assistant with a written notice of termination.

C. A licensed school employee who has been employed by a school district or state agency for more than two consecutive years or a nonlicensed school employee or licensed educational assistant who has been employed for more than one year and who receives a notice of termination pursuant to either Section 22-10A-22 NMSA 1978 or this section may request an opportunity to make a statement to the local school board or governing authority on the decision to terminate the employee or assistant by submitting a written request to the local superintendent or state agency administrator within five working days from the date written notice of termination is served upon the employee or assistant. The employee or assistant may also request in writing the reasons for the termination action. The local superintendent or state agency administrator shall provide written reasons for the notice of termination to the employee or assistant within five working days from the date the written request for a meeting and the written request for the reasons were received by the local superintendent or state agency administrator.

D. A local school board or governing authority may not terminate a licensed school employee who has been offered and accepted a third-year contract or a nonlicensed school employee or licensed educational assistant who has been employed by a school district or state agency for more than one year without just cause.

E. The employee's request pursuant to Subsection C of this section shall be granted if the employee responds to the local superintendent's or state agency administrator's written reasons as provided in Subsection C of this section by submitting in writing to the local superintendent or state agency administrator a contention that the decision to terminate was made without just cause. The written contention shall specify the grounds on which it is contended that the decision was without just cause and shall include a statement of the facts that the employee believes support the employee's contention. This written statement shall be submitted within ten working days from the date the employee receives the written reasons from the local superintendent or state agency administrator. The submission of this statement constitutes a representation on the part of the employee that the employee can support the employee's contentions and an acknowledgment that the local school board or governing authority may offer the

causes for its decision and any relevant data in its possession in rebuttal of the employee's contentions.

F. A local school board or governing authority shall meet to hear the employee's statement in no less than five or more than fifteen working days after the local school board or governing authority receives the statement. The hearing shall be conducted informally in accordance with the provisions of the Open Meetings Act. The employee and the local superintendent or state agency administrator may each be accompanied by a person of the employee's and the local superintendent's or state agency administrator's choice. First, the local superintendent shall present the factual basis for the determination that just cause exists for the termination of the employee, limited to those reasons provided to the employee pursuant to Subsection C of this section. Then, the employee shall present the employee's contentions, limited to those grounds specified in Subsection E of this section. The local school board or governing authority may offer such rebuttal testimony as it deems relevant. All witnesses may be questioned by the local school board or governing authority, the employee or the employee's representative and the local superintendent or state agency administrator or the local superintendent's or state agency administrator's representative. The local school board or governing authority may consider only such evidence as is presented at the hearing and need consider only such evidence as it considers reliable. The local school board or governing authority shall notify the employee and the local superintendent or state agency administrator of its decision in writing within five working days from the conclusion of the meeting."

## **Chapter 94 Section 7 Laws 2021**

SECTION 7. Section 22-10A-25 NMSA 1978 (being Laws 1986, Chapter 33, Section 23, as amended) is amended to read:

"22-10A-25. APPEALS--INDEPENDENT ARBITRATOR--QUALIFICATIONS--PROCEDURE--BINDING DECISION.--

A. An employee who is still aggrieved by a decision of a local school board or governing authority rendered pursuant to Section 22-10A-24 NMSA 1978 may appeal the decision to an arbitrator. A written appeal shall be submitted to the local superintendent or administrator within five working days from the receipt of the local school board's or governing authority's written decision or the refusal of the board or authority to grant a hearing. The appeal shall be accompanied by a statement of particulars specifying the grounds on which it is contended that the decision was impermissible pursuant to Subsection E of Section 22-10A-24 NMSA 1978 and including a statement of facts supporting the contentions. Failure of the employee to submit a timely appeal or a statement of particulars with the appeal shall disqualify the employee for any appeal and render the local school board's or governing authority's decision final.

B. The local school board or governing authority and the employee shall meet within ten working days from the receipt of the request for an appeal and select an independent arbitrator to conduct the appeal. If the parties fail to agree on an independent arbitrator, they shall request the presiding judge in the judicial district in which the employee's public school is located to select one. The presiding judge shall select the independent arbitrator within five working days from the date of the parties' request.

C. A qualified independent arbitrator shall be appointed who is versed in employment practices and school procedures and who preferably has experience in the practice of law. No person shall be appointed to serve as the independent arbitrator who has any direct or indirect financial interest in the outcome of the proceeding, has any relationship to any party in the proceeding, is employed by the local school board or governing authority or is a member of or employed by any professional or labor organization of which the employee is a member.

D. Appeals from the decision of the local school board or governing authority shall be decided after a de novo hearing before the independent arbitrator. The issue to be decided by the independent arbitrator is whether there was just cause for the decision of the local school board or governing authority to terminate the employee.

E. The de novo hearing shall be held within thirty working days from the selection of the independent arbitrator. The arbitrator shall give written notice of the date, time and place of the hearing, and such notice shall be sent to the employee and the local school board or governing authority.

F. Each party has the right to be represented by counsel at the hearing before the independent arbitrator.

G. Discovery shall be limited to depositions and requests for production of documents on a time schedule to be established by the independent arbitrator.

H. The independent arbitrator may issue subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence and shall have the power to administer oaths. Subpoenas so issued shall be served and enforced in the manner provided by law for the service and enforcement of subpoenas in a civil action.

I. The rules of civil procedure shall not apply to the de novo hearing, but it shall be conducted so that both contentions and responses are amply and fairly presented. To this end, the independent arbitrator shall permit either party to call and examine witnesses, cross-examine witnesses and introduce exhibits. The technical rules of evidence shall not apply, but, in ruling on the admissibility of evidence, the independent arbitrator shall require reasonable substantiation of statements or records tendered, the accuracy or truth of which is in reasonable doubt.

J. The local school board or governing authority has the burden of proof and shall prove by a preponderance of the evidence that, at the time the notice of termination was served on the employee, the local school board or governing authority had just cause to terminate the employee. If the local school board or governing authority proves by a preponderance of the evidence that there was just cause for its action, then the burden shifts to the employee to rebut the evidence presented by the local school board or governing authority.

K. The independent arbitrator shall uphold the local school board's or governing authority's decision only if it proves by a preponderance of the evidence that, at the time the notice of termination was served on the employee, the local school board or governing authority had just cause to terminate the employee. If the local school board or governing authority fails to meet its burden of proof or if the employee rebuts the proof offered by the local school board or governing authority, the arbitrator shall reverse the decision of the local school board or governing authority.

L. Either party desiring a record of the arbitration proceedings may, at the party's own expense, record or otherwise provide for a transcript of the proceedings; provided, however, that the record so provided shall not imply any right of automatic appeal or review.

M. The independent arbitrator shall render a written decision affirming or reversing the action of the local school board or governing authority. The decision shall contain findings of fact and conclusions of law. The parties shall receive actual written notice of the decision of the independent arbitrator within ten working days from the conclusion of the de novo hearing.

N. The sole remedies available under this section shall be reinstatement or payment of compensation reinstated in full but subject to any additional compensation allowed other employees of like qualifications and experience employed by the school district or state agency and including reimbursement for compensation during the entire period for which compensation was terminated, or both, less an offset for any compensation received by the employee during the period the compensation was terminated.

O. Unless a party can demonstrate prejudice arising from a departure from the procedures established in this section and in Section 22-10A-24 NMSA 1978, such departure shall be presumed to be harmless error.

P. The decision of the independent arbitrator shall be binding on both parties and shall be final and nonappealable except where the decision was procured by



corruption, fraud, deception or collusion, in which case it shall be appealed to the district court in the judicial district in which the public school or state agency is located.

Q. Each party shall bear its own costs and expenses. The independent arbitrator's fees and other expenses incurred in the conduct of the arbitration shall be assigned at the discretion of the independent arbitrator.

R. School districts shall file a record with the department of all terminations and all actions arising from terminations annually."

## **Chapter 94 Section 8 Laws 2021**

SECTION 8. Section 22-10A-31 NMSA 1978 (being Laws 1967, Chapter 16, Section 124, as amended) is amended to read:

"22-10A-31. DENIAL, SUSPENSION AND REVOCATION OF LICENSES.--In accordance with the procedures provided in the Uniform Licensing Act, the department may deny, suspend or revoke a department-issued license for incompetency, moral turpitude, ethical misconduct or any other good and just cause."

## **Chapter 94 Section 9 Laws 2021**

SECTION 9. Section 22-10A-32 NMSA 1978 (being Laws 1988, Chapter 48, Section 1, as amended) is amended to read:

"22-10A-32. SCHOOL DISTRICT PERSONNEL, SCHOOL EMPLOYEES, SCHOOL VOLUNTEERS, CONTRACTORS AND CONTRACTORS' EMPLOYEES--REQUIRED TRAINING PROGRAM.--

A. All school district personnel, school employees, school volunteers, contractors and contractors' employees shall be required to complete training in the detection and reporting of child abuse and neglect, ethical misconduct, professional

responsibilities, sexual abuse and assault and substance abuse. Except as otherwise provided in this subsection, this requirement shall be completed within the school district employee's, school employee's, school volunteer's, contractor's or contractor's employee's first year of employment.

B. The department shall develop or adopt training programs, including training materials and necessary training staff, to meet the requirements of Subsection A of this section to make the training available in every public school. The department shall promulgate rules for the administration of the training programs. The department shall coordinate the development of the programs with appropriate staff in school districts and at public schools, the human services department, the department of health, the early childhood education and care department and the children, youth and families department. The department shall consult with the federal centers for disease control and prevention when developing or adopting the evidence-based training component on child sexual abuse and assault to include methods and materials that have proven to be effective. At a minimum, training required under this section shall include:

- (1) reporting requirements, including minimal standards triggering reporting;
- (2) trauma-informed instruction;
- (3) identification of circumstances and factors that are indicators of likely abuse or inappropriate behaviors;
- (4) ethical misconduct;
- (5) professional responsibilities;
- (6) investigations and procedures; and
- (7) relevant legal and regulatory definitions.

C. The training programs developed or adopted pursuant to this section shall be made available by the department to the deans of every college of education in New Mexico for use in providing such training to students seeking elementary and secondary education licensure."

## **Chapter 94 Section 10 Laws 2021**

SECTION 10. Section 32A-4-3 NMSA 1978 (being Laws 1993, Chapter 77, Section 97, as amended) is amended to read:

"32A-4-3. DUTY TO REPORT CHILD ABUSE AND CHILD NEGLECT--  
RESPONSIBILITY TO INVESTIGATE CHILD ABUSE OR NEGLECT--PENALTY--  
NOTIFICATION OF PLAN OF CARE.--

A. Every person, including a licensed physician; a resident or an intern examining, attending or treating a child; a law enforcement officer; a judge presiding during a proceeding; a registered nurse; a visiting nurse; a school employee; a social worker acting in an official capacity; or a member of the clergy who has information that is not privileged as a matter of law, who knows or has a reasonable suspicion that a child is an abused or a neglected child shall report the matter immediately to:

- (1) a local law enforcement agency;
- (2) the department; or
- (3) a tribal law enforcement or social services agency for any Indian child residing in Indian country.

B. A law enforcement agency receiving the report shall immediately transmit the facts of the report and the name, address and phone number of the reporter by telephone to the department and shall transmit the same information in writing within forty-eight hours. The department shall immediately transmit the facts of the report and

the name, address and phone number of the reporter by telephone to a local law enforcement agency and shall transmit the same information in writing within forty-eight hours. The written report shall contain the names and addresses of the child and the child's parents, guardian or custodian, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries, and other information that the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the person responsible for the injuries. The written report shall be submitted upon a standardized form agreed to by the law enforcement agency and the department.

C. The recipient of a report under Subsection A of this section shall take immediate steps to ensure prompt investigation of the report. The investigation shall ensure that immediate steps are taken to protect the health or welfare of the alleged abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect. A local law enforcement officer trained in the investigation of child abuse and neglect is responsible for investigating reports of alleged child abuse or neglect at schools, daycare facilities or child care facilities.

D. If the child alleged to be abused or neglected is in the care or control of or in a facility administratively connected to the department, the report shall be investigated by a local law enforcement officer trained in the investigation of child abuse and neglect. The investigation shall ensure that immediate steps are taken to protect the health or welfare of the alleged abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect.

E. A law enforcement agency or the department shall have access to any of the records pertaining to a child abuse or neglect case maintained by any of the persons enumerated in Subsection A of this section, except as otherwise provided in the Abuse and Neglect Act.

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

G. A finding that a pregnant woman is using or abusing drugs made pursuant to an interview, self-report, clinical observation or routine toxicology screen shall not alone form a sufficient basis to report child abuse or neglect to the department pursuant to Subsection A of this section. A volunteer, contractor or staff of a hospital or freestanding birthing center shall not make a report based solely on that finding and shall make a notification pursuant to Subsection H of this section. Nothing in this subsection shall be construed to prevent a person from reporting to the department a reasonable suspicion that a child is an abused or neglected child based on other criteria as defined by Section 32A-4-2 NMSA 1978, or a combination of criteria that includes a finding pursuant to this subsection.

H. A volunteer, contractor or staff of a hospital or freestanding birthing center shall:

(1) complete a written plan of care for a substance-exposed newborn as provided for by department rule and the Children's Code; and

(2) provide notification to the department. Notification by a health care provider pursuant to this paragraph shall not be construed as a report of child abuse or neglect.

I. As used in this section, "notification" means informing the department that a substance-exposed newborn was born and providing a copy of the plan of care that was created for the child; provided that notification shall comply with federal guidelines and shall not constitute a report of child abuse or neglect.

J. As used in this section, "school employee" includes employees of a school district or a public school."

## **LAWS 2021, CHAPTER 95**

**House Bill 146**

**Approved April 6, 2021**

AN ACT

RELATING TO COURTS; TRANSFERRING CERTAIN DUTIES OF THE ADMINISTRATIVE OFFICE OF THE COURTS TO INDIVIDUAL JUDICIAL DISTRICTS; CREATING SUPERVISORY AUTHORITY FOR DISTRICT COURTS OVER MAGISTRATE COURTS IN CERTAIN CIRCUMSTANCES.

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

**Chapter 95 Section 1 Laws 2021**

SECTION 1. Section 35-1-37 NMSA 1978 (being Laws 1968, Chapter 62, Section 39, as amended) is amended to read:

"35-1-37. MAGISTRATE COURT--PRESIDING MAGISTRATE.--In magistrate districts where two or more divisions operate as a single court, the chief district judge shall designate the magistrate of one of the divisions as "presiding magistrate" to perform administrative duties prescribed by the supreme court."

**Chapter 95 Section 2 Laws 2021**

SECTION 2. Section 35-2-3 NMSA 1978 (being Laws 1968, Chapter 62, Section 43) is amended to read:

"35-2-3. QUALIFICATION--CERTIFICATE OF MAGISTRATE QUALIFICATION.-

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A. Within fifteen days after each general election, the administrative office of the courts shall notify each apparently successful candidate for the office of magistrate of the requirements for qualification. Within thirty days after election or appointment,

each apparently successful candidate and each appointee shall file with the administrative office of the courts an application for certificate of magistrate qualification. The application shall be in a form prescribed by the administrative office of the courts and shall include:

- (1) the oath of office prescribed by the constitution for public officers subscribed to by the applicant;
- (2) the applicant's certificate of election or appointment; and
- (3) evidence of the applicant's possession of personal qualifications required by law.

B. Each applicant for a certificate of magistrate qualification who has not previously held such a certificate shall attend a qualification training program conducted by the administrative office of the courts as a prerequisite to the issuance of the applicant's first certificate. The administrative office of the courts shall prescribe the content of the qualification training program so as to inform applicants with reference to judicial powers and duties.

C. Upon approval of the application and, when required, upon the applicant's attendance at a qualification training program, the administrative office of the courts shall certify the applicant's initial qualification in accordance with the requirements of law by issuing to the applicant a "certificate of magistrate qualification". Each magistrate shall post the certificate in a conspicuous place in the magistrate's courtroom.

D. If not sooner suspended or revoked as provided by law, each certificate of magistrate qualification automatically expires at the end of the term to which the magistrate is elected or appointed or when the magistrate's successor in office is qualified, whichever is later.

E. Any magistrate who fails to complete the requirements for initial qualification within forty-five days of election or appointment shall be held to have

resigned the magistrate's office. The chief district judge shall certify the existence of any magistrate vacancy to the governor and notify the administrative office of the courts."

### **Chapter 95 Section 3 Laws 2021**

SECTION 3. Section 35-6-7 NMSA 1978 (being Laws 2003, Chapter 240, Section 3) is amended to read:

"35-6-7. MAGISTRATE COURT--DRUG COURT FEE--MONTHLY REMITTANCES.--A magistrate court that has an adult drug court program may assess and collect from participants a "drug court fee" of fifty dollars (\$50.00) a month. Program fee requirements may be satisfied by community service at the federal minimum wage. Proceeds from the drug court fee shall be deposited in the drug court fund of the judicial district established pursuant to Section 34-6-47 NMSA 1978."

### **Chapter 95 Section 4 Laws 2021**

SECTION 4. Section 35-7-1 NMSA 1978 (being Laws 1997, Chapter 53, Section 1) is amended to read:

"35-7-1. MAGISTRATE COURTS--SUPERVISION BY THE SUPREME COURT AND THE DISTRICT COURT IN THE JUDICIAL DISTRICT IN WHICH THE COURT IS LOCATED.--The magistrate courts shall operate under the direction and control of the supreme court and the district court of the judicial district in which the court is located. The district court shall provide administrative support to the magistrate courts, under the supervision of the supreme court."

### **Chapter 95 Section 5 Laws 2021**

SECTION 5. Section 35-7-3 NMSA 1978 (being Laws 1968, Chapter 62, Section 98, as amended) is amended to read:



"35-7-3. MAGISTRATE ADMINISTRATION--STANDARDIZED MONTHLY REPORTS.--Each magistrate court, under the supervision of the district court, shall file a standardized monthly report with the administrative office of the courts not later than the date each month established by the director of the administrative office of the courts. The report shall itemize all fines, forfeitures and costs imposed, received and disbursed by the magistrate during the previous month or indicate that none were imposed, received or disbursed. One copy of the report shall be retained by the magistrate court. The administrative office of the courts shall audit and adjust each report in accordance with the facts and file the reports in its office for a period of five years."

## **Chapter 95 Section 6 Laws 2021**

SECTION 6. Section 35-7-5 NMSA 1978 (being Laws 1968, Chapter 62, Section 100, as amended) is amended to read:

"35-7-5. MAGISTRATE ADMINISTRATION--PUBLIC MONEY--COMMINGLING--TRUST FUND BANK ACCOUNT.--

A. All money collected by a magistrate court in connection with civil and criminal actions is public money of the state held in trust by the district court within the same judicial district until disbursed in accordance with law. Public money shall not be commingled with personal funds of the magistrate or any other funds.

B. Every district court shall maintain a special trust fund checking account for the magistrate courts in its judicial district in a convenient bank insured by the federal deposit insurance corporation and shall deposit all public money into the account within two banking days after its receipt."

## **Chapter 95 Section 7 Laws 2021**

SECTION 7. Section 35-7-10 NMSA 1978 (being Laws 1968, Chapter 62, Section 105, as amended) is amended to read:

"35-7-10. MAGISTRATE ADMINISTRATION--CLERICAL ASSISTANTS.--Within appropriations and budgetary limitations, the district court may employ and select clerical assistants for magistrates."

## **Chapter 95 Section 8 Laws 2021**

SECTION 8. Section 35-7-11 NMSA 1978 (being Laws 1968, Chapter 62, Section 106, as amended) is amended to read:

"35-7-11. MAGISTRATE ADMINISTRATION--FINANCES.--Except as otherwise specifically provided by law, all salaries and expenses of the magistrate court shall be paid by the state treasurer upon warrants of the secretary of finance and administration, supported by vouchers approved by the chief district judge and in accordance with budgets approved by the state budget division of the department of finance and administration."

# **LAWS 2021, CHAPTER 96**

**House Bill 155**  
**Approved April 6, 2021**

AN ACT

RELATING TO WORKFORCE TRAINING; ALLOWING FOR THE REDUCTION OF THE RESIDENCY REQUIREMENT FOR THE WORKFORCE DEVELOPMENT TRAINING PROGRAM OF THE ECONOMIC DEVELOPMENT DEPARTMENT WHEN

THE TRAINING PROVIDED IS FOR HIGH-WAGE JOBS IN CERTAIN LOCATIONS OF THE STATE.

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

## **Chapter 96 Section 1 Laws 2021**

SECTION 1. Section 21-19-7 NMSA 1978 (being Laws 1983, Chapter 299, Section 1, as amended) is amended to read:

"21-19-7. DEVELOPMENT TRAINING.--

A. The economic development department shall establish a development training program that provides quick-response classroom training, in-plant training and skill-enhancement training to furnish qualified workforce resources for new or expanding industries, nonretail service sector businesses and film and multimedia production companies in New Mexico that have business or production procedures that require skills unique to those industries. Training shall be custom designed for, and based on the special requirements of, each company or preemployment training program for the film and multimedia industry. The program shall be operated on a statewide basis and shall be designed to assist any area in becoming more competitive economically.

B. There is created the "industrial training board" composed of:

(1) the director of the economic development division of the economic development department;

(2) the director of the instructional support and vocational education division of the public education department;

(3) the director of the governor's office of workforce training and development;

- (4) the executive director of the commission on higher education;
- (5) an employee of the workforce solutions department;
- (6) one member from organized labor appointed by the governor; and
- (7) one public member from the business community appointed by the governor.

C. The industrial training board shall establish policies and promulgate rules for the administration of appropriated funds and shall provide review and oversight to ensure that funds expended from the development training fund will generate business activity and give measurable growth to the economic base of New Mexico within the legal limits while preserving the ecological state of New Mexico and its people. In expending money from the fund, except that for film and multimedia production companies and preemployment training programs for that industry, the board shall employ a preference for training or instructional services for trainees who meet the criterion in Subparagraph (a) of Paragraph (3) of Subsection F of this section over training or instructional services for trainees who meet the criterion in Subparagraph (b) of that paragraph.

D. Subject to the approval of the industrial training board, the economic development division of the economic development department shall:

- (1) administer all funds allocated or appropriated for industrial development training purposes;
- (2) provide designated training services;
- (3) regulate, control and abandon any training program established under the provisions of this section;

(4) assist companies requesting training in the development of a training proposal to meet the companies' workforce needs;

(5) contract for the implementation of all training programs;

(6) provide for training by educational institutions or by a company through in-plant training, at that company's request; and

(7) evaluate training efforts on a basis of performance standards set forth by the industrial training board.

E. The instructional support and vocational education division of the public education department shall provide technical assistance to the economic development department concerning the development of agreements, the determination of the most appropriate instructional training to be provided and the review of training program implementation.

F. Except as provided in Section 21-19-7.1 NMSA 1978 for film and multimedia production companies and preemployment training programs for that industry, the state shall contract with a company or an educational institution to provide training or instructional services in accordance with the approved training proposal and within the following limitations:

(1) payment shall not be made for training in excess of one thousand forty hours of training per trainee for the total duration of training;

(2) trainees shall be guaranteed full-time employment with the contracted company upon successful completion of the training;

(3) trainees shall be of legal status for employment and:

(a) have resided within the state for at least one year at any time before the start of the training program; or

(b) have resided within the state for at least one day at any time before the start of the training program if the salary of the job guaranteed to the trainee upon successful completion of the training is at least: 1) sixty thousand dollars (\$60,000) for a job performed in, based in or within ten miles of the external boundaries of a municipality with a population, according to the most recent federal decennial census, of sixty thousand or more or a job performed in or based in an H class county; or 2) forty thousand dollars (\$40,000) for a job performed in or based in a municipality with a population, according to the most recent federal decennial census, of less than sixty thousand or for a job performed in or based in the unincorporated area, not within ten miles of the external boundaries of a municipality with a population of sixty thousand or more, of a county other than an H class county;

(4) payment for institutional classroom training shall be made pursuant to any accepted training contract for a qualified training program;

(5) payment shall not be made pursuant to any accepted training contract for rental of facilities unless facilities are not available on site or at the educational institution;

(6) trainees shall be eligible under the federal Fair Labor Standards Act of 1938, as amended, and shall not have terminated a public school program within the past three months except by graduation;

(7) persons employed to provide the instructional services shall be exempt from the minimum requirements established in the state plan for other state vocational programs;

(8) payment shall not be made for training programs or production of Indian jewelry or imitation Indian jewelry unless a majority of those involved in the training program or production are of Indian descent; and

(9) if a company hires twenty or more trainees, payment shall not be made for training in a municipality with a population, according to the most recent

decennial census, of more than forty thousand or in a class A county, unless the company:

(a) offers its employees and their dependents health insurance coverage that is in compliance with the New Mexico Insurance Code; and

(b) contributes at least fifty percent of the premium for the health insurance plan for those employees who choose to enroll in it; provided that the fifty percent employer contribution shall not be a requirement for the dependent coverage that is offered."

## **LAWS 2021, CHAPTER 97**

**House Bill 168**  
**Approved April 6, 2021**

AN ACT

RELATING TO PUBLIC BUILDINGS; PROVIDING FOR STATE COMPLIANCE WITH THE NATIONAL FLOOD INSURANCE PROGRAM.

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

### **Chapter 97 Section 1 Laws 2021**

SECTION 1. Section 13-5-3.1 NMSA 1978 (being Laws 2003, Chapter 310, Section 2) is amended to read:

"13-5-3.1. PUBLIC BUILDINGS--COMPLIANCE WITH THE NATIONAL FLOOD INSURANCE PROGRAM.--

A. The homeland security and emergency management department, as the state coordinating agency for the national flood insurance program, is designated as the state agency responsible for compliance oversight of that program and shall adopt rules to implement standards for meeting federal floodplain management regulations as set forth in 44 C.F.R. Sections 60.3 through 60.5.

B. The construction industries division of the regulation and licensing department is the state agency designated to review, permit and enforce floodplain management rules for all buildings that are owned or funded, in whole or in part, by the state.

C. Development that is owned or funded, in whole or in part, by the state shall obtain:

(1) floodplain review by a certified floodplain management professional prior to the start of development; and

(2) required permits prior to the start of development.

D. Development that is owned or funded, in whole or in part, by the state shall comply with the most stringent criteria of locally adopted community floodplain management regulations and floodplain management rules adopted by the homeland security and emergency management department.

E. As used in this section, "development" has the meaning set forth in 44 C.F.R. Section 59.1."

## **Chapter 97 Section 2 Laws 2021**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2022.



# **LAWS 2021, CHAPTER 98**

**HAWC/House Bill 177, aa, w/cc**  
**Approved April 6, 2021**

AN ACT

RELATING TO FOOD; ENACTING THE HOMEMADE FOOD ACT; PROVIDING DEFINITIONS; ESTABLISHING LABELING AND INFORMATION REQUIREMENTS FOR HOMEMADE FOOD ITEMS; EXEMPTING NOT-TIME-AND-TEMPERATURE-CONTROL HOMEMADE FOOD ITEMS FROM REGULATION PURSUANT TO THE FOOD SERVICE SANITATION ACT, THE NEW MEXICO FOOD ACT OR CHAPTER 57, ARTICLE 17 NMSA 1978; ESTABLISHING STATE PREEMPTION OF REGULATION OF HOMEMADE FOOD ITEMS; PROVIDING A PENALTY.

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

## **Chapter 98 Section 1 Laws 2021**

SECTION 1. A new section of Chapter 25 NMSA 1978 is enacted to read:

"SHORT TITLE.--Sections 1 through 5 of this act may be cited as the "Homemade Food Act"."

## **Chapter 98 Section 2 Laws 2021**

SECTION 2. A new section of Chapter 25 NMSA 1978 is enacted to read:

"DEFINITIONS.--As used in the Homemade Food Act:

A. "department" means the department of environment; provided that when a class A county and a home rule municipality that have established a combined local

health department pursuant to the Joint Powers Agreements Act for the purpose of local health regulation, "department" means the combined local health department;

B. "homemade food item" means a food item or non-alcoholic beverage that is produced at the private farm, ranch or residence of a processor, including homemade food items that are packaged at the processor's private farm, ranch or residence;

C. "label" means a display of written, printed or graphic matter upon the immediate container of any article;

D. "not time and temperature control" refers to food items that do not require time and temperature control to ensure safety;

E. "person" includes an individual, partnership, corporation and association;

F. "processor" means a person who produces a homemade food item;

G. "seller" means a person who sells a not-time-and-temperature-control homemade food item to a consumer;

H. "time and temperature control" means a control requirement for certain foods to ensure safety and limit pathogenic microorganism growth; and

I. "to produce" means to prepare a homemade food item by baking, cooking, cutting, dehydrating, drying, fermenting, growing, mixing, preserving, raising or other process designated by the environmental improvement board by rule."

## **Chapter 98 Section 3 Laws 2021**

SECTION 3. A new section of Chapter 25 NMSA 1978 is enacted to read:

"HOMEMADE FOOD ITEMS--LICENSING, PERMITTING, INSPECTION AND LABELING EXEMPTIONS--REQUIREMENTS--INVESTIGATIONS.--

A. The production and sale of homemade food items shall be regulated pursuant to the provisions of the Homemade Food Act and are exempt from other requirements pursuant to the Food Service Sanitation Act and the New Mexico Food Act; provided that:

- (1) the food items are not-time-and-temperature-control food items;
- (2) the seller sells directly to consumers within the state, including at farmers' markets, at festivals, on the internet, at roadside stands, at the seller's home for pick-up or delivery or through mail delivery;
- (3) the seller completes a food handler certification course approved by the department;
- (4) the seller maintains a sanitary kitchen, practices good hygiene, protects the kitchen from rodents and pests and keeps pets and children out of the kitchen while producing food;
- (5) if the seller transports food items pursuant to the Homemade Food Act, the seller ensures that the food is transported in a sanitary manner and is protected from pets, children and other hazards; and
- (6) the seller labels or otherwise provides to the consumer the information required by Subsection C of this section.

B. A seller shall provide to the consumer the information required by Subsection C of this section in the following manner:

- (1) on a label affixed to a package of a homemade food item when the package is the unit of sale;

(2) on a label affixed to a container when the homemade food item is offered for sale from a bulk container;

(3) on a placard displayed at the point of sale when the homemade food item is neither packaged nor offered for sale from a bulk container;

(4) on a webpage on which the homemade food item is offered for sale; and

(5) when a homemade food item is sold by telephone or custom order, a label is not required for the homemade food item; however, the seller shall disclose to the consumer that the homemade food item is produced at a private residence that is exempt from state licensing and inspection and may contain allergens.

C. A seller shall provide the following information about the seller's homemade food items to the consumer:

(1) the name, home address, telephone number and email address of the processor of the food item;

(2) the common or usual name of the food item;

(3) the ingredients of the food item in descending order of predominance; and

(4) the following statement: "This product is home produced and is exempt from state licensing and inspection. This product may contain allergens.".

D. A seller shall have the information required by Subsection C of this section readily available and shall provide it to a consumer upon request.

E. The department may operate a voluntary permit system for the sale of homemade food items. A seller may apply for such a permit from the department.

F. A class A county and a home rule municipality that have established a combined local health department pursuant to the Joint Powers Agreements Act for the purpose of local health regulation may operate a mandatory or a voluntary permit system for the sale of homemade food items within the jurisdictions of the respective county and municipality; provided that such permit system allows the sale of all food items at all locations authorized by the Homemade Food Act.

G. The department shall enforce the Homemade Food Act and may investigate any suspected food-borne illness or stop the sale of any suspected contaminated foods; provided that the department shall first issue a written warning regarding any violation before imposing a fine. Failure to comply with a written warning shall be a misdemeanor, and upon conviction the violator shall be subject to a fine not to exceed one hundred dollars (\$100) per violation."

## **Chapter 98 Section 4 Laws 2021**

SECTION 4. A new section of Chapter 25 NMSA 1978 is enacted to read:

"INTERPRETATION OF ACT--CONSULTATIONS.--No provision of the Homemade Food Act shall be construed so as to:

- A. preclude the department from providing assistance, consultation or inspection at the request of the processor of a homemade food item;
- B. preclude the production or sale of homemade food items otherwise allowed by law;
- C. change the regulation of other goods and services where homemade food items are also produced or sold;
- D. exempt sellers from applicable business registration or tax law;

E. require private farmers' markets or other private venues to allow the sale of homemade foods; or

F. conflict with federal law."

## **Chapter 98 Section 5 Laws 2021**

SECTION 5. A new section of Chapter 25 NMSA 1978 is enacted to read:

"STATE PREEMPTION.--Except as otherwise provided in the Homemade Food Act, a political subdivision of the state, including a home rule municipality, or an institution of the state shall not adopt a law, policy or resolution that regulates or attempts to regulate the production or sale of homemade food items."

## **Chapter 98 Section 6 Laws 2021**

SECTION 6. A new section of the Food Service Sanitation Act is enacted to read:

"HOMEMADE FOOD ITEMS--EXEMPTION.--Other than enforcement actions pursuant to Section 25-1-10 NMSA 1978, the provisions of the Food Service Sanitation Act shall not apply to homemade food items produced or sold pursuant to the Homemade Food Act."

## **Chapter 98 Section 7 Laws 2021**

SECTION 7. A new section of the New Mexico Food Act is enacted to read:

"HOMEMADE FOOD ITEMS--EXEMPTION.--Other than actions pursuant to Section 25-2-6 NMSA 1978, the provisions of the New Mexico Food Act shall not apply to homemade food items produced or sold pursuant to the Homemade Food Act."

## **Chapter 98 Section 8 Laws 2021**

SECTION 8. A new section of Chapter 57, Article 17 NMSA 1978 is enacted to read:

"HOMEMADE FOOD ITEMS--EXEMPTION.--The provisions of Chapter 57, Article 17 NMSA 1978 shall not apply to homemade food items produced or sold pursuant to the Homemade Food Act."

## **Chapter 98 Section 9 Laws 2021**

SECTION 9. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

# **LAWS 2021, CHAPTER 99**

**House Bill 178**  
**Approved April 6, 2021**

AN ACT

RELATING TO PROFESSIONAL LICENSURE; AMENDING A SECTION OF THE COUNSELING AND THERAPY PRACTICE ACT TO UPDATE DEFINITIONS RELATING TO EDUCATION AND EXPERIENCE REQUIREMENTS; EXTENDING THE TERMINATION DATE OF THE COUNSELING AND THERAPY PRACTICE BOARD.

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

## Chapter 99 Section 1 Laws 2021

SECTION 1. Section 61-9A-3 NMSA 1978 (being Laws 1993, Chapter 49, Section 3, as amended) is amended to read:

"61-9A-3. DEFINITIONS.--As used in the Counseling and Therapy Practice Act:

A. "accredited institution" means a university or college accredited by an accrediting agency of institutions of higher education;

B. "appraisal" means selecting, administering, scoring and interpreting instruments designed to assess a person's aptitudes, attitudes, abilities, achievements, interests, personal characteristics and current emotional or mental state by appropriately educated, trained and experienced clinicians and the use of nonstandardized methods and techniques for understanding human behavior in relation to coping with, adapting to or changing life situations of a physical, mental or emotional nature; "appraisal" shall not be construed to permit the performance of any act that a counselor or a therapist is not educated, trained and licensed to perform;

C. "appropriate clinical supervision" means as defined by rule, supervision provided by a licensed:

- (1) professional clinical mental health counselor;
- (2) marriage and family therapist;
- (3) professional art therapist;
- (4) psychiatrist;
- (5) clinical psychologist;



(6) clinical nurse specialist in psychiatry;

(7) independent social worker with two years of mental health and supervised clinical experience; or

(8) alcohol and drug abuse counselor. A licensed alcohol and drug abuse counselor shall have completed three years of work experience in the field of alcohol and drug abuse prior to providing supervision;

D. "appropriate clinical supervisor for substance abuse associate" means a person who has education and experience specific to the career track of the associate and has training in transmitting knowledge, skills and attitudes through a relational process that includes direct oversight of the clinical work;

E. "approved clinical supervisor" means a person who is a licensed professional clinical mental health counselor, licensed marriage and family therapist, licensed professional art therapist, licensed psychiatrist, licensed clinical psychologist, clinical nurse specialist in psychiatry or licensed independent social worker and provides supervision to a licensed mental health counselor or therapist;

F. "art therapy" means the rendering of art therapy principles whereby communication is facilitated through therapeutic counseling and art media. This involves the application of the principles of human development and psychological theories, which are implemented in the full spectrum of models of assessment and treatment, including psychodynamics and cognitive, interpersonal and other therapeutic means to individuals, couples, families, groups and communities for the promotion of optimal mental health;

G. "board" means the counseling and therapy practice board;

H. "client contact hours" means the face-to-face time spent with a client to appraise, assess, evaluate, diagnose, treat psychopathology and provide counseling services;

I. "clinical counseling" means the rendering of counseling services involving the application of principles of psychotherapy, human development, learning theory, diagnosis, treatment and the etiology of mental illness and dysfunctional behavior to individuals, couples, families or groups for the purpose of assessing and treating psychopathology and promoting optimal mental health;

J. "consultation" means the voluntary, nonsupervisory relationship between professionals or other pertinent persons, in application of scientific counseling, guidance and human development principles and procedures to provide assistance in understanding and resolving a current or potential problem that the consultee may have in relation to a third party, be it an individual, group, family or organization;

K. "counselor training and education" means a process that prepares counselors and therapists in both didactic and clinical aspects of counseling;

L. "course" means an integrated, organized course of study, which encompasses a minimum of one school semester or equivalent hours;

M. "counseling" means the application of scientific principles and procedures in therapeutic counseling, guidance and human development to provide assistance in understanding and solving a mental, emotional, physical, social, moral, educational, spiritual or career development and adjustment problem that a client may have;

N. "counseling-related field" as defined by rule, means a degree in guidance counseling, mental health-community counseling or agency counseling; psychology, clinical psychology or counseling psychology; human services; family services; human and family studies; art therapy; or art education with an emphasis in art therapy;

O. "defined by rule" means rules published by the board to establish criteria, standards and procedures relevant to application, licensing, administration and enforcement of the Counseling and Therapy Practice Act;

P. "department" means the regulation and licensing department or the division of the department designated to administer the counseling and therapy practice board;

Q. "diagnosis and treatment planning" means assessing, analyzing and providing diagnostic descriptions of mental, emotional or behavioral conditions; exploring possible solutions; and developing and implementing a treatment plan for mental, emotional and psychosocial adjustment or development. "Diagnosis and treatment planning" shall not be construed to permit the performance of any act that counselors or therapists are not educated, trained and licensed to perform;

R. "evaluation" means the act of making informed decisions based on the use and analysis of pertinent data;

S. "internship" means a distinctly defined, pre-graduate, supervised clinical experience in which the student refines, enhances and integrates professional knowledge with basic counselor or therapist skills appropriate to the student's program and preparation for postgraduate professional placement;

T. "licensure" means the process by which a state agency or government grants permission to an individual to engage in a given profession and to use the designated title of that profession after the applicant has attained the minimal degree of competency necessary to ensure that the public health, safety and welfare are reasonably well protected;

U. "marriage and family therapy" means the assessment, diagnosis and treatment of nervous and mental disorders, whether cognitive, affective or behavioral, within the context of marriage and family systems;

V. "mental disorder" means any of several conditions or disorders that meet the diagnostic criteria contained in the diagnostic and statistical manual of the American psychiatric association or the world health organization's international classification of mental disorders;

W. "practicum" means a distinctly defined, supervised clinical experience in which the student develops basic counselor or therapist skills and integrates professional knowledge. Practicum is completed prior to or concurrent with an internship;

X. "program" means a structured sequence of curricular and clinical experiences housed within an academic unit;

Y. "referral" means evaluating and identifying the needs of a client to determine the advisability of referrals to other specialists, advising the client of such judgments and communicating as requested or deemed appropriate to such referral sources;

Z. "research" means a systematic effort to collect, analyze and interpret quantitative or qualitative data that describe how social characteristics, behavior, emotions, cognition, disabilities, mental disorders and interpersonal transactions among individuals, couples, families and organizations interact;

AA. "standard" means a minimal criterion that must be met; and

BB. "substance abuse-related field" means a degree in guidance counseling, mental health-community counseling, agency counseling, psychology, clinical psychology, counseling psychology, human services, family services, human and family studies, social work, art therapy or art education with appropriate clinical background and two hundred seventy-six clock hours in education or training in alcohol and drug abuse counseling."

## **Chapter 99 Section 2 Laws 2021**

SECTION 2. Section 61-9A-30 NMSA 1978 (being Laws 1993, Chapter 49, Section 30, as amended) is amended to read:

"61-9A-30. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The counseling and therapy practice board is terminated on July 1, 2027 pursuant to the provisions of the Sunset Act. The board shall continue to operate according to the provisions of the Counseling and Therapy Practice Act until July 1, 2028. Effective July 1, 2028, the Counseling and Therapy Practice Act is repealed."

## **LAWS 2021, CHAPTER 100**

**House Bill 179**  
**Approved April 6, 2021**

AN ACT

RELATING TO VITAL RECORDS; ELIMINATING FEES FOR CERTIFIED BIRTH CERTIFICATES FOR HOMELESS INDIVIDUALS; ELIMINATING RESTRICTIONS ON ACCESS TO VITAL RECORDS FOR HOMELESS CHILDREN OR YOUTH AND UNACCOMPANIED YOUTH.

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

### **Chapter 100 Section 1 Laws 2021**

SECTION 1. Section 24-14-28 NMSA 1978 (being Laws 1961, Chapter 44, Section 26, as amended) is amended to read:

"24-14-28. COPIES OR DATA FROM THE SYSTEM OF VITAL STATISTICS.--

A. In accordance with the Vital Statistics Act and the regulations adopted pursuant to that act:

(1) the state registrar shall, upon receipt of a written application, issue a certified copy of any certificate or record in the state registrar's custody to anyone demonstrating a tangible and direct interest, except that:

(a) certified copies of birth records shall exclude all medical information unless a complete certificate is specifically requested and the request for a complete certificate is approved by the state registrar; and

(b) issuance of copies of birth records shall be subject to the provisions of the Missing Child Reporting Act;

(2) a certified copy of a certificate or any part thereof, including records reproduced from paper documents or photographic, magnetic or electronic files, shall be considered for all purposes the same as the original and is prima facie evidence of the facts therein stated; provided that the evidentiary value of a certificate or record filed more than one year after the event or a record that has been amended shall be determined by the judicial or administrative body or official before whom the certificate is offered as evidence;

(3) the agency of the United States government responsible for national vital statistics may be furnished copies or data as it may require for national statistics, upon the condition that the data shall not be used for other than statistical purposes unless so authorized by the state registrar;

(4) at the discretion of the state registrar, federal, state, local and other public or private agencies may upon request be furnished copies or data for statistical or administrative purposes upon the conditions as may be prescribed by the department;

(5) no person shall prepare or issue any report of an induced abortion or any certificate that purports to be an original, certified copy or copy of a certificate of birth, death or spontaneous fetal death or reproduction of a certified copy except as authorized in the Vital Statistics Act or regulations adopted pursuant to that act;

(6) the state registrar may, by written agreement, transmit copies of records and other reports required by the Vital Statistics Act to offices of vital statistics outside this state when the records or other reports relate to residents of those jurisdictions or persons born outside those jurisdictions. The agreement shall require that the copies be used for statistical purposes only and shall provide for the retention and disposition of copies. Copies received by the state registrar from offices of vital statistics in other states shall be handled in the manner prescribed in this section; and

(7) the state registrar shall, upon receipt of a written application from an unaccompanied youth, issue a certified copy of that youth's birth record to the youth, without requiring a signature of an adult.

B. A local education agency homeless liaison, a school counselor and a school nurse each have a tangible and direct interest pursuant to Subsection A of this section in a certified copy of the birth record of a homeless child or youth who is enrolled in the local education agency and in a certified copy of the birth record of a younger sibling of a homeless child or youth who is enrolled in the local education agency.

C. A social worker in this state has a tangible and direct interest pursuant to Subsection A of this section in a:

(1) certified copy of the birth record of a homeless child or youth who is a client of the social worker; and

(2) certified copy of the birth record of a younger sibling of a homeless child or youth who is a client of the social worker.

D. For the purposes of this section:

(1) "homeless child or youth" means an individual who is twenty-five years of age or younger and lacks a fixed, regular and adequate nighttime residence, including an individual who:

(a) lives in the housing of another person due to that individual's loss of housing, economic hardship or other reason related to that individual's lack of a fixed residence;

(b) lives in a motel, hotel, trailer park or camping ground due to that individual's lack of alternative adequate accommodations;

(c) lives in an emergency or transitional shelter;

(d) sleeps in a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; or

(e) lives in an automobile, a park, a public space, an abandoned building, substandard housing, a bus station, a train station or a similar setting; and

(2) "unaccompanied youth" means an individual who is twenty-five years of age or younger, is not in the physical custody of a parent or legal guardian and lacks a fixed, regular and adequate nighttime residence, including an individual who:

(a) lives in the housing of another person due to that individual's loss of housing, economic hardship or other reason related to that individual's lack of a fixed residence;

(b) lives in a motel, hotel, trailer park or camping ground due to that individual's lack of a fixed residence;

(c) lives in an emergency or transitional shelter;

(d) sleeps in a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; or

(e) lives in an automobile, a park, a public space, an abandoned building, substandard housing, a bus station, a train station or a similar setting."



## Chapter 100 Section 2 Laws 2021

SECTION 2. Section 24-14-29 NMSA 1978 (being Laws 1961, Chapter 44, Section 27, as amended) is amended to read:

"24-14-29. FEES FOR COPIES AND SEARCHES.--

A. The fee for each search of a vital record to produce a certified copy of a birth certificate shall be ten dollars (\$10.00) and shall include one certified copy of the record, if available. A fee shall not be charged for a certified copy of a birth certificate of a homeless individual.

B. The fee for the establishment of a delayed record or for the revision or amendment of a vital record, as a result of an adoption, a legitimation, a correction or other court-ordered change to a vital record, shall be ten dollars (\$10.00). The fee shall include one certified copy of the delayed record.

C. The fee for each search of a vital record to produce a copy of a report of spontaneous fetal death or a certificate of still birth shall be five dollars (\$5.00) and shall include one certified copy of the record of fetal death, if available.

D. The fee for each search of a vital record to produce a certified copy of a death certificate shall be five dollars (\$5.00) and shall include one certified copy of the record, if available.

E. Revenue from the fees imposed in this section shall be distributed as follows:

(1) an amount equal to three-fifths of the revenue from the fee imposed by Subsection A of this section, an amount equal to one-half of the revenue from the fee imposed by Subsection B of this section and an amount equal to one-fifth of the

revenue from the fee imposed by Subsection D of this section shall be distributed to the day-care fund; and

(2) the remainder of the revenue from the fees imposed by Subsections A, B, C and D of this section shall be deposited in the state general fund.

F. For the purposes of this section, "homeless individual" means an individual:

(1) who lacks a fixed, regular and adequate nighttime residence, including an individual who:

(a) lives in the housing of another person due to that individual's loss of housing, economic hardship or other reason related to that individual's lack of a fixed residence;

(b) lives in a motel, hotel, trailer park or camping ground due to the lack of alternative adequate accommodations;

(c) lives in an emergency or transitional shelter;

(d) sleeps in a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; or

(e) lives in an automobile, a park, a public space, an abandoned building, substandard housing, a bus station, a train station or a similar setting; and

(2) whose homelessness can be verified through an attestation, which shall not be required to be notarized, by one of the following:

(a) a public or private governmental or nonprofit agency that provides services to homeless individuals;

- or school nurse;
- (b) a local education agency homeless liaison, school counselor
  - (c) a social worker licensed in this state; or
  - (d) the homeless individual."

## **LAWS 2021, CHAPTER 101**

**House Bill 185**  
**Approved April 6, 2021**

AN ACT

RELATING TO COURTS; ALLOWING PERSONS SEVENTY-FIVE YEARS OF AGE OR OLDER TO BE EXEMPTED FROM JURY SERVICE WITHOUT REQUIRING AN AFFIDAVIT.

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

### **Chapter 101 Section 1 Laws 2021**

SECTION 1. Section 38-5-2 NMSA 1978 (being Laws 1973, Chapter 150, Section 1, as amended) is amended to read:

"38-5-2. EXEMPTION FROM JURY SERVICE--EXCUSALS--SERVICE OF DISQUALIFIED JUROR.--

A. A person who has served as a member of a petit jury panel or a grand jury in either state or federal courts within the preceding thirty-six months shall be exempt from sitting or serving as a juror in a court of this state when the person requests to be exempted from service by reason of the exemption granted by this subsection.

B. A person who is seventy-five years of age or older who requests exemption from jury service with a local court shall be permanently exempt from jury service.

C. A person may be excused from jury service at the discretion of the judge or the judge's designee, with or without the person's personal attendance upon the court, if:

(1) jury service would cause undue or extreme physical or financial hardship to the prospective juror or to a person under the prospective juror's care or supervision;

(2) the person has an emergency that renders the person unable to perform jury service; or

(3) the person presents other satisfactory evidence to the judge or the judge's designee.

D. A person requesting an exemption or an excuse from jury service shall take all necessary action to obtain a ruling on the request no later than the date on which the person is scheduled to appear for jury duty.

E. The judge, in the judge's discretion, upon granting any excuse, may disallow the fees and mileage of the person excused.

F. The service upon a jury of a person disqualified shall, of itself, not vitiate any indictment found or any verdict rendered by that jury, unless actual injury to the person complaining of the injury is shown.

G. As used in this section and Section 38-5-1 NMSA 1978, "undue or extreme physical or financial hardship":

(1) means circumstances in which a person would:

(a) be required to abandon another person under the person's care or supervision due to the extreme difficulty of obtaining an appropriate substitute caregiver during the period of jury service;

(b) incur costs that would have a substantial adverse impact on the payment of necessary daily living expenses of the person or the person's dependent; or

(c) suffer physical hardship that would result in illness or disease; and

(2) does not exist solely because a prospective juror will be absent from employment."

## **LAWS 2021, CHAPTER 102**

**House Bill 188, aa**  
**Approved April 6, 2021**

AN ACT

RELATING TO TEACHER LICENSURE; PROVIDING FOR A LICENSE ENDORSEMENT FOR SECONDARY COMPUTER SCIENCE.

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

### **Chapter 102 Section 1 Laws 2021**

SECTION 1. Section 22-10A-6 NMSA 1978 (being Laws 1986, Chapter 33, Section 8, as amended) is amended to read:

"22-10A-6. EDUCATIONAL REQUIREMENTS FOR LICENSURE.--

A. The department shall require a person seeking licensure or reciprocity in elementary, special, early childhood or secondary education to have completed the following minimum requirements in the college of arts and sciences:

- (1) nine semester hours in communication;
- (2) six semester hours in mathematics;
- (3) eight semester hours in laboratory science;
- (4) nine semester hours in social and behavioral science; and
- (5) nine semester hours in humanities and fine arts.

B. In addition to the requirements specified in Subsections A and C of this section, the department shall require that a person seeking standard or alternative elementary licensure shall have completed six hours of reading courses, and a person seeking standard or alternative secondary licensure shall have completed three hours of reading courses in subject matter content. The department shall establish requirements that provide a reasonable period of time to comply with the provisions of this subsection.

C. Except for licensure by reciprocity, the department shall require, prior to initial licensure, no less than sixteen weeks of student teaching, a portion of which shall occur in the first thirty credit hours taken in the college of education and shall be under the direct supervision of a teacher and a portion of which shall occur in the student's senior year with the student teacher being directly responsible for the classroom.

D. Nothing in this section shall preclude the department from establishing or accepting equivalent requirements for purposes of reciprocal licensure or minimum requirements for alternative licensure.

E. Vocational teacher preparatory programs may be exempt from Subsections A through C of this section upon a determination by the department that

other licensure requirements are more appropriate for vocational teacher preparatory programs.

F. Before December 31, 2021, the department shall create a license endorsement in secondary computer science available to all teachers who hold a valid license and demonstrate sufficient content knowledge in computer science as determined by the department. The department shall consult with computer science education experts with experience in creating or supporting computer science endorsement pathways when developing computer science endorsement requirements."

## **LAWS 2021, CHAPTER 103**

**House Bill 189**  
**Approved April 6, 2021**

AN ACT

RELATING TO LEGAL SERVICES; PROVIDING FOR THE COMMUNITY GOVERNANCE ATTORNEY COMMISSION TO ADJUST THE MAXIMUM ALLOWABLE SALARIES FOR ATTORNEYS PURSUANT TO THE COMMUNITY GOVERNANCE ATTORNEY ACT.

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

### **Chapter 103 Section 1 Laws 2021**

SECTION 1. Section 21-21Q-3 NMSA 1978 (being Laws 2019, Chapter 43, Section 3) is amended to read:

"21-21Q-3. COMMUNITY GOVERNANCE ATTORNEY AND CONDITIONAL TUITION WAIVER PROGRAM CREATED--ADMINISTRATION--RULEMAKING SELECTION PROCESS--REPAYMENT.--

A. The "community governance attorney and conditional tuition waiver program" is created and shall be administered by the department. The department shall:

(1) promulgate rules for implementing the program and for a reasonable living stipend in consultation with the university; provided that the maximum living stipend shall be based upon the availability of funds and information provided by the university regarding the current cost of attendance at the university;

(2) publicize the program to law students and to prospective law students;

(3) collect and manage repayment from students who do not meet their obligations under the program; and

(4) solicit and accept funds for the program, including grants and donations.

B. Participants shall enter the program in their final year of law school. The department shall select participants according to rules it promulgates and, in consultation with the commission, shall create a standard process for law students to apply to participate in the program.

C. The department shall award no more than two new waivers a year, in addition to renewing existing waivers for eligible participants, subject to the availability of funding.

D. Participation in the program shall be evidenced by a contract between the participant and the department. The contract shall provide for the payment of a participant's waiver and shall be conditioned upon the participant fulfilling the program



obligations and meeting the university's standards for satisfactory academic progress. An applicant to the program shall sign the contract prior to being accepted into the program.

E. The contract shall include the following terms for repayment of the waiver:

(1) interest shall accrue upon termination of the participant's course of study at the following interest rates:

(a) eighteen percent per year if the participant completes a course of study and no portion of the principal and interest is forgiven pursuant to Subsection F of this section; and

(b) seven percent per year in all other cases; and

(2) the maximum period for repayment shall be ten years, commencing six months from the date the participant completes or discontinues the course of study.

F. The contract shall provide that the department forgive fifty percent of a waiver for each year that a participant is employed full time as a community governance attorney with a maximum salary of not more than fifty thousand dollars (\$50,000) per year, subject to adjustment by the commission pursuant to Subsection G of this section.

G. The commission may approve subsequent increases in the maximum salary established pursuant to Subsection F of this section; provided that the maximum salary shall not exceed the salary rate for entry-level attorneys paid by legal service assistance entities in New Mexico that receive funding from the federally established legal services corporation."

## **Chapter 103 Section 2 Laws 2021**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

## **LAWS 2021, CHAPTER 104**

**House Bill 212**  
**Approved April 6, 2021**

AN ACT

RELATING TO HIGHER EDUCATION; REMAKING NEW MEXICO STATE UNIVERSITY CARLSBAD BRANCH COMMUNITY COLLEGE INTO AN INDEPENDENT COMMUNITY COLLEGE.

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

## **Chapter 104 Section 1 Laws 2021**

SECTION 1. A new section of the Community College Act is enacted to read:

"CREATION OF SOUTHEAST NEW MEXICO COLLEGE--NAME CHANGE--GOVERNING BOARD.--

A. New Mexico state university Carlsbad shall be made into an independent community college known as "southeast New Mexico college" and shall be organized as provided in Chapter 21, Article 13 NMSA 1978.

B. The governing board of southeast New Mexico college shall be created and function as provided in the Community College Act. The governing board of southeast New Mexico college shall be created by a regular local election from each of

the five districts within the Carlsbad municipal school district and called for by the Carlsbad municipal school board, and the governing board shall function as provided for in the Community College Act.

C. All taxes levied to pay any principal and interest on bonds of New Mexico state university Carlsbad for operating, maintaining and providing facilities shall continue in effect until dissolution pursuant to procedures set forth in Chapter 21, Article 13 NMSA 1978."

## **Chapter 104 Section 2 Laws 2021**

SECTION 2. A new section of the Community College Act is enacted to read:

"TRANSFER OF FUNCTIONS, PERSONNEL, PROPERTY, CONTRACTS AND REFERENCES IN LAW.--On April 10, 2022:

A. all functions, personnel, appropriations, money, records, equipment, supplies, grants, real and other property of the board of regents of New Mexico state university located or held in Carlsbad or used to support operations of New Mexico state university Carlsbad, except those pertaining to the Carlsbad environmental monitoring and research center, shall be transferred to southeast New Mexico college;

B. all contracts of the board of regents of New Mexico state university regarding New Mexico state university Carlsbad, except those pertaining to the Carlsbad environmental monitoring and research center, shall be binding and effective on the governing board of southeast New Mexico college;

C. all references in law to the board of regents of New Mexico state university regarding New Mexico state university Carlsbad, except those regarding the Carlsbad environmental monitoring and research center, shall be deemed to be references to the governing board of southeast New Mexico college; and

D. all references in law to New Mexico state university Carlsbad shall be construed to be references to southeast New Mexico college."

## **Chapter 104 Section 3 Laws 2021**

SECTION 3. EFFECTIVE DATE.--

- A. The effective date of the provisions of Section 1 of this act is July 1, 2021.
- B. The effective date of the provisions of Section 2 of this act is April 10, 2022.

## **LAWS 2021, CHAPTER 105**

**House Bill 224**  
**Approved April 6, 2021**

AN ACT

RELATING TO PUBLIC ASSISTANCE; CHANGING THE STRUCTURE OF AND TERM LIMITS SERVED ON COMMUNITY ACTION BOARDS.

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

## **Chapter 105 Section 1 Laws 2021**

SECTION 1. Section 27-8-6 NMSA 1978 (being Laws 1983, Chapter 139, Section 6) is amended to read:

"27-8-6. COMMUNITY ACTION AGENCIES--BOARD--LOCAL PARTICIPATION.--

A. Each community action agency shall administer its community action program through a community action board. Board members shall be selected as follows:

(1) one-third of the members of the board shall be elected public officials currently holding office in the geographical area to be served by the community action agency or their representatives, except that if the number of elected officials reasonably available and willing to serve is less than one-third of the membership of the board, membership on the board of appointive officials may be counted in meeting this one-third requirement;

(2) at least one-third of the members shall be persons chosen in accordance with democratic selection procedures adequate to ensure that they are representative of the poor in the area served; and

(3) the other members shall be officials or members of business, industry, labor, religious, welfare, education or other major groups and interests in the community.

B. Each member of the board selected to represent a specific geographic area within a community shall reside in the area represented.

C. No person selected under Paragraph (2) or (3) of Subsection A of this section shall serve for more than five consecutive years."

## **LAWS 2021, CHAPTER 106**

**House Bill 230, aa**  
**Approved April 6, 2021**

AN ACT

RELATING TO REAL ESTATE LICENSURE; ADDING A DEFINITION; AMENDING THE REAL ESTATE RECOVERY FUND ACT; CLARIFYING PROCEDURES; INCREASING RECOVERY LIMITS.

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

## **Chapter 106 Section 1 Laws 2021**

SECTION 1. Section 61-29-2 NMSA 1978 (being Laws 1999, Chapter 127, Section 1, as amended) is amended to read:

"61-29-2. DEFINITIONS AND EXCEPTIONS.--

A. As used in Chapter 61, Article 29 NMSA 1978:

(1) "agency relationship" means the fiduciary relationship created solely by an express written agency agreement between a person and a brokerage, authorizing the brokerage to act as an agent for the person according to the scope of authority granted in that express written agreement for real estate services subject to the jurisdiction of the commission;

(2) "agent" means the brokerage authorized, solely by means of an express written agreement, to act as a fiduciary for a person and to provide real estate services that are subject to the jurisdiction of the commission; in the case of an associate broker, "agent" means the person who has been authorized to act by that associate broker's qualifying broker;

(3) "associate broker" means a person who, for compensation or other valuable consideration, is associated with or engaged under contract by a qualifying broker to carry on the qualifying broker's business as a whole or partial vocation, and:

(a) lists, sells or offers to sell real estate; buys or offers to buy real estate; or negotiates the purchase, sale or exchange of real estate or options on real estate;

(b) is engaged in managing property for others;

(c) leases, rents or auctions or offers to lease, rent or auction real estate;

(d) advertises or makes any representation as being engaged in the business of buying, selling, exchanging, renting, leasing, auctioning or dealing with options on real estate for others as a whole or partial vocation; or

(e) engages in the business of charging an advance fee or contracting for collection of a fee in connection with a contract under which the qualifying broker undertakes primarily to promote the sale of real estate through its listing in a publication issued primarily for that purpose or for the purpose of referral of information concerning real estate to other qualifying brokers or associate brokers;

(4) "auctioneer" means a person who auctions or offers to auction real property;

(5) "brokerage" means a licensed qualifying broker and the licensed real estate business represented by the qualifying broker and its affiliated licensees;

(6) "brokerage relationship" means the legal or contractual relationship between a person and a brokerage in a real estate transaction subject to the jurisdiction of the commission;

(7) "client" means a person who has entered into an express written agreement with a brokerage for real estate services subject to the jurisdiction of the commission;

- (8) "commercial real estate" means real estate that is zoned:
- (a) for business or commercial use by a city or county; or
  - (b) by a city or county to allow five or more multifamily units; provided that all units are located on a single parcel of land with a single legal description;
- (9) "commission" means the New Mexico real estate commission;
- (10) "customer" means a person who uses real estate services without entering into an express written agreement with a brokerage subject to the jurisdiction of the commission;
- (11) "foreign broker" means a real estate broker who does not hold a real estate license issued by the commission, but who holds a current and valid real estate broker's license issued by another state in the United States, a province of Canada or any other sovereign nation;
- (12) "license" means a qualifying broker's license or an associate broker's license issued by the commission;
- (13) "licensee" means a person holding a valid qualifying broker's license or an associate broker's license subject to the jurisdiction of the commission;
- (14) "nonresident licensee" means an associate or qualifying broker holding a real estate license issued by the commission and whose license application address is not within the state of New Mexico;
- (15) "property management" means real estate services as specified by a management agreement that include marketing, showing, renting and leasing of real property; collection and disbursement of funds on behalf of the owner; supervision of employees and vendors; coordination of maintenance and repairs; management of



tenant relations; and preparation of leases or rental agreements, financial reports and other documents. "Property management" does not mean inspections of property, repairs and maintenance incidental to the sale and marketing of property as authorized by the owner or the management of a condominium or homeowner association or advertising or taking reservations for vacation rental properties;

(16) "qualifying broker" means a licensed real estate broker who has qualified a proprietorship, corporation, partnership or association to do business as a real estate brokerage in the state of New Mexico, who discharges the responsibilities specific to a qualifying broker as defined by the commission and who for compensation or other consideration from another:

(a) lists, sells or offers to sell real estate; buys or offers to buy real estate; or negotiates the purchase, sale or exchange of real estate or options on real estate;

(b) is engaged in managing property for others;

(c) leases, rents or auctions or offers to lease, rent or auction real estate;

(d) advertises or makes any representation as being engaged in the business of buying, selling, exchanging, renting, leasing, auctioning or dealing with options on real estate for others as a whole or partial vocation; or

(e) engages in the business of charging an advance fee or contracting for collection of a fee in connection with a contract under which the qualifying broker undertakes primarily to promote the sale of real estate through its listing in a publication issued primarily for that purpose or for the purpose of referral of information concerning real estate to other qualifying brokers or associate brokers;

(17) "real estate" means land, improvements, leaseholds and other interests in real property that are less than a fee simple ownership interest, whether tangible or intangible; and

(18) "transaction broker" means a qualifying broker, associate broker or brokerage that provides real estate services without entering into an agency relationship.

B. A single act of a person in performing or attempting to perform an activity described in Paragraph (16) of Subsection A of this section makes the person a qualifying broker. A single act of a person in performing or attempting to perform an activity described in Paragraph (3) of Subsection A of this section makes the person an associate broker.

C. The provisions of Chapter 61, Article 29 NMSA 1978 do not apply to:

(1) a person who as owner performs any of the activities included in this section with reference to property owned by the person, except when the sale or offering for sale of the property constitutes a subdivision containing one hundred or more parcels;

(2) the employees of the owner or the employees of a qualifying broker acting on behalf of the owner, with respect to the property owned, if the acts are performed in the regular course of or incident to the management of the property and the investments;

(3) isolated or sporadic transactions not exceeding two transactions annually in which a person acts as attorney-in-fact under a duly executed power of attorney delivered by an owner authorizing the person to finally consummate and to perform under any contract the sale, leasing or exchange of real estate on behalf of the owner; and the owner or attorney-in-fact has not used a power of attorney for the purpose of evading the provisions of Chapter 61, Article 29 NMSA 1978;

(4) transactions in which a person acts as attorney-in-fact under a duly executed power of attorney delivered by an owner related to the attorney-in-fact within the fourth degree of consanguinity or closer, authorizing the person to finally consummate and to perform under any contract for the sale, leasing or exchange of real estate on behalf of the owner;

(5) the services rendered by an attorney at law in the performance of the attorney's duties as an attorney at law;

(6) a person acting in the capacity of a receiver, trustee in bankruptcy, administrator or executor, a person selling real estate pursuant to an order of any court or a trustee acting under a trust agreement, deed of trust or will or the regular salaried employee of a trustee;

(7) the activities of a salaried employee of a governmental agency acting within the scope of employment;

(8) persons who deal exclusively in mineral leases or the sale or purchase of mineral rights or royalties in any case in which the fee to the land or the surface rights are in no way involved in the transaction; or

(9) an auctioneer; provided that payments to an auctioneer for services rendered in connection with an auction shall be made to the auctioneer by a qualifying broker, and prior to performing an auction of real estate, the auctioneer shall enter into a transaction-specific written agreement with a qualifying broker that includes:

(a) a description of the parties, the real estate and any additional information necessary to identify the specific transaction governed by the agreement;

(b) the terms of compensation between the auctioneer and the qualifying broker;

(c) the effective date and definitive termination date of the agreement; and

(d) a statement that the auctioneer agrees to: 1) cooperate fully with the qualifying broker and all associate brokers designated by the qualifying broker; 2) conduct all contact with parties, including the general public and other brokers, in association with the qualifying broker or associate brokers designated by the qualifying broker; and 3) conduct all marketing and solicitations for business in the name of the qualifying broker."

## **Chapter 106 Section 2 Laws 2021**

SECTION 2. Section 61-29-23 NMSA 1978 (being Laws 1980, Chapter 82, Section 4, as amended) is amended to read:

"61-29-23. JUDGMENT AGAINST QUALIFYING OR ASSOCIATE BROKER--  
PETITION--REQUIREMENTS--RECOVERY LIMITATIONS.--

A. When an aggrieved person claims a pecuniary loss caused by a state-licensed qualifying broker or associate broker based upon fraud, knowing or willful misrepresentation or wrongful conversion of funds entrusted to the qualifying broker or associate broker, involving a transaction for which a qualifying broker's or an associate broker's license is required and which arose out of or during the course of a transaction involving the sale, lease, exchange or other disposition of real estate or property management, where the cause of action arose on or after July 1, 1980, that person may, within two years after obtaining a final judgment based upon fraud, knowing or willful misrepresentation or wrongful conversion of funds entrusted to the qualifying broker or associate broker from a court of competent jurisdiction, file a verified petition with the commission for recovery pursuant to the Real Estate Recovery Fund Act. The real estate recovery fund reimburses the claimant for unpaid actual damages included in the judgment, but not more than fifty thousand dollars (\$50,000) per judgment regardless of the number of persons aggrieved or parcels of real estate involved in the

transaction. The aggregate amount recoverable by all claimants for losses against any one licensee during one calendar year shall not exceed one hundred thousand dollars (\$100,000).

B. A copy of the verified petition with the judgment attached shall be served upon the commission by United States postal service certified return receipt or in the manner provided by law for service of a civil summons.

C. The commission shall serve the petition and notice of hearing on the licensee in substantially the same manner as required pursuant to the Uniform Licensing Act.

D. The commission shall conduct a hearing on the petition after service of the petition upon the commission and the licensee. At the hearing, the petitioner shall be required to show that the petitioner:

(1) is not the spouse of the judgment debtor, the personal representative of the spouse or related to the third degree of consanguinity or affinity to the licensee whose conduct is alleged to have caused the loss;

(2) has complied with all the requirements of the Real Estate Recovery Fund Act; and

(3) has a judgment that is not covered by a bond, insurance, surety agreement or indemnity agreement.

E. At the hearing, the licensee shall be permitted to raise all affirmative defenses."

## **Chapter 106 Section 3 Laws 2021**

SECTION 3. Section 61-29-24 NMSA 1978 (being Laws 1980, Chapter 82, Section 5, as amended) is amended to read:

"61-29-24. COMMISSION--COMPROMISE.--Upon receipt of a petition as required by Section 61-29-23 NMSA 1978, the commission shall conduct a hearing in substantially the same manner and with the same authority as set forth in the Uniform Licensing Act. The commission may compromise a claim based upon the application of a petitioner."

## **Chapter 106 Section 4 Laws 2021**

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

# **LAWS 2021, CHAPTER 107**

**House Bill 231, aa, w/ec**  
**Approved April 6, 2021**

AN ACT

RELATING TO ELECTIONS; PROVIDING PROTECTIONS FOR POLLING LOCATIONS ON INDIAN NATION, TRIBAL OR PUEBLO LAND IN THE EVENT OF A DECLARED EMERGENCY OR THE INVOCATION OF EMERGENCY POWERS; CHANGING NOTICE PROVISIONS FOR REQUESTS FOR ALTERNATE VOTING LOCATIONS; DECLARING AN EMERGENCY.

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

## Chapter 107 Section 1 Laws 2021

SECTION 1. A new Section 1-3-7.2 NMSA 1978 is enacted to read:

"1-3-7.2. POLLING PLACES ON NATIVE AMERICAN LANDS.--If, in an area that includes Indian nation, tribal or pueblo lands, the president, governor or governing body of the Indian nation, tribe or pueblo has declared an emergency or has invoked emergency powers pursuant to other laws:

A. a polling place located on Indian nation, tribal or pueblo land shall not be eliminated or consolidated with other polling places, nor shall the days and times of voting be modified, without the written agreement of the Indian nation, tribe or pueblo where the polling place is located;

B. no later than ninety-eight days before a statewide election without a court order and by means of a written request or no later than forty-nine days before a statewide election with a court order, the county clerk shall provide to an Indian nation, tribe or pueblo that has not previously requested for that election cycle at least one alternate voting or mobile alternate voting location for that election; provided the alternate voting or mobile alternate voting location otherwise complies with the requirements of Section 1-6-5.8 NMSA 1978;

C. no later than eighty-four days before a statewide election without a court order and by means of a written request or no later than thirty-five days before a statewide election with a court order, the county clerk shall provide an election day polling place to an Indian nation, tribe or pueblo that does not already have an election day polling place within its boundaries if voters registered within the Indian nation, tribe or pueblo are unable to leave the Indian nation, tribe or pueblo during the time when voting occurs for a statewide election;

D. the requirement that a polling place be available to all voters in the county is waived if an Indian nation, tribe or pueblo is inaccessible or the borders are closed; and

E. all necessary and reasonable expenses by the county clerk for compliance with this section shall be reimbursed by the secretary of state."

## **Chapter 107 Section 2 Laws 2021**

SECTION 2. Section 1-3-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 58, as amended) is amended to read:

"1-3-8. PRECINCT CHANGES--NOTICE AND PUBLICATION.--

A. Upon the adoption of any resolution, or upon the final action of any district court upon a petition creating, abolishing, dividing or consolidating any precinct, or changing any precinct boundary, or changing any designated polling place, the board of county commissioners shall:

(1) send a certified copy of the resolution or court order to the secretary of state and to the county chair of each of the major political parties; and

(2) publish once the resolution in a newspaper as provided in the Election Code.

B. A polling place located on Indian nation, tribal or pueblo lands shall not be eliminated or consolidated with other polling locations without the written agreement of the Indian nation, tribe or pueblo on which the polling place is located."



## **Chapter 107 Section 3 Laws 2021**

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

## **LAWS 2021, CHAPTER 108**

**HJC/House Bill 235**  
**Approved April 6, 2021**

AN ACT

RELATING TO INSURANCE; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NEW MEXICO INSURANCE CODE.

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

## **Chapter 108 Section 1 Laws 2021**

SECTION 1. A new Section 59A-1-8.2 NMSA 1978 is enacted to read:

"59A-1-8.2. DELIVER OR DELIVERY--DEFINITION.--"Deliver" or "delivery" means send to by:

- A. email and retain an email delivery confirmation;
- B. electronic transmission through a dedicated two-way communication portal and retain delivery confirmation;
- C. fax and retain a fax delivery confirmation;
- D. regular mail; or

E. personal delivery."

## **Chapter 108 Section 2 Laws 2021**

SECTION 2. Section 59A-2-8 NMSA 1978 (being Laws 1984, Chapter 127, Section 26, as amended) is amended to read:

"59A-2-8. GENERAL POWERS AND DUTIES OF SUPERINTENDENT.--

A. The superintendent shall:

- (1) organize and manage the office of superintendent of insurance and direct and supervise all its activities;
- (2) execute the duties imposed upon the superintendent by the Insurance Code;
- (3) enforce those provisions of the Insurance Code that are administered by the superintendent;
- (4) have the powers and authority expressly conferred by or reasonably implied from the provisions of the Insurance Code;
- (5) conduct such examinations and investigations of insurance matters, in addition to those expressly authorized, as the superintendent may deem proper upon reasonable and probable cause to determine whether a person has violated a provision of the Insurance Code or to secure information useful in the lawful enforcement or administration of the provision;
- (6) have the power to sue or be sued;

(7) have the power to make, enter into and enforce all contracts, agreements and other instruments necessary, convenient or desirable in the exercise of the superintendent's powers and functions and for the purposes of the Insurance Code;

(8) prepare an annual budget for the office of superintendent of insurance;

(9) have the right to require performance bonds of employees as the superintendent deems necessary pursuant to the Surety Bond Act. The office of superintendent of insurance shall pay the cost of required bonds;

(10) comply with the provisions of the Administrative Procedures Act;

(11) upon an order based upon the invocation of a state of emergency under the All Hazard Emergency Management Act or the Public Health Emergency Response Act by the governor, take those actions necessary to ensure access to insurance and the stability of insurance markets during the emergency. Such actions may include issuing emergency rules or orders to address any or all of the following matters related to insurance policies issued in New Mexico:

(a) grace periods for payment of insurance premiums and performance of other duties by insureds;

(b) refund of premiums;

(c) waiver of cost sharing or deductibles;

(d) temporary postponement of cancellations and nonrenewals;

(e) reporting requirements for claims; and

(f) suspension of compliance with a statute, rule or contract, if strict compliance would prevent, hinder or delay necessary action in response to the emergency; and

(12) have such additional powers and duties as may be provided by other laws of this state.

B. If a state of emergency under the All Hazard Emergency Management Act or the Public Health Emergency Response Act is invoked by the governor, and the superintendent issues emergency rules or orders to address matters related to insurance policies issued in New Mexico, each emergency rule or order:

(1) shall specify, by line of insurance:

(a) the geographic area in which the order applies; and

(b) the dates on which the order becomes effective and terminates; and

(2) shall not:

(a) apply retroactively;

(b) apply outside the geographic area designated in the governor's order; or

(c) extend beyond the end date of the governor's order."

## Chapter 108 Section 3 Laws 2021

SECTION 3. Section 59A-4-15 NMSA 1978 (being Laws 1984, Chapter 127, Section 59, as amended by Laws 2011, Chapter 127, Section 3 and by Laws 2011, Chapter 144, Section 1) is amended to read:

"59A-4-15. HEARINGS--IN GENERAL.--

A. The superintendent may hold a hearing, without request by others, for any purpose within the scope of the Insurance Code.

B. The superintendent shall hold a hearing:

(1) if required by any other provision of the Insurance Code; or

(2) upon written request for a hearing by a person aggrieved by any act, threatened act or failure of the superintendent to act or by any report, rule or order of the superintendent, other than an order for the holding of a hearing or order on hearing or pursuant to such an order on a hearing of which the person had notice.

C. The request for a hearing shall briefly state the respects in which the applicant is so aggrieved, the relief to be sought and the grounds to be relied upon as basis for relief. The request shall be received by the superintendent no later than thirty days from the date of the act, threatened act or failure of the superintendent to act or the date of the superintendent's report, rule or order.

D. If the superintendent finds that the request is made in good faith, that the applicant would be so aggrieved if the stated grounds are established and that such grounds otherwise justify the hearing, the superintendent shall commence the hearing within thirty days after filing of the request, unless postponed by mutual consent. No postponement shall be later than ninety days after the filing of the request.

E. Pending the hearing and decision, the superintendent may suspend or postpone the effective date of the action as to which the hearing is requested. If upon request the superintendent refuses to grant the suspension or postponement, the person requesting the hearing may apply no later than twenty days from the superintendent's refusal to the district court of Santa Fe county for a stay of the superintendent's action or proposed action pending the hearing and the superintendent's order.

F. Except as otherwise expressly provided, this section does not apply to hearings relative to matters arising under Chapter 59A, Article 17 NMSA 1978.

G. The superintendent may appoint a hearing officer to preside over hearings. The hearing officer shall provide the superintendent with a recommended decision on the matter assigned to the hearing officer, including findings of fact and conclusions of law."

## **Chapter 108 Section 4 Laws 2021**

SECTION 4. Section 59A-5-23 NMSA 1978 (being Laws 1984, Chapter 127, Section 90) is amended to read:

"59A-5-23. CONTINUANCE, EXPIRATION, REINSTATEMENT OF CERTIFICATE OF AUTHORITY.--

A. A certificate of authority shall continue in force as long as the insurer is entitled thereto under the Insurance Code, and until suspended or revoked by the superintendent or terminated at the insurer's request, subject, however, to continuance of the certificate by the insurer each year by:

(1) payment on or before March 1 of the continuation fee referred to in Section 59A-6-1 NMSA 1978;

(2) due filing by the insurer of its annual statement for the next preceding calendar year as required by Section 59A-5-29 NMSA 1978; and

(3) payment by the insurer when due of premium taxes with respect to the preceding calendar year.

B. If not so continued by the insurer its certificate of authority shall expire at midnight on the date of failure of the insurer to continue it in force, unless earlier revoked as provided in Sections 59A-5-24 through 59A-5-26 NMSA 1978.

C. Upon the insurer's request made within three months after expiration, the superintendent may reinstate a certificate of authority that the insurer inadvertently permitted to expire, after the insurer has fully cured all its failures that resulted in the expiration, and upon payment by the insurer of the fee for reinstatement specified in Section 59A-6-1 NMSA 1978. Otherwise the superintendent shall grant the insurer another certificate of authority only after filing an application therefor and meeting all other requirements as for an original certificate of authority in this state.

D. If an insurer allows a certificate of authority issued by the superintendent to expire, the holder of the expired certificate shall remain subject to the provisions of the Insurance Code but is not authorized to transact any insurance business. If the insurer reinstates the expired certificate of authority within three months after expiration, the reinstatement shall relate back to the date of the expiration; provided that this shall not excuse any violation of the Insurance Code that occurred during the intervening period."

## **Chapter 108 Section 5 Laws 2021**

SECTION 5. Section 59A-5-32 NMSA 1978 (being Laws 1984, Chapter 127, Section 99) is amended to read:

"59A-5-32. SERVING PROCESS--TIME TO PLEAD.--

A. Service of process against an insurer for whom the superintendent is attorney shall be made by delivering by email to the superintendent, or the superintendent's designee, an electronic copy of the process together with the fee specified in Section 59A-6-1 NMSA 1978, taxable as costs in the action.

B. Upon such service the superintendent shall deliver such process showing the date and time of service on the superintendent, to the email or electronic portal address of the person currently designated by the insurer to receive such process as provided in Section 59A-5-31 NMSA 1978. Service of process on the insurer shall be complete upon such electronic delivery of the process.

C. Process served as provided in this section shall for all purposes constitute valid and binding personal service within this state upon the insurer. If summons is served under this section, the time within which the insurer is required to appear shall be extended an additional ten days beyond that otherwise allowed by New Mexico rules of civil procedure.

D. The superintendent shall keep record of the day and time of service of legal process under this section.

E. If the electronic delivery requirements of this section create a hardship for any person serving an insurer pursuant to this subsection, that person shall deliver to the superintendent or the superintendent's designee two copies of the process together with the fee specified in Section 59A-6-1 NMSA 1978, taxable as costs in the action. Upon such service, the superintendent shall deliver the process to the insurer as provided in Subsection B of this section."

## **Chapter 108 Section 6 Laws 2021**

SECTION 6. Section 59A-12-2 NMSA 1978 (being Laws 2016, Chapter 89, Section 26) is amended to read:



"59A-12-2. DEFINITIONS.--As used in Chapter 59A, Article 12 NMSA 1978:

- A. "affiliate" means a person that controls, is controlled by or is under common control with the insurance producer;
- B. "business entity" means a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity;
- C. "home state" means the District of Columbia and any state or territory of the United States in which an insurance producer maintains the insurance producer's principal place of residence or principal place of business and is licensed to act as an insurance producer;
- D. "insurance" means any of the lines of authority in Chapter 59A, Article 7 NMSA 1978;
- E. "insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance;
- F. "insurer" means every person engaged as principal and as indemnitor, surety or contractor in the business of entering into contracts of insurance;
- G. "license" means a document issued by the superintendent authorizing a person to act as an insurance producer for the lines of authority specified in the document. The license itself does not create any authority, actual, apparent or inherent, in the holder to represent or commit an insurance carrier;
- H. "limited line credit insurance" includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection insurance and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation;

I. "limited line credit insurance producer" means a person who sells, solicits or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group or individual policy;

J. "limited lines insurance" means those lines of insurance referred to in Section 59A-12-18 NMSA 1978 or any other line of insurance that the superintendent deems necessary to recognize for the purposes of complying with Subsection E of Section 59A-11-24 NMSA 1978;

K. "limited lines producer" means a person authorized by the superintendent to sell, solicit or negotiate limited lines insurance;

L. "negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract; provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers;

M. "personal lines insurance producer" means a general lines producer who is limited to transacting business related to property and casualty insurance sold to individuals and families for noncommercial purposes;

N. "reinstatement" means reestablishment of a licensee's authority to transact insurance after a lapse of that authority that restores the licensee's authority to the same scope and condition that pertained to that authority before the lapse;

O. "sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurer;

P. "solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular insurer;

Q. "terminate" means to cancel the relationship between an insurance producer and the insurer or to terminate an insurance producer's authority to transact insurance;

R. "uniform application" means the current version of the national association of insurance commissioners uniform application for resident and nonresident insurance producer licensing; and

S. "uniform business entity application" means the current version of the national association of insurance commissioners uniform business entity application for resident and nonresident business entities."

## **Chapter 108 Section 7 Laws 2021**

SECTION 7. Section 59A-12-3 NMSA 1978 (being Laws 1984, Chapter 127, Section 203, as amended) is amended to read:

"59A-12-3. "BROKER" DEFINED.--For the purpose of the Insurance Code, a "broker" is a type of insurance producer who, not being an agent of the insurer, as an independent contractor and on behalf of the insured solicits, negotiates or procures insurance or annuity contracts or renewal or continuation thereof for insureds or prospective insureds other than the broker. "Broker" does not include a surplus line broker, as defined in Chapter 59A, Article 14 NMSA 1978."

## **Chapter 108 Section 8 Laws 2021**

SECTION 8. Section 59A-12-16 NMSA 1978 (being Laws 1984, Chapter 127, Section 217, as amended) is amended to read:

"59A-12-16. EXAMINATION FOR LICENSE.--

A. A resident individual applying for an insurance producer license shall, prior to issuance of license, personally take and pass a written examination. The examination shall test the knowledge of the individual concerning the lines of authority for which application is made, the duties and responsibilities of an insurance producer and the insurance laws and rules of this state. Examinations required by this section shall be developed and conducted under rules prescribed by the superintendent.

B. The superintendent may contract with an outside testing service for administering examinations and collecting the nonrefundable fee set forth in Section 59A-6-1 NMSA 1978.

C. Each individual applying for an examination shall remit a nonrefundable fee as prescribed by the superintendent as set forth in Section 59A-6-1 NMSA 1978.

D. An individual who fails to appear for the examination as scheduled or fails to pass the examination shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

E. No examination shall be required:

(1) for renewal or continuance of an existing license, except as provided in Subsection D of Section 59A-11-10 NMSA 1978;

(2) of an applicant for limited license as provided in Section 59A-12-18 NMSA 1978;

(3) of applicants with respect to life and annuities or accident and health insurances who hold the chartered life underwriter designation by the American college of financial services;

(4) of applicants with respect to property and casualty insurance who hold the designation of chartered property and casualty underwriter designation by the American institute for chartered property casualty underwriters;

(5) of applicants for temporary license as provided for in Section 59A-12-19 NMSA 1978;

(6) of an applicant for a license covering the same kind or kinds of insurance as to which licensed in this state under a similar license within one year preceding date of application for the new license, unless the previous license was suspended, revoked or continuation thereof refused by the superintendent;

(7) of an applicant for insurance producer license, if the applicant took and passed a similar examination in a state in which already licensed, subject to Section 59A-5-33 NMSA 1978; or

(8) of an applicant for self-service storage insurance producer license.

F. An individual who applies for an insurance producer license in this state who was previously licensed for the same lines of authority in another state shall not be required to take an examination. This exemption is only available if the person is currently licensed in that state or if the application is received within ninety days of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's insurance producer database records, maintained by the national association of insurance commissioners, its affiliates or subsidiaries, indicate that the insurance producer is or was licensed in good standing for the line of authority requested.

G. A person licensed as an insurance producer in another state who moves to this state shall apply within ninety days of establishing legal residence to become a resident insurance producer. No examination shall be required of that person to obtain any line of authority previously held in the prior state except where the superintendent determines otherwise by rule."

## **Chapter 108 Section 9 Laws 2021**

SECTION 9. Section 59A-16-15 NMSA 1978 (being Laws 1984, Chapter 127, Section 281) is amended to read:

"59A-16-15. DISCRIMINATION--REBATES AND CERTAIN INDUCEMENTS PROHIBITED--LIFE, HEALTH AND ANNUITY CONTRACTS.--Except as otherwise expressly provided by law, no person shall directly or indirectly, as an inducement to any contract of life, annuity or health insurance:

A. offer, pay or accept any special favor or advantage, any rebate of premiums or any valuable consideration or promise whatsoever; or

B. promise any returns or profits, interest or dividends not specified in the contract."

## **Chapter 108 Section 10 Laws 2021**

SECTION 10. Section 59A-16-16 NMSA 1978 (being Laws 1984, Chapter 127, Section 282) is amended to read:

"59A-16-16. EXCEPTIONS TO DISCRIMINATION, REBATE AND INDUCEMENT PROHIBITION--LIFE, HEALTH AND ANNUITY CONTRACTS.--

A. Nothing in Section 59A-16-11 or 59A-16-15 NMSA 1978 shall be construed as including within the definition of discrimination or rebates any of the following practices:

(1) in the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided that any such bonuses

or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the insurer and its policyholders;

(2) in the case of life insurance policies issued on the industrial or debit plan, making allowance, in an amount which fairly represents the saving in collection expense, to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer;

(3) readjusting the rate of premiums for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year;

(4) reducing the premium rate for policies of large amounts, but not exceeding savings in issuance and administration expenses reasonably attributable to such policies as compared with policies of similar plan issued in smaller amounts;

(5) reducing the premium rates for life or health insurance policies or annuity contracts on salary savings, payroll deduction, preauthorized check, bank draft or similar plans in amounts reasonably commensurate with the savings made by the use of such plans;

(6) extending credit for the payment of any premium, and for which credit a reasonable rate of interest is charged and collected; or

(7) offering or providing any value-added product or service in conformance with Subsection G of Section 59A-16-17 NMSA 1978.

B. Nothing in Chapter 59A, Article 16 NMSA 1978 shall be construed as including within the definition of securities as inducements to purchase insurance the selling or offering for sale, contemporaneously with life insurance, of mutual fund shares or face amount certificates of regulated investment companies under offerings registered with the securities and exchange commission where such shares or such

face amount certificates or such insurance may be purchased independently of and not contingent upon purchase of the other, at the same price and upon similar terms and conditions as where purchased independently."

## **Chapter 108 Section 11 Laws 2021**

SECTION 11. Section 59A-16-17 NMSA 1978 (being Laws 1984, Chapter 127, Section 283, as amended) is amended to read:

"59A-16-17. DISCRIMINATION, REBATES AND CERTAIN INDUCEMENTS PROHIBITED--OTHER COVERAGES.--

A. No person subject to the superintendent's jurisdiction shall induce or attempt to induce another person to enter into or continue a contract of insurance by directly or indirectly offering to pay or accept any special favor or advantage, any rebate of premiums or any valuable consideration or promise whatsoever not specified in the insurance contract, except to the extent provided for in an applicable filing with the superintendent as provided by law or as allowed by this section.

B. No title insurer or title insurance producer shall:

(1) pay, directly or indirectly, to the insured or any person acting as agent, representative, attorney or employee of the owner, lessee, mortgagee, existing or prospective, of the real property, or interest therein, that is the subject matter of title insurance or as to which a service is to be performed any commission or part of its fee or charges or other consideration as inducement or compensation for the placing of any order for a title insurance policy or for performance of any escrow or other service by the insurer with respect thereto;

(2) issue any policy or perform any service in connection with which it or any insurance producer or other person has paid or contemplates paying any commission, rebate or inducement in violation of this section;



(3) give or receive, directly or indirectly, any consideration or thing of value for the referral of title insurance business or escrow or other service provided by a title insurer or title insurance producer unless otherwise permitted by regulation of the superintendent; or

(4) enter into a reinsurance agreement with an affiliate of a real estate developer, real estate agency, mortgage lender or referrer of title business without the prior written approval of the superintendent.

C. No insured named in a policy or any employee of such insured shall knowingly receive or accept, directly or indirectly, any rebate, discount, abatement, credit or reduction of premium, or any special favor or advantage or valuable consideration or inducement, except as allowed by this section.

D. No insurer or organization shall make or permit any unfair discrimination between insureds or property having like insuring or risk characteristics, in the premium or rates charged for insurance or coverage, or in the dividends or other benefits payable thereon or in any other of the terms and conditions of the insurance or coverage.

E. Nothing in this section shall be construed as prohibiting the payment of commissions or other compensation to licensed insurance producers or other representatives; or as prohibiting the extension of credit to an insured for the payment of any premium and for which credit a reasonable rate of interest is charged and collected; or as prohibiting any insurer or insurance producer from allowing or returning to its participating policyholders, members or subscribers, dividends, savings or unabsorbed premium deposits. As to title insurance, nothing in this section shall prohibit bulk rates or special rates for customers of prescribed classes if such bulk or special rates are provided for in the currently effective schedule of fees and charges of the title insurer as filed with the superintendent.

F. The provisions of this section shall not prohibit a property or casualty insurer, or any employee or representative thereof, or a property or casualty insurance producer or other representative thereof from providing to customers or prospective

customers prizes and gifts, including goods, gift cards, gift certificates, charitable donations, raffle entries, meals, event tickets and other items not exceeding one hundred dollars (\$100) in the aggregate in value per customer or prospective customer in any one calendar year.

G. A person subject to the superintendent's jurisdiction may offer or provide value-added products or services at no or reduced cost, even when such products or services are not specified in the insurance contract, if the product or service:

- (1) relates to the insurance coverage;
- (2) is offered at a cost that is reasonable in comparison to the insured's or prospective insured's premiums;
- (3) has its availability based on documented objective evidence and offered in a manner that is not unfairly discriminatory; and
- (4) is primarily designed to:
  - (a) provide loss mitigation or loss control;
  - (b) reduce claim costs or claim settlement costs;
  - (c) monitor or assess risk, identify sources of risk or develop strategies for eliminating or reducing risk;
  - (d) enhance health;
  - (e) enhance financial wellness through items such as education or financial planning services;
  - (f) provide post-loss services;

(g) incentivize behavioral changes to improve the health or reduce the risk of death or disability of an insured or prospective insured;

(h) assist in the administration of employee or retiree benefit insurance coverage; or

(i) provide education about liability risks or risk of loss to persons or property.

H. Prior to offering or providing a value-added product or service, a person shall notify the superintendent of the person's intent to offer or provide a value-added product or service."

## **Chapter 108 Section 12 Laws 2021**

SECTION 12. Section 59A-16-21 NMSA 1978 (being Laws 1984, Chapter 127, Section 287, as amended by Laws 2017, Chapter 15, Section 1 and by Laws 2017, Chapter 130, Section 12) is amended to read:

"59A-16-21. PAYMENT OF CLAIM BY CHECK, DRAFT OR ELECTRONIC TRANSFER--FAILURE TO PAY--INTEREST.--

A. An insurer shall pay promptly claims arising under its policies with checks or drafts, or, if a claimant requests, may pay by electronic transfer of funds. Without amending other statutes dealing with checks, drafts or electronic transfer of funds, a resident of New Mexico is granted a cause of action for ten percent of the amount of any check, draft or electronic transfer of funds that is not paid or lawfully rejected within ten days of forwarding by a New Mexico financial institution, but in no case to be less than five hundred dollars (\$500) plus costs of suit and attorney fees. The insurer shall not be required to pay such civil damages for delay if it proves that the delay in processing and payment was caused by a financial institution or postal or delivery service and the check, draft or electronic transfer of funds was paid or lawfully rejected

within forty-eight hours of actual receipt of the draft, check or electronic transfer of funds by the person on whom drawn.

B. Notwithstanding any provision of the Insurance Code, any insurer issuing any policy, certificate or contract of insurance, surety, guaranty or indemnity of any kind or nature that fails for a period of forty-five days, after required proof of loss has been furnished, to pay to the person entitled the amount justly due shall be liable for the amount due and unpaid with interest on that amount at the rate of one and one-half times the prime lending rate for New Mexico banks during the period the claim is unpaid. Interest shall accrue, and the interest rate shall be determined, as of the forty-sixth day after the proof of loss was furnished.

C. Subsection B of this section shall not apply to any claims in arbitration or litigation."

## **Chapter 108 Section 13 Laws 2021**

SECTION 13. Section 59A-18-1 NMSA 1978 (being Laws 1984, Chapter 127, Section 331, as amended) is amended to read:

"59A-18-1. SCOPE OF ARTICLE.--Chapter 59A, Article 18 NMSA 1978 applies as to all insurance policies and annuity contracts of authorized insurers covering individuals resident, or risks located, or insurance protection to be rendered in this state, other than:

A. reinsurance;

B. policies or contracts not issued for delivery in this state nor delivered in this state, except for contracts for or endorsements of workers' compensation insurance when the workers' compensation risk insured arises from the employment of a worker performing work for an employer in New Mexico and that employer is not domiciled in New Mexico;

- C. wet marine and transportation insurance; or
- D. surplus lines insurance contracts, unless such contracts are specifically included by rule."

## **Chapter 108 Section 14 Laws 2021**

SECTION 14. Section 59A-18-22 NMSA 1978 (being Laws 1984, Chapter 127, Section 351) is amended to read:

"59A-18-22. BINDERS.--

A. While acting within the scope of authority granted by the insurer, binders or other contracts for temporary insurance may be made by a producer orally or in writing, and shall be deemed to include all the usual terms of the policy as to which the binder was given together with such applicable endorsements as are designated in the binder, except as superseded by the clear and express terms of the binder.

B. No binder shall be valid beyond the issuance of the policy as to which given, or beyond ninety days for written binders, fifteen days for oral, from its effective date, whichever period is the shorter.

C. If the policy has not been issued, a binder may be extended or renewed beyond such ninety or fifteen days with the written approval of the insurer.

D. This section shall not apply as to life or health insurances; and binders under the standard fire policy are governed by Section 492 of the Insurance Code and not by this section."

## Chapter 108 Section 15 Laws 2021

SECTION 15. Section 59A-18-29 NMSA 1978 (being Laws 1984, Chapter 127, Section 358) is amended to read:

"59A-18-29. CANCELLATION OF CERTAIN POLICIES.--

A. An insurer or agent may at any time cancel a policy for nonpayment of premium when due, whether the premium is payable directly to the insurer or agent or indirectly under any premium financing plan or extension of credit. The insurer or agent shall give the named insured written notice of the cancellation not less than ten days prior to the effective date of the cancellation.

B. An insurer may cancel its policy without cause at any time within sixty days following original issuance and effective date of the policy. The insurer shall give the named insured written notice of the cancellation not less than ten days prior to the effective date of the cancellation, which effective date shall fall within the sixty-day period.

C. Subject to Subsection A of this section, after expiration of the sixty-day period referred to in Subsection B of this section, an insurer or agent shall not cancel except for reasonable cause such policies and for such causes, and with advance notice of cancellation for such period of time, as may from time to time be provided by rules and regulations of the superintendent. Such rules and regulations may also require that statement of the reasons for cancellation be contained in the notice of cancellation given to specified persons.

D. Notice of cancellation shall be given using any communication method authorized by the named insured, or by personal delivery to the named insured or by mailing the notice postage-paid addressed to the named insured at the address last of record with the insurer. Notice so mailed shall be deemed given when deposited in a mail depository of the United States post office.

E. There shall be no liability on the part of and no cause of action shall arise against an insurer or other person for furnishing information as to reasons for cancellation or for a statement made or information given pursuant to this section.

F. This section shall not apply as to life insurance or annuity contracts, health insurance contracts, title insurance, inland marine insurance contracts, or to an insurance policy that by its terms is not cancellable during the term of the policy at the option of the insurer."

## **Chapter 108 Section 16 Laws 2021**

SECTION 16. Section 59A-22-2 NMSA 1978 (being Laws 1984, Chapter 127, Section 423) is amended to read:

"59A-22-2. FORM AND CONTENT OF POLICY.--No policy of individual health insurance shall be delivered or issued for delivery in this state unless:

- A. the entire money and other considerations therefor are expressed therein;
- B. the time at which insurance takes effect and terminates is expressed therein;
- C. it purports to insure only one person, except as provided in Chapter 59A, Article 23 NMSA 1978, and except that a policy or contract may be issued upon application of the head of a family, who shall be deemed the policyholder, covering members of any one family, including husband, wife, dependent children or any children under the age of twenty-six and other dependents living with the family;
- D. every printed portion of the text matter and of any endorsements or attached papers shall be printed in uniform type of which the face shall be not less than ten point (the "text" shall include all printed matter except the name and address of the insurer, name and title of the policy, captions, subcaptions and form numbers), but

notwithstanding any provision of this law, the superintendent shall not disapprove any such policy on the ground that every printed portion of its text matter or of any endorsement or attached paper is not printed in uniform type if it shall be shown that the type used is required to conform to the laws of another state in which the insurer is authorized;

E. the exceptions and reductions of indemnity are adequately captioned and clearly set forth in the policy or contract;

F. each separate form, including riders and endorsements, shall be identified by a form number and consecutive page numbers in the lower left-hand corner of each page; and

G. if any policy is issued by an insurer domiciled in this state for delivery to a person residing in another state, and if the official having responsibility for the administration of insurance laws of such other state shall have advised the superintendent that any such policy is not subject to approval or disapproval by such official, the superintendent may by ruling require that such policy meet the standards set forth in Sections 59A-22-3 through 59A-22-25 NMSA 1978."

## **Chapter 108 Section 17 Laws 2021**

SECTION 17. Section 59A-22-30.1 NMSA 1978 (being Laws 2005, Chapter 41, Section 1) is amended to read:

"59A-22-30.1. MAXIMUM AGE OF DEPENDENT.--An individual or group health policy or certificate of insurance delivered, issued for delivery or renewed in New Mexico that provides coverage for an insured's dependent shall not terminate coverage of an unmarried dependent by reason of the dependent's age before the dependent's twenty-sixth birthday, regardless of whether the dependent is enrolled in an educational institution."



## **Chapter 108 Section 18 Laws 2021**

SECTION 18. Section 59A-22-33 NMSA 1978 (being Laws 1984, Chapter 127, Section 455) is amended to read:

"59A-22-33. CHILDREN WITH DISABILITIES--COVERAGE CONTINUED.--An individual or group hospital or medical expense insurance policy delivered or issued for delivery in this state that provides that coverage of a dependent child of an insured, or of an employee or other member of the covered group, shall terminate upon attainment of the limiting age for dependent children specified in the policy shall also provide, in substance, that attainment of the limiting age shall not operate to terminate the coverage of a child while the child is, and continues to be both incapable of self-sustaining employment, by reason of intellectual or developmental disability or physical disability, and chiefly dependent upon the policyholder for support and maintenance. However, proof of the incapacity and dependency of the child must be furnished to the insurer by the insured employee or member within thirty-one days of the child's attainment of the limiting age and subsequently, as may be required by the insurer, but not more frequently than annually after the two-year period following the child's attainment of the limiting age."

## **Chapter 108 Section 19 Laws 2021**

SECTION 19. Section 59A-22-40.1 NMSA 1978 (being Laws 2007, Chapter 278, Section 1) is amended to read:

"59A-22-40.1. COVERAGE FOR THE HUMAN PAPILLOMAVIRUS VACCINE.--

A. An individual or group health insurance policy, health care plan or certificate of health insurance that is delivered, issued for delivery or renewed in this state shall provide coverage for the human papillomavirus vaccine in accordance with the current standards of the federal centers for disease control and prevention.

B. Coverage for the human papillomavirus vaccine may be subject to deductibles and coinsurance consistent with those imposed on other benefits under the same policy, plan or certificate.

C. The provisions of this section shall not apply to short-term travel, accident-only or limited or specified disease policies.

D. For the purposes of this section, "human papillomavirus vaccine" means a vaccine approved by the federal food and drug administration used for the prevention of human papillomavirus infection and cervical precancers."

## **Chapter 108 Section 20 Laws 2021**

SECTION 20. Section 59A-22-41.1 NMSA 1978 (being Laws 2003, Chapter 192, Section 1) is amended to read:

"59A-22-41.1. COVERAGE FOR MEDICAL DIETS FOR GENETIC INBORN ERRORS OF METABOLISM.--

A. As of July 1, 2003, each individual and group health insurance policy, health care plan, certificate of health insurance and managed health care plan delivered, issued for delivery, renewed, extended or modified in this state shall provide coverage for the treatment of genetic inborn errors of metabolism that involve amino acid, carbohydrate and fat metabolism and for which medically standard methods of diagnosis, treatment and monitoring exist.

B. Coverage shall include expenses of diagnosing, monitoring and controlling disorders by nutritional and medical assessment, including clinical services, biochemical analysis, medical supplies, prescription drugs, corrective lenses for conditions related to the genetic inborn error of metabolism, nutritional management and special medical foods used in treatment to compensate for the metabolic abnormality and to maintain adequate nutritional status.

C. Services required to be covered pursuant to this section are subject to the terms and conditions of the applicable individual or group policy or plan that establishes durational limits, dollar limits, deductibles and co-payments as long as the terms are not less favorable than for physical illness generally.

D. As used in this section:

(1) "genetic inborn error of metabolism" means a rare, inherited disorder that:

- (a) is present at birth;
- (b) if untreated, results in intellectual or developmental disability or death; and
- (c) causes the necessity for consumption of special medical foods;

(2) "special medical foods" means nutritional substances in any form that are:

- (a) formulated to be consumed or administered internally under the supervision of a physician;
- (b) specifically processed or formulated to be distinct in one or more nutrients present in natural food;
- (c) intended for the medical and nutritional management of patients with limited capacity to metabolize ordinary foodstuffs or certain nutrients contained in ordinary foodstuffs or who have other specific nutrient requirements as established by medical evaluation; and

(d) essential to optimize growth, health and metabolic homeostasis; and

(3) "treatment" means medical services provided by licensed health care professionals, including physicians, dieticians and nutritionists, with specific training in managing patients diagnosed with genetic inborn errors of metabolism."

## **Chapter 108 Section 21 Laws 2021**

SECTION 21. Section 59A-22-50 NMSA 1978 (being Laws 2010, Chapter 94, Section 1, as amended) is amended to read:

"59A-22-50. HEALTH INSURERS--DIRECT SERVICES.--

A. A health insurer shall reimburse direct services as follows:

(1) for small groups, at no less than eighty percent of aggregate premiums for all such products; and

(2) for large groups, at no less than eighty-five percent of aggregate premiums for all such products.

B. Reimbursement for direct services shall be determined based on services provided over the preceding three calendar years, but not earlier than calendar year 2010, as determined by reports filed with the office of superintendent of insurance. Reimbursement calculations shall include short-term plans, but exclude all other excepted benefits plans governed by the provisions of Chapter 59A, Article 23G NMSA 1978.

C. For individually underwritten health care policies, plans or contracts, the superintendent shall establish, after notice and informal hearing, the level of reimbursement for direct services, as determined by the reports filed with the office of

superintendent of insurance, as a percent of premiums. Additional informal hearings may be held at the superintendent's discretion. In establishing the level of reimbursement for direct services, the superintendent shall consider the costs associated with the individual marketing and medical underwriting of these policies, plans or contracts at a level not less than seventy-five percent of premiums. A health insurer writing these policies shall make reimbursement for direct services at a level not less than that level established by the superintendent pursuant to this subsection over the three calendar years preceding the date upon which that rate is established, but not earlier than calendar year 2010. Nothing in this subsection shall be construed to preclude a purchaser of one of these policies, plans or contracts from negotiating an agreement with a health insurer that requires a higher amount of premiums paid to be used for reimbursement for direct services.

D. An insurer that fails to comply with the reimbursement requirements pursuant to this section shall issue a dividend or credit against future premiums to all policyholders in an amount sufficient to ensure that the benefits paid in the preceding three calendar years plus the amount of the dividends or credits are equal to the required direct services reimbursement level pursuant to Subsection A of this section for group health coverage and blanket health coverage or the required direct services reimbursement level pursuant to Subsection B of this section for individually underwritten health policies, contracts or plans for the preceding three calendar years. If the insurer fails to issue the dividend or credit in accordance with the requirements of this section, the superintendent shall enforce these requirements and may pursue any other penalties as provided by law, including general penalties pursuant to Section 59A-1-18 NMSA 1978.

E. After notice and hearing, the superintendent may adopt and promulgate reasonable rules necessary and proper to carry out the provisions of this section.

F. For the purposes of this section:

(1) "direct services" means services rendered to an individual by a health insurer or a health care practitioner, facility or other provider, including case

management, disease management, health education and promotion, preventive services, quality incentive payments to providers and any portion of an assessment that covers services rather than administration and for which an insurer does not receive a tax credit pursuant to the Medical Insurance Pool Act; provided, however, that "direct services" does not include care coordination, utilization review or management or any other activity designed to manage utilization or services;

(2) "health insurer" means a person duly authorized to transact the business of health insurance in the state pursuant to the Insurance Code, including a person that issues a short-term plan and a person that only issues an excepted benefit policy intended to supplement major medical coverage, including medicare supplement, vision, dental, disease-specific, accident-only or hospital indemnity-only insurance policies, or that only issues policies for long-term care or disability income;

(3) "premium" means all income received from individuals and private and public payers or sources for the procurement of health coverage, including capitated payments, self-funded administrative fees, self-funded claim reimbursements, recoveries from third parties or other insurers and interests less any tax paid pursuant to the Insurance Premium Tax Act and fees associated with participating in a health insurance exchange that serves as a clearinghouse for insurance; and

(4) "short-term plan" means a nonrenewable health benefits plan covering a resident of the state, regardless of where the plan is delivered, that:

(a) has a maximum specified duration of not more than three months after the effective date of the plan;

(b) is issued only to individuals who have not been enrolled in a health benefits plan that provides the same or similar nonrenewable coverage from any health insurance carrier within the three months preceding enrollment in the short-term plan; and

(c) is not an excepted benefit or combination of excepted benefits."

## **Chapter 108 Section 22 Laws 2021**

SECTION 22. Section 59A-22A-3 NMSA 1978 (being Laws 1993, Chapter 320, Section 61) is amended to read:

"59A-22A-3. DEFINITIONS.--As used in the Preferred Provider Arrangements Law:

A. "covered person" means any person on whose behalf the health care insurer is obligated to pay for or to provide health benefit services;

B. "covered services" means health care services which the health care insurer is obligated to pay for or to provide under a health benefit plan;

C. "emergency care" means health care procedures, treatments or services delivered to a covered person after the sudden onset of what reasonably appears to be a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could be reasonably expected by a reasonable layperson to result in jeopardy to a person's health, serious impairment of bodily functions, serious dysfunction of a bodily organ or part or disfigurement to a person;

D. "health benefit plan" means the health insurance policy or subscriber agreement between the covered person or the policyholder and the health care insurer that defines the covered services and benefit levels available;

E. "health care insurer" means any person who provides health insurance in this state. For the purposes of the Small Group Rate and Renewability Act, "carrier" or "insurer" includes a licensed insurance company, a licensed fraternal benefit society, a

prepaid hospital or medical service plan, a health maintenance organization, a nonprofit health care organization, a multiple employer welfare arrangement or any other person providing a plan of health insurance subject to state insurance regulation;

F. "health care provider" means providers of health care services licensed as required in this state;

G. "health care services" means services rendered or products sold by a health care provider within the scope of the provider's license. The term includes hospital, medical, surgical, dental, vision and pharmaceutical services or products;

H. "preferred provider" means a health care provider or group of providers who have contracted with a health care insurer to provide specified covered services to a covered person; and

I. "preferred provider arrangement" means a contract between or on behalf of the health care insurer and a preferred provider that complies with all the requirements of the Preferred Provider Arrangements Law."

## **Chapter 108 Section 23 Laws 2021**

SECTION 23. Section 59A-23-4 NMSA 1978 (being Laws 1984, Chapter 127, Section 463, as amended) is amended to read:

"59A-23-4. OTHER PROVISIONS APPLICABLE.--

A. A blanket or group health insurance policy or contract shall not contain a provision relative to notice or proof of loss or the time for paying benefits or the time within which suit may be brought upon the policy that in the superintendent's opinion is less favorable to the insured than would be permitted in the required or optional provisions for individual health insurance policies as set forth in Chapter 59A, Article 22 NMSA 1978.



B. The following provisions of Chapter 59A, Article 22 NMSA 1978 shall also apply as to Chapter 59A, Article 23 NMSA 1978 and blanket and group health insurance contracts:

- and
- (1) Section 59A-22-1 NMSA 1978, except Subsection C of that section;
  - (2) Section 59A-22-32 NMSA 1978.

C. The following provisions of Chapter 59A, Article 22 NMSA 1978 shall also apply as to group health insurance contracts:

- (1) Section 59A-22-2 NMSA 1978;
- (2) Section 59A-22-3 NMSA 1978;
- (3) Section 59A-22-4 NMSA 1978;
- (4) Section 59A-22-5 NMSA 1978;
- (5) Section 59A-22-6 NMSA 1978;
- (6) Section 59A-22-7 NMSA 1978;
- (7) Section 59A-22-8 NMSA 1978;
- (8) Section 59A-22-9 NMSA 1978;
- (9) Section 59A-22-10 NMSA 1978;
- (10) Section 59A-22-11 NMSA 1978;

- (11) Section 59A-22-12 NMSA 1978;
- (12) Section 59A-22-13 NMSA 1978;
- (13) Section 59A-22-14 NMSA 1978;
- (14) Section 59A-22-25 NMSA 1978;
- (15) Section 59A-22-28 NMSA 1978;
- (16) Section 59A-22-29 NMSA 1978;
- (17) Section 59A-22-32 NMSA 1978;
- (18) Section 59A-22-32.1 NMSA 1978;
- (19) Section 59A-22-33 NMSA 1978;
- (20) Section 59A-22-34 NMSA 1978;
- (21) Section 59A-22-34.1 NMSA 1978;
- (22) Section 59A-22-34.3 NMSA 1978;
- (23) Section 59A-22-35 NMSA 1978;
- (24) Section 59A-22-36 NMSA 1978;
- (25) Section 59A-22-39 NMSA 1978;
- (26) Section 59A-22-39.1 NMSA 1978;

- (27) Section 59A-22-40 NMSA 1978;
- (28) Section 59A-22-40.1 NMSA 1978;
- (29) Section 59A-22-41 NMSA 1978;
- (30) Section 59A-22-42 NMSA 1978;
- (31) Section 59A-22-43 NMSA 1978;
- (32) Section 59A-22-44 NMSA 1978; and
- (33) Section 59A-22-50 NMSA 1978."

### **Chapter 108 Section 24 Laws 2021**

SECTION 24. Section 59A-23-7.3 NMSA 1978 (being Laws 2003, Chapter 391, Section 3) is amended to read:

"59A-23-7.3. MAXIMUM AGE OF DEPENDENT.--Each blanket or group health policy or certificate of insurance delivered, issued for delivery or renewed in New Mexico on or after July 1, 2003 that provides coverage for an insured's dependent shall not terminate coverage of an unmarried dependent by reason of the dependent's age before the dependent's twenty-sixth birthday, regardless of whether the dependent is enrolled in an educational institution."

### **Chapter 108 Section 25 Laws 2021**

SECTION 25. Section 59A-23D-2 NMSA 1978 (being Laws 1995, Chapter 93, Section 2, as amended) is amended to read:

"59A-23D-2. DEFINITIONS.--As used in the Medical Care Savings Account Act:

A. "account administrator" means any of the following that administers medical care savings accounts:

(1) a national or state-chartered bank, savings and loan association, savings bank or credit union;

(2) a trust company authorized to act as a fiduciary in this state;

(3) an insurance company or health maintenance organization authorized to do business in this state pursuant to the Insurance Code; or

(4) a person approved by the federal secretary of health and human services;

B. "deductible" means the total covered medical expense an employee or the employee's dependents must pay prior to any payment by a qualified higher deductible health plan for a calendar year;

C. "department" means the office of superintendent of insurance;

D. "dependent" means:

(1) a spouse;

(2) an unmarried or unemancipated child of the employee who is a minor and who is:

(a) a natural child;

(b) a legally adopted child;

(c) a stepchild living in the same household who is primarily dependent on the employee for maintenance and support;

(d) a child for whom the employee is the legal guardian and who is primarily dependent on the employee for maintenance and support, as long as evidence of the guardianship is evidenced in a court order or decree; or

(e) a foster child living in the same household, if the child is not otherwise provided with health care or health insurance coverage;

(3) an unmarried child described in Subparagraphs (a) through (e) of Paragraph (2) of this subsection who is between the ages of eighteen and twenty-five; or

(4) a child over the age of eighteen who is incapable of self-sustaining employment by reason of intellectual or developmental disability or physical disability and who is chiefly dependent on the employee for support and maintenance;

E. "eligible individual" means an individual who with respect to any month:

(1) is covered under a qualified higher deductible health plan as of the first day of that month;

(2) is not, while covered under a qualified higher deductible health plan, covered under a health plan that:

(a) is not a qualified higher deductible health plan; and

(b) provides coverage for a benefit that is covered under the qualified higher deductible health plan; and

(3) is covered by a qualified higher deductible health plan that is established and maintained by the employer of the individual or of the spouse of the individual;

F. "eligible medical expense" means an expense paid by the employee for medical care described in Section 213(d) of the Internal Revenue Code of 1986 that is deductible for federal income tax purposes to the extent that those amounts are not compensated for by insurance or otherwise;

G. "employee" includes a self-employed individual;

H. "employer" includes a self-employed individual;

I. "medical care savings account" or "savings account" means an account established by an employer in the United States exclusively for the purpose of paying the eligible medical expenses of the employee or dependent, but only if the written governing instrument creating the trust meets the following requirements:

(1) except in the case of a rollover contribution, no contribution will be accepted:

(a) unless it is in cash; or

(b) to the extent the contribution, when added to previous contributions to the trust for the calendar year, exceeds seventy-five percent of the highest annual limit deductible permitted pursuant to the Medical Care Savings Account Act;

(2) no part of the trust assets will be invested in life insurance contracts;

(3) the assets of the trust will not be commingled with other property except in a common trust fund or common investment fund; and

(4) the interest of an individual in the balance in the individual's account is nonforfeitable;

J. "program" means the medical care savings account program established by an employer for employees; and

K. "qualified higher deductible health plan" means a health coverage policy, certificate or contract that provides for payments for covered health care benefits that exceed the policy, certificate or contract deductible, that is purchased by an employer for the benefit of an employee and that has the following deductible provisions:

(1) self-only coverage with an annual deductible of not less than one thousand five hundred dollars (\$1,500) or more than two thousand two hundred fifty dollars (\$2,250) and a maximum annual out-of-pocket expense requirement of three thousand dollars (\$3,000), not including premiums;

(2) family coverage with an annual deductible of not less than three thousand dollars (\$3,000) or more than four thousand five hundred dollars (\$4,500) and a maximum annual out-of-pocket expense requirement of five thousand five hundred dollars (\$5,500), not including premiums; and

(3) preventive care coverage may be provided within the policies without the preventive care being subjected to the qualified higher deductibles."

## **Chapter 108 Section 26 Laws 2021**

SECTION 26. Section 59A-46-30 NMSA 1978 (being Laws 1993, Chapter 266, Section 29, as amended) is amended to read:

"59A-46-30. STATUTORY CONSTRUCTION AND RELATIONSHIP TO OTHER LAWS.--

A. The provisions of the Insurance Code other than Chapter 59A, Article 46 NMSA 1978 shall not apply to health maintenance organizations except as expressly provided in the Insurance Code and that article. To the extent reasonable and not inconsistent with the provisions of that article, the following articles and provisions of the Insurance Code shall also apply to health maintenance organizations and their promoters, sponsors, directors, officers, employees, agents, solicitors and other representatives. For the purposes of such applicability, a health maintenance organization may therein be referred to as an "insurer":

- (1) Chapter 59A, Article 1 NMSA 1978;
- (2) Chapter 59A, Article 2 NMSA 1978;
- (3) Chapter 59A, Article 4 NMSA 1978;
- (4) Subsection C of Section 59A-5-22 NMSA 1978;
- (5) Sections 59A-6-2 through 59A-6-4 and 59A-6-6 NMSA 1978;
- (6) Chapter 59A, Article 8 NMSA 1978;
- (7) Chapter 59A, Article 10 NMSA 1978;
- (8) Chapter 59A, Article 16 NMSA 1978;
- (9) the Domestic Abuse Insurance Protection Act;
- (10) the Insurance Fraud Act;
- (11) Chapter 59A, Article 18 NMSA 1978;
- (12) the Policy Language Simplification Law;



(13) Section 59A-22-14 NMSA 1978;

(14) the Health Insurance Portability Act;

(15) Sections 59A-34-2, 59A-34-7 through 59A-34-13, 59A-34-17, 59A-34-23, 59A-34-33, 59A-34-36, 59A-34-37, 59A-34-40 through 59A-34-42 and 59A-34-44 through 59A-34-46 NMSA 1978;

(16) the Insurance Holding Company Law;

(17) the Patient Protection Act; and

(18) the Surprise Billing Protection Act.

B. Solicitation of enrollees by a health maintenance organization granted a certificate of authority, or its representatives, shall not be construed as violating any provision of law relating to solicitation or advertising by health professionals, but health professionals shall be individually subject to the laws, rules and ethical provisions governing their individual professions.

C. Any health maintenance organization authorized under the provisions of the Health Maintenance Organization Law shall not be deemed to be practicing medicine and shall be exempt from the provisions of laws relating to the practice of medicine."

## **Chapter 108 Section 27 Laws 2021**

SECTION 27. Section 59A-46-38.3 NMSA 1978 (being Laws 2003, Chapter 391, Section 5, as amended) is amended to read:

"59A-46-38.3. MAXIMUM AGE OF DEPENDENT.--Each individual or group health maintenance organization contract delivered or issued for delivery or renewed in

New Mexico that provides coverage for an enrollee's dependents shall not terminate coverage of an unmarried dependent by reason of the dependent's age before the dependent's twenty-sixth birthday, regardless of whether the dependent is enrolled in an educational institution; provided that this requirement does not apply to the medicaid managed care system."

## **Chapter 108 Section 28 Laws 2021**

SECTION 28. Section 59A-46-42.1 NMSA 1978 (being Laws 2007, Chapter 278, Section 3) is amended to read:

"59A-46-42.1. COVERAGE FOR THE HUMAN PAPILLOMAVIRUS VACCINE.--

A. An individual or group health maintenance organization contract delivered, issued for delivery or renewed in this state shall provide coverage for the human papillomavirus vaccine in accordance with the current standards of the federal centers for disease control and prevention.

B. Coverage for the human papillomavirus vaccine may be subject to deductibles and coinsurance consistent with those imposed on other benefits under the same policy, plan or certificate.

C. The provisions of this section shall not apply to short-term travel, accident-only or limited or specified disease policies.

D. For the purposes of this section, "human papillomavirus vaccine" means a vaccine approved by the federal food and drug administration used for the prevention of human papillomavirus infection and cervical precancers."

## **Chapter 108 Section 29 Laws 2021**

SECTION 29. Section 59A-47-33 NMSA 1978 (being Laws 1984, Chapter 127, Section 879.32, as amended) is amended to read:

"59A-47-33. OTHER PROVISIONS APPLICABLE.--The provisions of the Insurance Code other than Chapter 59A, Article 47 NMSA 1978 shall not apply to health care plans except as expressly provided in the Insurance Code and that article. To the extent reasonable and not inconsistent with the provisions of that article, the following articles and provisions of the Insurance Code shall also apply to health care plans, their promoters, sponsors, directors, officers, employees, agents, solicitors and other representatives; and, for the purposes of such applicability, a health care plan may therein be referred to as an "insurer":

- A. Chapter 59A, Article 1 NMSA 1978;
- B. Chapter 59A, Article 2 NMSA 1978;
- C. Chapter 59A, Article 4 NMSA 1978;
- D. Subsection C of Section 59A-5-22 NMSA 1978;
- E. Sections 59A-6-2 through 59A-6-4 and 59A-6-6 NMSA 1978;
- F. Section 59A-7-11 NMSA 1978;
- G. Chapter 59A, Article 8 NMSA 1978;
- H. Chapter 59A, Article 10 NMSA 1978;
- I. Section 59A-12-22 NMSA 1978;

- J. Chapter 59A, Article 16 NMSA 1978;
- K. Chapter 59A, Article 18 NMSA 1978;
- L. Chapter 59A, Article 19 NMSA 1978;
- M. Subsections B through E of Section 59A-22-5 NMSA 1978;
- N. Section 59A-22-14 NMSA 1978;
- O. Section 59A-22-34.1 NMSA 1978;
- P. Section 59A-22-39 NMSA 1978;
- Q. Section 59A-22-40 NMSA 1978;
- R. Section 59A-22-40.1 NMSA 1978;
- S. Section 59A-22-41 NMSA 1978;
- T. Section 59A-22-42 NMSA 1978;
- U. Section 59A-22-43 NMSA 1978;
- V. Section 59A-22-44 NMSA 1978;
- W. Section 59A-22-50 NMSA 1978;
- X. Sections 59A-34-7 through 59A-34-13, 59A-34-17, 59A-34-23, 59A-34-33, 59A-34-40 through 59A-34-42 and 59A-34-44 through 59A-34-46 NMSA 1978;

Y. the Insurance Holding Company Law, except Section 59A-37-7 NMSA 1978;

Z. Section 59A-46-15 NMSA 1978;

AA. the Patient Protection Act; and

BB. the Surprise Billing Protection Act."

### **Chapter 108 Section 30 Laws 2021**

SECTION 30. Section 59A-47-40 NMSA 1978 (being Laws 2003, Chapter 391, Section 7, as amended) is amended to read:

"59A-47-40. MAXIMUM AGE OF DEPENDENT.--An individual or group health care coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act that offers coverage of an insured's dependent shall not terminate coverage of an unmarried dependent by reason of the dependent's age before the dependent's twenty-sixth birthday, regardless of whether the dependent is enrolled in an educational institution."

### **Chapter 108 Section 31 Laws 2021**

SECTION 31. Section 59A-54-6 NMSA 1978 (being Laws 1987, Chapter 154, Section 6, as amended) is amended to read:

"59A-54-6. NOTICE OF POOL.--

A. Every insurer shall provide a notice and an application for coverage by the pool to any person who receives:

(1) a rejection of coverage for health insurance or health care services;

(2) a notice that the rate for health insurance or coverage for health care services provided will exceed the rates of a pool policy;

(3) a notice of reduction or limitation of coverage, including a restrictive rider, from an insurer if the effect of the reduction or limitation is to substantially reduce coverage compared to the coverage available to a person considered a standard risk for the type of coverage provided by the plan; or

(4) a termination of coverage for health insurance or health care services by either the carrier or the covered individual.

B. The notice required by Subsection A of this section shall state that the person is eligible to apply for health insurance provided by the pool. Application for the health insurance shall be on forms prescribed by the board and made available to all insurers."

### **Chapter 108 Section 32 Laws 2021**

SECTION 32. Section 59A-54-8 NMSA 1978 (being Laws 1987, Chapter 154, Section 8) is amended to read:

"59A-54-8. EXAMINATION.--The pool shall be subject to and responsible for examination by the superintendent. Not later than June 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."

### **Chapter 108 Section 33 Laws 2021**

SECTION 33. Section 59A-54-11 NMSA 1978 (being Laws 1987, Chapter 154, Section 11, as amended) is amended to read:

"59A-54-11. POOL ADMINISTRATOR--SELECTION--DUTIES.--

A. The board shall select a pool administrator through a competitive bidding process. The board shall evaluate bids based on criteria established by the board, which shall include:

- (1) proven ability to handle accident and health insurance;
- (2) efficiency of claim paying procedures;
- (3) an estimate of total charges for administering the plan; and
- (4) ability to administer the pool in a cost-efficient manner.

B. The pool administrator shall serve for a period not to exceed that provided in Subsection B of Section 13-1-150 NMSA 1978, subject to removal for cause. At least one year prior to the expiration of the pool administrator's contract, the board shall invite all interested parties, including the current administrator, to submit bids to serve as the pool administrator for the succeeding contract period. Selection of the administrator for a succeeding period shall be made at least six months prior to the expiration of the pool administrator's current contract.

C. The pool administrator shall:

- (1) perform all eligibility and administrative claim payment functions relating to the pool;
- (2) establish a premium billing procedure for collection of premiums from insured persons. Billings shall be made on a periodic basis, not less than monthly, as determined by the board;
- (3) perform all necessary functions to assure timely payment of benefits to persons covered under the pool, including:

(a) making information available relating to the proper manner of submitting a claim for benefits to the pool and distributing forms upon which submission shall be made; and

(b) evaluating the eligibility of each claim for payment by the pool;

(4) submit regular reports to the board regarding the operation of the pool. The frequency, content and form of the report shall be as determined by the board; and

(5) following the close of each fiscal year, determine net written and earned premiums, the expense of administration and the paid and incurred losses for the year and report this information to the board and the superintendent on a form prescribed by the superintendent.

D. The administrator shall be paid as provided in the contract negotiated pursuant to the process for selection of the administrator established by the board."

## **Chapter 108 Section 34 Laws 2021**

SECTION 34. Section 59A-54-14 NMSA 1978 (being Laws 1987, Chapter 154, Section 14, as amended) is amended to read:

"59A-54-14. DEDUCTIBLES--COINSURANCE--MAXIMUM OUT-OF-POCKET PAYMENTS.--

A. Subject to the limitation provided in Subsection C of this section, a pool policy offered in accordance with the Medical Insurance Pool Act shall impose a deductible on a per-person calendar-year basis. Deductible plans of five hundred dollars (\$500) and one thousand dollars (\$1,000) shall initially be offered. The board may authorize deductibles in other amounts. The deductible shall be applied to the first five



hundred dollars (\$500) or one thousand dollars (\$1,000) of eligible expenses incurred by the covered person.

B. Subject to the limitations provided in Subsection C of this section, a mandatory coinsurance requirement shall be imposed at the rate determined by the board.

C. The maximum aggregate out-of-pocket payments for eligible expenses by the insured shall be determined by the board."

## **Chapter 108 Section 35 Laws 2021**

SECTION 35. Section 59A-54-19 NMSA 1978 (being Laws 1987, Chapter 154, Section 19, as amended) is amended to read:

"59A-54-19. RATES--STANDARD RISK RATE.--

A. The pool shall determine a standard risk rate by actuarially calculating the individual rate that an insurer would charge for an individual policy with the pool benefits issued to a person who was a standard risk. Separate schedules of standard risk rates based on age and other appropriate demographic characteristics may be used. In determining the standard risk rate, the pool shall consider the benefits provided, the standard risk experience and the anticipated expenses for a standard risk for the coverage provided. The rates charged for pool coverage shall be no more than one hundred fifty percent of the standard risk rate for each class of insureds.

B. The board shall adopt a low-income premium schedule that provides coverage at lower rates for those persons with an income less than four hundred percent of the current federal poverty level guidelines applicable to New Mexico, published by the United States department of health and human services. For individuals with household incomes of one hundred ninety-nine percent of the federal poverty level or lower, the premium reduction shall be seventy-five percent. For

individuals with household incomes of two hundred percent to two hundred ninety-nine percent of the federal poverty level, the premium reduction shall be fifty percent. For individuals with household incomes of three hundred percent to three hundred ninety-nine percent of the federal poverty level, the premium reduction shall be twenty-five percent. The board shall determine income based on the preceding taxable year. No person shall be eligible for a low-income premium reduction if that person's premium is paid by a third party who is not a family member.

C. All rates and rate schedules shall be submitted to the superintendent for approval."

## **Chapter 108 Section 36 Laws 2021**

SECTION 36. Section 59A-58-5 NMSA 1978 (being Laws 2001, Chapter 206, Section 5, as amended) is amended to read:

"59A-58-5. REGISTRATION REQUIREMENTS.--

A. A provider who wishes to issue, sell or offer for sale service contracts in this state must submit to the superintendent:

(1) a registration application on a form prescribed by the superintendent;

(2) proof that the provider has complied with the requirements for security pursuant to Section 59A-58-6 NMSA 1978;

(3) the name, address and telephone number of each administrator with whom the provider intends to contract, if any; and

(4) provided that House Bill 248 of the first session of the fifty-fifth legislature:

(a) becomes law, the registration renewal fee provided in Section 59A-6-1 NMSA 1978; or

(b) does not become law, a fee of five hundred dollars (\$500).

B. A provider's registration is valid for one year after the date the registration is filed. A provider may renew the provider's registration if, before the registration expires, the provider submits to the superintendent an application on a form prescribed by the superintendent and, provided that House Bill 248 of the first session of the fifty-fifth legislature:

(1) becomes law, the registration renewal fee provided in Section 59A-6-1 NMSA 1978; or

(2) does not become law, a fee of five hundred dollars (\$500).

C. The provisions of this section shall not apply to major manufacturing companies' service contracts.

D. Service contract forms are not required to be filed with the superintendent."

## **Chapter 108 Section 37 Laws 2021**

SECTION 37. REPEAL.--Sections 59A-23-9, 59A-46-51 and 59A-47-46 NMSA 1978 (being Laws 1997, Chapter 243, Section 20 and Laws 2010, Chapter 94, Sections 3 and 4, as amended) are repealed.

## **Chapter 108 Section 38 Laws 2021**

SECTION 38. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

# LAWS 2021, CHAPTER 109

House Bill 244, aa  
Approved April 6, 2021

## AN ACT

RELATING TO ETHICS; CLARIFYING ADMINISTRATIVE AND ENFORCEMENT DUTIES OF THE STATE ETHICS COMMISSION AND SECRETARY OF STATE WITH RESPECT TO THE CAMPAIGN REPORTING ACT, VOTER ACTION ACT, FINANCIAL DISCLOSURE ACT AND LOBBYIST REGULATION ACT; PROVIDING FOR PENALTIES; PROVIDING RULEMAKING AUTHORITY; REQUIRING STATE ETHICS COMMISSION COMMISSIONERS TO FILE ANNUAL FINANCIAL DISCLOSURE STATEMENTS PURSUANT TO THE FINANCIAL DISCLOSURE ACT; REMOVING THE REQUIREMENT THAT COMPLAINTS FILED WITH THE STATE ETHICS COMMISSION BE NOTARIZED; CLARIFYING THE VENUE PROVISION FOR ETHICS COMPLAINT COURT ACTIONS; REQUIRING ACKNOWLEDGMENT OF RESPONSIBILITIES BY POLITICAL COMMITTEE TREASURERS; PROVIDING FOR THE RESIGNATION AND REPLACEMENT OF TREASURERS; REPEALING

SECTION 1-19-1 NMSA 1978 (BEING LAWS 1969, CHAPTER 240, SECTION 405).

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

### **Chapter 109 Section 1 Laws 2021**

SECTION 1. Section 1-19-26.1 NMSA 1978 (being Laws 1993, Chapter 46, Section 2, as amended) is amended to read:

"1-19-26.1. POLITICAL COMMITTEES--REGISTRATION--DISCLOSURES--PENALTIES.--

A. It is unlawful for a political committee to continue to receive or make any contribution or expenditure for a political purpose if the committee fails to meet the requirements of Subsections B and C of this section.

B. A political committee shall appoint and maintain a treasurer, file a statement of organization with the secretary of state and pay a filing fee of fifty dollars (\$50.00).

C. A statement of organization required by Subsection B of this section shall be made under oath on a prescribed form showing:

(1) the full name of the committee, which shall fairly and accurately reflect the identity of the committee, including any sponsoring organization, and its address;

(2) a statement of the purpose for which the committee was organized;

(3) the names and addresses of the officers of the committee; and

(4) an identification of any bank account used by the committee to receive or make contributions or make expenditures.

D. Any changes to the information provided in the statement of organization shall be reported to the secretary of state within ten days.

E. If a political committee fails to update the statement of organization within the time prescribed in Subsection D of this section, the political committee is subject to a fine of five hundred dollars (\$500).

F. A state political party shall furnish to the secretary of state a list of each county political party associated with it and the names and contact information of the county party officers as submitted to the state political party. The list shall be updated quarterly if there have been any reported changes.

G. The provisions of this section do not apply to a political committee that is located in another state and is registered with the federal election commission if the political committee reports on federal reporting forms filed with the federal election commission all expenditures for and contributions made to reporting individuals in New Mexico and files with the secretary of state, according to the schedule required for the filing of forms with the federal election commission, a copy of either the full report or the cover sheet and the portions of the federal reporting forms that contain the information on expenditures for and contributions made to reporting individuals in New Mexico."

## **Chapter 109 Section 2 Laws 2021**

SECTION 2. Section 1-19-32.1 NMSA 1978 (being Laws 1981, Chapter 331, Section 9, as amended) is amended to read:

### "1-19-32.1. REPORTS EXAMINATION--FORWARDING OF REPORTS.--

A. The secretary of state shall conduct a thorough examination of at least ten percent of all reports filed during a year by reporting individuals, selected at random at least forty days after the general election and ten days after the April reports are filed in a non-election year, to determine compliance with the provisions of the Campaign Reporting Act. The examination may include an investigation of any discrepancies, including a cross-reference to reports filed by any other reporting individual. A reporting individual shall be notified in writing if a discrepancy is found in the report filed and shall be permitted to file a written explanation for the discrepancy and come into voluntary compliance within ten working days of the date of the notice.

B. After the date stated in the notice for submission of a written explanation, the secretary of state shall prepare an annual report of any unresolved discrepancies found after examination of the random sample provided for in Subsection A of this section. A copy of this report shall be transmitted to the state ethics commission and the attorney general for enforcement pursuant to the provisions of Sections 1-19-34.6 and

1-19-36 NMSA 1978. This report is a public record open to public inspection and subject to the retention and destruction provisions set forth in Section 1-19-32 NMSA 1978."

## **Chapter 109 Section 3 Laws 2021**

SECTION 3. Section 1-19-34.4 NMSA 1978 (being Laws 1993, Chapter 46, Section 15, as amended) is amended to read:

"1-19-34.4. EDUCATION AND VOLUNTARY COMPLIANCE--  
INVESTIGATIONS--REFERRALS FOR ENFORCEMENT.--

A. The secretary of state shall advise and seek to educate all persons required to perform duties under the Campaign Reporting Act of those duties. This includes advising all known reporting individuals at least annually of that act's deadlines for submitting required reports and statements of no activity. The state ethics commission, in consultation with the secretary of state, shall issue advisory opinions, when requested in writing to do so, on matters concerning that act.

B. The secretary of state may conduct examinations of reports filed pursuant to Section 1-19-29 NMSA 1978 and the state ethics commission may initiate investigations to determine whether any provision of the Campaign Reporting Act has been violated.

C. Any person who believes that a provision of the Campaign Reporting Act has been violated may file a written complaint with the state ethics commission pursuant to the terms of the State Ethics Commission Act. If the commission has jurisdiction for the complaint, the state ethics commission shall refer the complaint to the secretary of state. Upon referral, the secretary of state shall attempt to achieve voluntary compliance with the Campaign Reporting Act. Within thirty-five days after receiving the complaint from the state ethics commission, the secretary of state shall return the complaint to the state ethics commission and certify to the state ethics commission whether voluntary compliance was achieved. If the secretary of state certifies voluntarily compliance, the

state ethics commission shall dismiss the complaint or that part of the complaint alleging a violation of the Campaign Reporting Act. If the secretary of state does not certify voluntarily compliance, the state ethics commission shall proceed with the complaint pursuant to the terms of the State Ethics Commission Act.

D. The secretary of state and the state ethics commission shall at all times seek to ensure voluntary compliance with the provisions of the Campaign Reporting Act.

E. At any time, the secretary of state may refer a matter to the state ethics commission for a civil injunctive or other appropriate order or to the attorney general or a district attorney for criminal enforcement."

## **Chapter 109 Section 4 Laws 2021**

SECTION 4. Section 1-19-34.6 NMSA 1978 (being Laws 1995, Chapter 153, Section 19, as amended) is amended to read:

"1-19-34.6. CIVIL PENALTIES.--

A. If the secretary of state exhausts efforts in seeking voluntary compliance and reasonably believes that a person committed, or is about to commit, a violation of the Campaign Reporting Act, the secretary of state shall refer the matter to the state ethics commission for enforcement; provided, however, that if the secretary of state waives the imposition of a fine pursuant to Subsection D of Section 1-19-35 NMSA 1978, the matter shall not be referred.

B. With or without a referral from the secretary of state, the state ethics commission may institute a civil action in district court for any violation of the Campaign Reporting Act or to prevent a violation of that act that involves an unlawful solicitation or the making or acceptance of an unlawful contribution. An action for relief may include a permanent or temporary injunction, a restraining order or any other appropriate order, including a civil penalty of up to one thousand dollars (\$1,000) for each violation not to



exceed a total of twenty thousand dollars (\$20,000), and forfeiture of any contribution received as a result of an unlawful solicitation or unlawful contribution. Each unlawful solicitation and each unlawful contribution made or accepted shall be deemed a separate violation of the Campaign Reporting Act.

C. With or without a referral from the secretary of state, the state ethics commission may institute a civil action in district court if a violation has occurred or to prevent a violation of any provision of the Campaign Reporting Act other than that specified in Subsection B of this section. Relief may include a permanent or temporary injunction, a restraining order or any other appropriate order, including an order for a civil penalty of up to one thousand dollars (\$1,000) for each violation not to exceed a total of twenty thousand dollars (\$20,000)."

## **Chapter 109 Section 5 Laws 2021**

SECTION 5. Section 1-19-34.8 NMSA 1978 (being Laws 2019, Chapter 86, Section 19) is amended to read:

"1-19-34.8. STATE ETHICS COMMISSION--JURISDICTION.--

A. The state ethics commission shall have jurisdiction to investigate and adjudicate a complaint alleging a civil violation of a provision of the Campaign Reporting Act in accordance with the provisions of that act.

B. The secretary of state shall forward complaints it receives alleging violations of the Campaign Reporting Act to the state ethics commission in accordance with the provisions of the Campaign Reporting Act and a formalized agreement."

## **Chapter 109 Section 6 Laws 2021**

SECTION 6. Section 1-19-35 NMSA 1978 (being Laws 1979, Chapter 360, Section 11, as amended) is amended to read:

"1-19-35. REPORTS AND STATEMENTS--LATE FILING PENALTY-- FAILURE TO FILE.--

A. Except for the report required to be filed and delivered the Thursday prior to the election and any supplemental report, as required in Paragraph (5) of Subsection B of Section 1-19-29 NMSA 1978, if a statement of no activity or a report of expenditures and contributions is not filed or is filed after any deadline imposed by the Campaign Reporting Act, the responsible reporting individual or political committee shall be liable for and shall pay to the secretary of state fifty dollars (\$50.00) per day for each regular working day after the time required by the Campaign Reporting Act for the filing of statements of no activity or reports of expenditures and contributions until the complete statement or report is filed, up to a maximum fine as provided in Subsection H of this section.

B. If any reporting individual fails to file or files a late report of expenditures and contributions due on the Thursday prior to the election, the reporting individual or political committee shall be liable and pay to the secretary of state five hundred dollars (\$500) for the first working day and fifty dollars (\$50.00) for each subsequent working day after the time required for the filing of the report until the complete report is filed, up to a maximum fine as provided in Subsection H of this section.

C. If a reporting individual fails to file or files a late supplemental report of expenditures and contributions as required in Paragraph (5) of Subsection B of Section 1-19-29 NMSA 1978, the reporting individual or political committee shall be liable for and pay to the secretary of state a penalty equal to the amount of each contribution received or pledged after the Tuesday before the election that was not timely filed.

D. If the secretary of state determines that a reporting individual or political committee has failed to file or has filed a report past the deadline, the secretary of state shall by written notice set forth the violation and the fine that may be imposed and inform the reporting individual that the individual has ten working days from the date of the letter to come into voluntary compliance and to provide a written explanation, under penalty of perjury, stating any reason why the violation occurred. If a timely explanation

is filed and the secretary of state determines that good cause exists to waive or reduce the imposition of the fine, the secretary of state may by a written notice of final action partially or fully waive the imposition of a fine for any late report or statement of no activity. A written notice of final action shall be sent by certified mail. The secretary of state may file a petition with the court to remit outstanding fines for good cause or refer unpaid fines for enforcement under Subsection A of Section 1-19-34.6 NMSA 1978.

E. All sums collected for the penalty shall be deposited in the state general fund. A report or statement of no activity shall be deemed timely filed only if it is received by the secretary of state by the date and time prescribed by law.

F. Any candidate who fails or refuses to file a report of expenditures and contributions or statement of no activity or to pay a penalty imposed by the secretary of state as required by the Campaign Reporting Act shall not, in addition to any other penalties provided by law:

(1) have the candidate's name printed upon the ballot if the violation occurs before and through the final date for the withdrawal of candidates; or

(2) be issued a certificate of nomination or election, if the violation occurs after the final date for withdrawal of candidates or after the election, until the candidate satisfies all reporting requirements of the Campaign Reporting Act and pays all penalties owed.

G. Any candidate who loses an election and who failed or refused to file a report of expenditures and contributions or a statement of no activity or to pay a penalty imposed by the secretary of state as required by the Campaign Reporting Act shall not be, in addition to any other penalties provided by law, permitted to file a declaration of candidacy or nominating petition for any future election until the candidate satisfies all reporting requirements of that act and pays all penalties owed.

H. The maximum cumulative penalties for each report for which fines are assessed in accordance with Subsections A and B of this section are as follows:

(1) five thousand dollars (\$5,000) for statewide candidate committees and political committees;

(2) two thousand five hundred dollars (\$2,500) for legislative, district judge, district attorney and public education commission candidate committees;

(3) one thousand dollars (\$1,000) for county candidate committees running in a county designated as class A; and

(4) five hundred dollars (\$500) for all other non-class A county candidate committees."

## **Chapter 109 Section 7 Laws 2021**

SECTION 7. Section 1-19-36 NMSA 1978 (being Laws 1979, Chapter 360, Section 12, as amended) is amended to read:

"1-19-36. CRIMINAL PENALTIES.--

A. Any person who knowingly and willfully violates any provision of the Campaign Reporting Act is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than one year or both.

B. The Campaign Reporting Act may be enforced by the attorney general or the district attorney in the county where the candidate resides, where a political committee has its principal place of business or where the violation occurred."

## **Chapter 109 Section 8 Laws 2021**

SECTION 8. Section 1-19A-15.1 NMSA 1978 (being Laws 2019, Chapter 86, Section 20) is amended to read:

"1-19A-15.1. STATE ETHICS COMMISSION--JURISDICTION.--

A. The state ethics commission shall have jurisdiction to investigate and adjudicate a complaint alleging a civil violation of a provision of the Voter Action Act in accordance with the provisions of the State Ethics Commission Act.

B. The secretary of state shall forward complaints it receives alleging violations of the Voter Action Act to the state ethics commission in accordance with a formalized agreement."

## **Chapter 109 Section 9 Laws 2021**

SECTION 9. Section 1-19A-17 NMSA 1978 (being Laws 2003, Chapter 14, Section 17, as amended) is amended to read:

"1-19A-17. PENALTIES.--

A. In addition to other penalties that may be applicable, a person who violates a provision of the Voter Action Act is subject to a civil penalty of up to ten thousand dollars (\$10,000) per violation. In addition to a fine, a certified candidate found in violation of that act may be required to return to the fund all amounts distributed to the candidate from the fund. If the state ethics commission makes a determination that a violation of that act has occurred, the state ethics commission shall impose a fine and, if the violation is willful or knowing, transmit the finding to the attorney general for criminal prosecution pursuant to Subsection B of this section. In determining whether a certified candidate is in violation of the expenditure limits of that act, the state ethics commission may consider as a mitigating factor any circumstances out of the candidate's control.

B. A person who willfully or knowingly violates the provisions of the Voter Action Act or knowingly makes a false statement in a report required by that act is guilty of a fourth degree felony and, if the person is a certified candidate, shall return to the fund all money distributed to that candidate."

## **Chapter 109 Section 10 Laws 2021**

SECTION 10. Section 2-11-8.2 NMSA 1978 (being Laws 1977, Chapter 261, Section 4, as amended) is amended to read:

"2-11-8.2. COMPLIANCE WITH ACT--ENFORCEMENT OF ACT-- CIVIL PENALTIES.--

A. The secretary of state shall advise and seek to educate all persons required to perform duties pursuant to the Lobbyist Regulation Act of those duties. This includes advising all registered lobbyists at least annually of the Lobbyist Regulation Act's deadlines for submitting required reports. The state ethics commission, in consultation with the secretary of state, shall issue advisory opinions, when requested to do so in writing, on matters concerning the Lobbyist Regulation Act.

B. The secretary of state may conduct examinations of reports and the state ethics commission may initiate investigations to determine whether the Lobbyist Regulation Act has been violated. Any person who believes that a provision of the Lobbyist Regulation Act has been violated may file a written complaint with the state ethics commission pursuant to the terms of the State Ethics Commission Act. If the commission has jurisdiction for the complaint, the state ethics commission shall refer the complaint to the secretary of state. Upon referral, the secretary of state shall attempt to achieve voluntary compliance with the Lobbyist Regulation Act. Within twenty days after receiving the complaint from the state ethics commission, the secretary of state shall return the complaint to the state ethics commission and certify to the state ethics commission whether voluntary compliance was achieved. If the secretary of state certifies voluntary compliance, the state ethics commission shall dismiss the complaint or that part of the complaint alleging a violation of the Lobbyist Regulation Act. If the secretary of state does not certify voluntary compliance, the state ethics commission shall proceed with the complaint pursuant to the terms of the State Ethics Commission Act.

C. The secretary of state and the state ethics commission shall at all times seek to ensure voluntary compliance with the provisions of the Lobbyist Regulation Act. Additionally, the state ethics commission shall give a person who violates that act unintentionally or for good cause ten days' notice to come into compliance before the commission takes any action on a complaint filed with or referred to the commission against that person.

D. Any person who fails to file or files a report after the deadline imposed by the Lobbyist Regulation Act shall be liable for and shall pay to the secretary of state fifty dollars (\$50.00) per day for each regular working day after the time required for the filing of the report until the complete report is filed, up to a maximum of five thousand dollars (\$5,000).

E. If the secretary of state determines that a reporting entity subject to the reporting provisions of the Lobbyist Regulation Act has failed to file or has filed a report after the deadline, the secretary of state shall by written notice set forth the violation and the fine that may be imposed and inform the reporting individual that the individual has ten working days from the date of the letter to come into voluntary compliance and to provide a written explanation, under penalty of perjury, stating any reason why the violation occurred. If a timely explanation is filed and the secretary of state determines that good cause exists to waive the imposition of a fine, the secretary of state may by a written notice of final action partially or fully waive the imposition of a fine for any late report or statement of no activity. A written notice of final action shall be sent by certified mail. The secretary of state may file an appropriate court action to remit outstanding fines for good cause or refer unpaid fines for enforcement pursuant to Subsection F of this section.

F. The secretary of state may refer a matter to the state ethics commission for a civil injunctive or other appropriate order or enforcement."

## **Chapter 109 Section 11 Laws 2021**

SECTION 11. Section 2-11-8.3 NMSA 1978 (being Laws 2019, Chapter 86, Section 21) is amended to read:

"2-11-8.3. STATE ETHICS COMMISSION--JURISDICTION.--

A. The state ethics commission shall have jurisdiction to investigate and adjudicate a complaint alleging a civil violation of a provision of the Lobbyist Regulation Act in accordance with the provisions of that act.

B. The secretary of state shall forward complaints it receives alleging violations of the Lobbyist Regulation Act to the state ethics commission in accordance with the Lobbyist Regulation Act and a formalized agreement."

## **Chapter 109 Section 12 Laws 2021**

SECTION 12. Section 10-16A-3 NMSA 1978 (being Laws 1993, Chapter 46, Section 41, as amended) is amended to read:

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

A. A person holding a legislative or statewide office shall file with the secretary of state a financial disclosure statement during the month of January every year that the person holds public office.

B. A candidate for legislative or statewide office who has not already filed a financial disclosure statement with the secretary of state in the same calendar year shall file with the proper filing officer, as defined in the Election Code, a financial disclosure statement at the time of filing a declaration of candidacy. If the proper filing officer is not



the secretary of state, the proper filing officer shall forward a copy of the financial disclosure statement to the secretary of state within three days.

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

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

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

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

addresses of all clients represented for lobbying purposes during those two years shall be disclosed;

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

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

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

(6) all New Mexico professional licenses held;

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

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

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

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

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

H. A person who files to be a candidate for a legislative or statewide office who fails or refuses to file a financial disclosure statement required by this section before the final date for qualification of the person as a candidate as provided for in the Election Code shall not be qualified by the proper filing officer as a candidate.

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

## **Chapter 109 Section 13 Laws 2021**

SECTION 13. Section 10-16A-6 NMSA 1978 (being Laws 1993, Chapter 46, Section 44, as amended) is amended to read:

"10-16A-6. INVESTIGATIONS--FINES--ENFORCEMENT.--

A. The state ethics commission may conduct thorough examinations of statements and initiate investigations to determine whether the Financial Disclosure Act has been violated. Any person who believes that act has been violated may file a written complaint with the state ethics commission. The commission shall adopt procedures for processing complaints and notifications of violations.

B. If the state ethics commission determines that a violation has occurred for which a penalty should be imposed, the commission shall so notify the person charged and impose the penalty.

C. Any person who files a statement or report after the deadline imposed by the Financial Disclosure Act is liable for and shall pay to the secretary of state, at or from the time initially required for the filing, fifty dollars (\$50.00) per day for each regular working day after the time required for the filing of the statement or report until the complete report is filed, up to a maximum of five thousand dollars (\$5,000).

D. The secretary of state may refer a matter to the state ethics commission, attorney general or a district attorney for a civil injunctive or other appropriate order or enforcement."

## **Chapter 109 Section 14 Laws 2021**

SECTION 14. Section 10-16G-2 NMSA 1978 (being Laws 2019, Chapter 86, Section 2) is amended to read:

"10-16G-2. DEFINITIONS.--As used in the State Ethics Commission Act:

- A. "commission" means the state ethics commission;
- B. "commissioner" means a member of the commission;
- C. "complainant" means a person who files a verified complaint with the commission;
- D. "complaint" means a complaint that has been signed by the complainant and the complainant attests under oath and subject to penalty of perjury that the information in the complaint, and any attachments provided with the complaint, are true and accurate;
- E. "director" means the executive director of the commission;

F. "government contractor" means a person who has a contract with a public agency or who has submitted a competitive sealed proposal or competitive sealed bid for a contract with a public agency;

G. "legislative body" means the house of representatives or the senate;

H. "lobbyist" means a person who is required to register as a lobbyist pursuant to the provisions of the Lobbyist Regulation Act;

I. "political party" means a political party that has been qualified in accordance with the provisions of the Election Code;

J. "public agency" means any department, commission, council, board, committee, agency or institution of the executive or legislative branch of government of the state or any instrumentality of the state, including the New Mexico mortgage finance authority, the New Mexico finance authority, the New Mexico exposition center authority, the New Mexico hospital equipment loan council and the New Mexico renewable energy transmission authority;

K. "public employee" means an employee of a public agency;

L. "public official" means a person elected to an office of the executive or legislative branch of the state or a person appointed to a public agency; and

M. "respondent" means a person against whom a complaint has been filed with or by the commission."

## **Chapter 109 Section 15 Laws 2021**

SECTION 15. Section 10-16G-4 NMSA 1978 (being Laws 2019, Chapter 86, Section 4) is amended to read:

"10-16G-4. COMMISSIONERS--QUALIFICATIONS--LIMITATIONS.--

A. To qualify for appointment to the commission, a person shall:

(1) be a qualified elector of New Mexico;

(2) not have changed party registration in the five years next preceding the member's appointment in such a manner that the member's prior party registration would make the member ineligible to serve on the commission;

(3) not continue to serve as a commissioner if the member changes party registration after the date of appointment in such a manner as to make the member ineligible to serve on the commission; and

(4) not be, or within the two years prior to appointment shall not have been, in New Mexico, any of the following:

(a) a public official;

(b) a public employee;

(c) a candidate;

(d) a lobbyist;

(e) a government contractor; or

(f) an office holder in a political party at the state or federal level.

B. Before entering upon the duties of the office of commissioner, each commissioner shall review the State Ethics Commission Act and other laws and rules

pertaining to the commission's responsibilities and to ethics and governmental conduct in New Mexico. Each commissioner shall take the oath of office as provided in Article 20, Section 1 of the constitution of New Mexico and, pursuant to the Financial Disclosure Act, file with the secretary of state a financial disclosure statement within thirty days of appointment and during the month of January every year thereafter that the commissioner serves on the commission.

C. For a period of one calendar year following a commissioner's tenure or following the resignation or removal of a commissioner, the commissioner shall not:

(1) represent a respondent, unless appearing on the commissioner's own behalf; or

(2) accept employment or otherwise provide services to a respondent unless the commissioner accepted employment or provided services prior to the filing of a complaint against the respondent.

D. During a commissioner's tenure, a commissioner shall not hold another public office or be:

(1) a public employee;

(2) a candidate;

(3) a lobbyist;

(4) a government contractor; or

(5) an office holder in a political party at the state or federal level.

E. A commissioner who changes political party affiliation in violation of the provisions of Subsection A of this section or who chooses to seek or hold an office in

violation of Subsection D of this section shall resign from the commission or be deemed to have resigned."

## **Chapter 109 Section 16 Laws 2021**

SECTION 16. Section 10-16G-9 NMSA 1978 (being Laws 2019, Chapter 86, Section 9) is amended to read:

"10-16G-9. COMMISSION JURISDICTION--COMPLIANCE PROVISIONS.--

A. The commission has jurisdiction to enforce the applicable civil compliance provisions for public officials, public employees, candidates, persons subject to the Campaign Reporting Act, government contractors, lobbyists and lobbyists' employers of:

- (1) the Campaign Reporting Act;
- (2) the Financial Disclosure Act;
- (3) the Gift Act;
- (4) the Lobbyist Regulation Act;
- (5) the Voter Action Act;
- (6) the Governmental Conduct Act;
- (7) the Procurement Code;
- (8) the State Ethics Commission Act; and
- (9) Article 9, Section 14 of the constitution of New Mexico.



B. All complaints filed with a public agency regarding the statutes listed in Subsection A of this section shall be forwarded to the commission.

C. The commission may choose to act on some or all aspects of a complaint and forward other aspects of a complaint to another state or federal agency with jurisdiction over the matter in accordance with Subsection E of this section.

D. If the commission decides not to act on a complaint, whether the complaint was filed with the commission or forwarded from another public agency, or decides only to act on part of a complaint, the commission shall promptly forward the complaint, or any part of a complaint on which it does not wish to act, to the public agency that has appropriate jurisdiction within ten days of the decision. The complainant and respondent shall be notified in writing when the complainant's request has been forwarded to another agency unless otherwise provided pursuant to Subsection H of Section 10-16G-10 NMSA 1978.

E. The commission may share jurisdiction with other public agencies having authority to act on a complaint or any aspect of a complaint. Such shared jurisdiction shall be formalized through an agreement entered into by all participating agencies involved with the complaint and the director. The commission may also investigate a complaint referred to the commission by the legislature, or a legislative committee, in accordance with an agreement entered into pursuant to policies of the New Mexico legislative council or rules of the house of representatives or senate.

F. The commission may file a court action to enforce the civil compliance provisions of an act listed in Subsection A of this section. The court action shall be filed in the district court in the county where the defendant resides."

## **Chapter 109 Section 17 Laws 2021**

SECTION 17. Section 10-16G-10 NMSA 1978 (being Laws 2019, Chapter 86, Section 10) is amended to read:

"10-16G-10. COMPLAINTS--INVESTIGATIONS--SUBPOENAS.--

A. A complaint of an alleged ethics violation committed by a public official, public employee, candidate, person subject to the Campaign Reporting Act, government contractor, lobbyist, lobbyist's employer or a restricted donor subject to the Gift Act may be filed with the commission by a person who has actual knowledge of the alleged ethics violation.

B. The complainant shall set forth in detail the specific charges against the respondent and the factual allegations that support the charges and shall sign the complaint under penalty of false statement. The complainant shall submit any evidence the complainant has that supports the complaint. Evidence may include documents, records and names of witnesses. The commission shall prescribe the forms on which complaints are to be filed. The complaint form shall be signed under oath by the complainant.

C. Except as provided in Subsection H of this section, the respondent shall be notified within seven days of the filing of the complaint and offered an opportunity to file a response on the merits of the complaint.

D. The director shall determine if the complaint is subject to referral to another state agency pursuant to an agreement or outside the jurisdiction of the commission, and if so, promptly refer the complaint to the appropriate agency. If the director determines that the complaint is within the commission's jurisdiction, the director shall have the general counsel initiate an investigation.

E. The general counsel shall conduct an investigation to determine whether the complaint is frivolous or unsubstantiated. If the general counsel determines that the complaint is frivolous or unsubstantiated, the complaint shall be dismissed, and the complainant and respondent shall be notified in writing of the decision and reasons for the dismissal. The commission shall not make public a complaint that has been dismissed pursuant to this subsection or the reasons for the dismissal.

F. If the general counsel and the respondent reach a settlement on the matters of the complaint, the settlement shall be submitted to the commission for its approval, and if the matter has been resolved to the satisfaction of the commission, the complaint and terms of the settlement shall be subject to public disclosure.

G. If the general counsel determines that there is probable cause, the director shall promptly notify the respondent of the finding of probable cause and of the specific allegations in the complaint that are being investigated and that a public hearing will be set. If the finding of probable cause involves a discriminatory practice or actions by the respondent against the complainant, no settlement agreement shall be reached without prior consultation with the complainant. In any case, the notification, complaint, specific allegations being investigated and any response to the complaint shall be made public thirty days following notice to the respondent.

H. Notwithstanding the provisions of Subsections C and G of this section, the director may delay notifying a respondent and complainant and releasing to the public the complaint and related information required by Subsection G of this section if it is deemed necessary to protect the integrity of a criminal investigation. A decision whether to delay notifying a respondent shall be taken by a majority vote of the commission and shall be documented in writing with reasonable specificity.

I. As part of an investigation, the general counsel may administer oaths, interview witnesses and examine books, records, documents and other evidence reasonably related to the complaint. All testimony in an investigation shall be under oath, and the respondent may be represented by legal counsel. If the general counsel determines that a subpoena is necessary to obtain the testimony of a person or the production of books, records, documents or other evidence, the director shall request that the commission petition a district court to issue a subpoena.

J. The commission may petition the court for a subpoena for the attendance and examination of witnesses or for the production of books, records, documents or other evidence reasonably related to an investigation. If a person neglects or refuses to comply with a subpoena, the commission may apply to a district court for an order

enforcing the subpoena and compelling compliance. All proceedings in the district court prior to the complaint being made public pursuant to Subsection G of this section, or upon entry of a settlement agreement, shall be sealed. A case is automatically unsealed upon notice by the commission to the court that the commission has made the complaint public. No later than July 1 of each even-numbered year, the chief justice of the supreme court shall appoint an active or pro tempore district judge to consider the issuance and enforcement of subpoenas provided for in this section. The appointment shall end on June 30 of the next even-numbered year after appointment.

K. A public official or state public employee who is a respondent who is subject to a complaint alleging a violation made in the performance of the respondent's duties shall be entitled to representation by the risk management division of the general services department."

## **Chapter 109 Section 18 Laws 2021**

SECTION 18. A new section of the Campaign Reporting Act is enacted to read:

"POLITICAL COMMITTEES--ACKNOWLEDGMENT OF RESPONSIBILITIES--PENALTY.--

A. Beginning on July 1, 2021, for all new political committees registering with the secretary of state, the treasurer for the political committee shall submit an electronically signed statement acknowledging the political committee's responsibilities on a form prescribed by the secretary of state within ten days of registering the political committee. The signed acknowledgment statement serves as notification of the responsibilities of the political committee to comply with the financial reporting prescribed in the Campaign Reporting Act and the potential personal liability of the treasurer for penalties assessed against the political committee.

B. The secretary of state shall notify the political committee of any individual who has failed to submit the acknowledgment statement. Failure to return the

acknowledgment statement is a violation of this section for which a fine of one hundred dollars (\$100) may be assessed against the political committee. This section also applies to individuals named in an updated or amended registration who have not previously submitted an acknowledgment statement for the political committee.

C. For all political committees already registered with the secretary of state prior to July 1, 2021, the secretary of state shall notify the principal officer and treasurer of record requiring the treasurer to submit an acknowledgment form required in Subsection A of this section. If the political committee does not respond to the request made by the secretary of state or disputes current responsibility for the political committee, the political committee shall not raise or spend any funds until the registration is amended and the acknowledgment form has been signed.

D. If there are already fines accrued against a political committee previously registered with the secretary of state, the treasurer of record shall sign the acknowledgment statement accepting personal liability from that date forward. Outstanding fines are still due unless the secretary of state is compelled to file a petition in court to have the fines dissolved."

## **Chapter 109 Section 19 Laws 2021**

SECTION 19. A new section of the Campaign Reporting Act is enacted to read:

"POLITICAL COMMITTEES--NOTICE OF RESIGNATION OR REMOVAL OF TREASURER.--

A. An individual who resigns as the treasurer of a political committee shall submit a written resignation statement to the secretary of state. An individual's resignation is not effective until the secretary of state receives the written resignation statement from the individual and a replacement treasurer is appointed for the political committee. If an individual is involuntarily removed from the position of treasurer, the political committee shall notify the secretary of state by amending the electronic

registration maintained by the secretary of state. An individual who resigns as the treasurer of a political committee remains personally liable for any penalties or fines accrued during the time that the individual served in the position.

B. The secretary of state shall prescribe the form and process for notifying the secretary of state of a resignation or replacement of a treasurer and shall maintain all records electronically to the extent practicable."

### **Chapter 109 Section 20 Laws 2021**

SECTION 20. A new section of the Lobbyist Regulation Act is enacted to read:

"RULEMAKING AUTHORITY.--The secretary of state may promulgate rules to implement the provisions of the Lobbyist Regulation Act. In promulgating the rules, the secretary of state shall comply with the provisions of the State Rules Act."

### **Chapter 109 Section 21 Laws 2021**

SECTION 21. A new section of the Financial Disclosure Act is enacted to read:

"RULEMAKING AUTHORITY.--The secretary of state may promulgate rules to implement the provisions of the Financial Disclosure Act. In promulgating the rules, the secretary of state shall comply with the provisions of the State Rules Act."

### **Chapter 109 Section 22 Laws 2021**

SECTION 22. REPEAL.--Section 1-19-1 NMSA 1978 (being Laws 1969, Chapter 240, Section 405) is repealed.

## **Chapter 109 Section 23 Laws 2021**

SECTION 23. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

## **LAWS 2021, CHAPTER 110**

**House Bill 245, w/ec**  
**Approved April 6, 2021**

AN ACT

RELATING TO PUBLIC UTILITIES; CLARIFYING THAT A GRID MODERNIZATION PROJECT MAY INCLUDE DISTRIBUTION SYSTEM HARDENING PROJECTS FOR SUBSTATIONS DESIGNED TO REDUCE SERVICE OUTAGES OR SERVICE RESTORATION TIMES; DECLARING AN EMERGENCY.

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

## **Chapter 110 Section 1 Laws 2021**

SECTION 1. Section 62-8-13 NMSA 1978 (being Laws 2020, Chapter 15, Section 3) is amended to read:

"62-8-13. APPLICATION FOR GRID MODERNIZATION PROJECTS.--

A. A public utility may file an application with the commission to approve grid modernization projects that are needed by the utility, or upon request of the commission. Applications may include requests for approval of investments or incentives to facilitate grid modernization, rate designs or programs that incorporate the use of technologies, equipment or infrastructure associated with grid modernization and customer education and outreach programs that increase awareness of grid

modernization programs and of the benefits of grid modernization. Applications shall include the utility's estimate of costs for grid modernization projects. Applications for grid modernization projects shall be filed pursuant to Sections 62-9-1 and 62-9-3 NMSA 1978, as applicable.

B. When considering applications for approval, the commission shall review the reasonableness of a proposed grid modernization project and as part of that review shall consider whether the requested investments, incentives, programs and expenditures are:

(1) reasonably expected to improve the public utility's electrical system efficiency, reliability, resilience and security; maintain reasonable operations, maintenance and ratepayer costs; and meet energy demands through a flexible, diversified and distributed energy portfolio, including energy standards established in Section 62-16-4 NMSA 1978;

(2) designed to support connection of New Mexico's electrical grid into regional energy markets and increase New Mexico's capability to supply regional energy needs through export of clean and renewable electricity;

(3) reasonably expected to increase access to and use of clean and renewable energy, with consideration given for increasing access to low-income users and users in underserved communities;

(4) designed to contribute to the reduction of air pollution, including greenhouse gases;

(5) reasonably expected to support increased product and program offerings by utilities to their customers; allow for private capital investments and skilled jobs in related services; and provide customer protection, information or education;

(6) transparent, incorporating public reporting requirements to inform project design and commission policy; and



(7) otherwise consistent with the state's grid modernization planning process and priorities.

C. Except as provided in Subsection D of this section, a public utility that undertakes grid modernization projects approved by the commission may recover its reasonable costs through an approved tariff rider or in base rates, or by a combination of the two. Costs that are no greater than the amount approved by the commission for a utility grid modernization project are presumed to be reasonable. A tariff rider proposed by a public utility to fund approved grid modernization projects shall go into effect thirty days after filing, unless suspended by the commission for a period not to exceed one hundred eighty days. If the tariff rider is not approved or suspended within thirty days after filing, it shall be deemed approved as a matter of law. If the commission has not acted to approve or disapprove the tariff rider by the end of the suspension period, it shall be deemed approved as a matter of law.

D. Costs for a grid modernization project that only benefits customers of an electric distribution system shall not be recovered from customers served at a level of one hundred ten thousand volts or higher from an electric transmission system in New Mexico.

E. The provisions of this section do not apply to a distribution cooperative organized pursuant to the Rural Electric Cooperative Act.

F. As used in this section, "grid modernization" means improvements to electric distribution or transmission infrastructure through investments in assets, technologies or services that are designed to modernize the electrical system by enhancing electric distribution or transmission grid reliability, resilience, interconnection of distributed energy resources, distribution system efficiency, grid security against cyber and physical threats, customer service or energy efficiency and conservation and includes:

(1) advanced metering infrastructure and associated communications networks;

- (2) intelligent grid devices for real time or near-real time system and asset information;
- (3) automated control systems for electric transmission and distribution circuits and substations;
- (4) high-speed, low-latency communications networks for grid device data exchange and remote and automated control of devices;
- (5) distribution system hardening projects for circuits and substations designed to reduce service outages or service restoration times, but does not include the conversion of overhead tap lines to underground service;
- (6) physical security measures at critical distribution substations;
- (7) cybersecurity measures;
- (8) systems or technologies that enhance or improve distribution system planning capabilities by the public utility;
- (9) technologies to enable demand response;
- (10) energy storage systems and microgrids that support circuit-level grid stability, power quality, reliability or resiliency or provide temporary backup energy supply;
- (11) infrastructure and equipment necessary to support electric vehicle charging or the electrification of community infrastructure or industrial production, processing, or transportation; and
- (12) new customer information platforms designed to provide improved customer access, greater service options and expanded access to energy usage information."

## **Chapter 110 Section 2 Laws 2021**

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

## **LAWS 2021, CHAPTER 111**

**HSEIC/House Bill 250, aa**  
**Approved April 6, 2021**

AN ACT

RELATING TO PUBLIC HEALTH; ESTABLISHING LONG-TERM CARE FACILITY STAFF DEMENTIA TRAINING REQUIREMENTS AND CERTIFICATES; PROVIDING FOR OVERSIGHT AND RULEMAKING BY THE DEPARTMENT OF HEALTH.

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

## **Chapter 111 Section 1 Laws 2021**

SECTION 1. SHORT TITLE.--This act may be cited as the "Long-Term Care Facility Dementia Training Act".

## **Chapter 111 Section 2 Laws 2021**

SECTION 2. DEFINITIONS.--As used in the Long-Term Care Facility Dementia Training Act:

- A. "department" means the department of health;

B. "direct care service" means services provided to long-term care facility residents that maintain or improve the health and quality of life of the residents;

C. "direct care service staff member" means a person:

(1) employed by or contracted with a long-term care facility, either directly or through a third-party agreement, to provide in-person direct care services to long-term care facility residents; or

(2) contracted with a long-term care facility, either directly or through a third-party agreement, to provide at least ten hours per week in direct care services by video, audio or telephonic means; and

D. "long-term care facility" means every long-term care facility licensed by the state.

## **Chapter 111 Section 3 Laws 2021**

### **SECTION 3. TRAINING REQUIRED.--**

A. Each long-term care facility and long-term care facility contractor that is subject to the Long-Term Care Facility Dementia Training Act shall provide training from the department's current list of approved standardized training programs and continuing education as prescribed by the department to each direct care service staff member that it employs on:

(1) standards approved by the department for recognizing and treating Alzheimer's disease and dementia;

(2) person-centered care;

(3) activities of daily living; and

(4) any other subjects within the scope of long-term care facility dementia training identified by the department pursuant to the Long-Term Care Facility Dementia Training Act.

B. Training may be online or in-person and shall be a training program of at least four hours and approved by the department pursuant to Section 5 of the Long-Term Care Facility Dementia Training Act.

C. A person conducting the training shall have:

(1) at least two years of work experience related to Alzheimer's disease, dementia, health care, gerontology or other related field; and

(2) successfully completed training equivalent to the requirements provided in the Long-Term Care Facility Dementia Training Act, including passage of any skills competency or knowledge test required by the department pursuant to Subsection B of Section 4 of the Long-Term Care Facility Dementia Training Act.

D. Every direct care service staff member shall complete the requirements for and obtain certification as provided in Subsection E of this section.

E. A direct care service staff member:

(1) hired after January 1, 2022 shall complete the training required pursuant to this section within sixty days of the start of employment;

(2) hired prior to January 1, 2022 who has not received training within the past twenty-four months equivalent to the requirements set forth in the Long-Term Care Facility Dementia Training Act shall complete training within sixty days of January 1, 2022;

(3) hired prior to January 1, 2022 who received training within the past twenty-four months equivalent to the requirements set forth in the Long-Term Care

Facility Dementia Training Act shall be issued a training certificate by the department; and

(4) who has successfully obtained a training certificate but has had a lapse of dementia-related direct care service employment for twenty-four consecutive months or more shall complete training within sixty days of the start of employment.

F. Every long-term care facility contractor that is subject to the Long-Term Care Facility Dementia Training Act shall provide a copy of every direct care service staff member's dementia training certificate obtained pursuant to Paragraph (3) of Subsection E of this section or Section 5 of the Long-Term Care Facility Dementia Training Act to every long-term care facility where that staff member provides direct care service.

## **Chapter 111 Section 4 Laws 2021**

SECTION 4. DEPARTMENT OVERSIGHT AND RULEMAKING.--In consultation with the aging and long-term services department, the department shall:

A. identify, approve, publish a list of and periodically review online or in-person standardized training programs that meet the requirements of the Long-Term Care Facility Dementia Training Act;

B. develop or approve and periodically review required evaluation instruments that demonstrate competency and knowledge gained in training topics;

C. promulgate rules:

(1) for evaluation and continuing education on the training topics for treatment and care of persons with Alzheimer's disease or dementia; and

(2) as necessary to carry out the Long-Term Care Facility Dementia Training Act;

D. issue interpretative guidance as necessary to ensure compliance with the Long-Term Care Facility Dementia Training Act;

E. oversee and approve all long-term care facility dementia training programs related to the Long-Term Care Facility Dementia Training Act;

F. issue training certificates pursuant to Paragraph (3) of Subsection E of Section 3 of the Long-Term Care Facility Dementia Training Act; and

G. give notice of the requirements of the Long-Term Care Facility Dementia Training Act to long-term care facilities within ninety days of the effective date of that act.

## **Chapter 111 Section 5 Laws 2021**

SECTION 5. DEMENTIA TRAINING CERTIFICATES.--The provider of training conducted pursuant to the Long-Term Care Facility Dementia Training Act shall issue a certificate to staff upon completion of initial training. The certificate shall be valid so long as the certificate holder meets the continuing education requirements set forth by the department pursuant to the Long-Term Care Facility Dementia Training Act and the certificate holder has not had a lapse of dementia-related direct care service employment for twenty-four consecutive months or more. The certificate shall be valid among long-term care facilities. Each long-term care facility and long-term care facility contractor that is subject to the Long-Term Care Facility Dementia Training Act shall be responsible for maintaining documentation regarding completed dementia training, evaluation and continuing education for each direct care service staff member.

# LAWS 2021, CHAPTER 112

House Bill 261, aa  
Approved April 6, 2021

AN ACT

RELATING TO MUNICIPALITIES; PROVIDING THAT A PETITION FOR MUNICIPAL INCORPORATION SHALL USE POPULATION DATA PROVIDED BY THE UNIVERSITY OF NEW MEXICO GEOSPATIAL AND POPULATION STUDIES GROUP.

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

## Chapter 112 Section 1 Laws 2021

SECTION 1. Section 3-2-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-2-1, as amended) is amended to read:

"3-2-1. PETITION TO INCORPORATE AREA AS A MUNICIPALITY--MAP AND MONEY FOR CENSUS.--

A. The residents of territory proposed to be incorporated as a municipality may petition the board of county commissioners of the county in which the greatest portion of the territory proposed to be incorporated lies to incorporate the territory as a municipality. The petition shall:

- (1) be in writing;
- (2) state the name of the proposed municipality;



and (3) describe the territory proposed to be incorporated as a municipality;

(4) be signed by either:

(a) not less than two hundred qualified electors, each of whom shall, on the petition: 1) swear or affirm that the qualified elector has resided within the territory proposed to be incorporated for a period of six months immediately prior to the signing of the petition; and 2) list the street address of the qualified elector's residence; or

(b) the owners of not less than sixty percent of the real estate within the territory proposed to be incorporated who are not delinquent in their payment of real property taxes.

B. The petition shall be accompanied by:

(1) an accurate map or plat that shows the boundary of the territory proposed to be incorporated;

(2) a municipal services and revenue plan that describes the municipal services the proposed municipality will provide and the details of how the municipality will generate sufficient revenue to cover the costs of providing those services; and

(3) the current university of New Mexico geospatial and population studies group data showing that the territory proposed to be incorporated contains a population density of not less than one person per acre.

C. The municipal services and revenue plan shall demonstrate that the proposed municipality will provide at least three of the following services and that it will have a tax base sufficient to pay the costs of those services:

(1) law enforcement;

- (2) fire protection and fire safety;
- (3) road and street construction and maintenance;
- (4) solid waste management;
- (5) water supply or distribution or both;
- (6) wastewater treatment;
- (7) storm water collection and disposal;
- (8) electric or gas utility services;
- (9) enforcement of building, housing, plumbing and electrical codes and other similar codes;
- (10) planning and zoning; and
- (11) recreational facilities.

D. The county shall forward the petition to the local government division of the department of finance and administration, which shall convene a municipal incorporation review team consisting of:

- (1) the director of the local government division or the director's designee;
- (2) the secretary of taxation and revenue or the secretary's designee;
- (3) one representative of the county in which the proposed municipality would be located chosen by the board of county commissioners; and

(4) a representative of the New Mexico municipal league who shall be an advisory member of the review team.

E. The review team shall consider the petition and may request that the university of New Mexico geospatial and population studies group confirm that the data provided with the petition supports the finding that the proposed boundaries contain a population of at least one person per acre. The review team shall evaluate the municipal services and revenue plan and determine whether the proposed municipality meets the requirements of Chapter 3, Article 2 NMSA 1978. If the review team finds that the proposed municipality meets the requirements of that article, it shall report its findings and recommendations to the board of county commissioners. If the review team finds that the proposed municipality does not meet the requirements of that article, the review team shall notify the board of county commissioners and the petitioners of deficiencies in the petition. The review team's notification of deficiencies in the municipal services and revenue plan suspends the attempt to incorporate. Petitioners have three months from the date of notification of deficiencies to submit an amended plan to the review team. If the amended plan is rejected by the review team for deficiencies, petitioners may not submit another petition to incorporate an area until at least one year after the date of that rejection."

## **Chapter 112 Section 2 Laws 2021**

SECTION 2. Section 3-2-5 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-2-4, as amended) is amended to read:

"3-2-5. INCORPORATION--DUTIES OF COUNTY COMMISSIONERS AFTER FILING OF PETITION TO ACT--POPULATION DATA REQUIRED--ELECTION--RIGHT OF APPEAL TO DISTRICT COURT.--

A. After the petition for incorporation, together with the accompanying map or plat and the municipal services and revenue plan have been filed with the board of county commissioners, the board of county commissioners, in lieu of complying with the

requirements of Section 3-1-5 NMSA 1978, shall determine within thirty days after the filing of the petition:

(1) from the voter registration list in the office of the county clerk if the signers of the petition are qualified electors residing in the territory proposed to be incorporated; or

(2) from the tax schedules of the county if any of the owners of the real estate who signed the petition are delinquent in the payment of property taxes; and

(3) if the territory proposed to be incorporated is within an existing municipality or within the urbanized area of a municipality.

B. If the board of county commissioners determines that the territory proposed to be incorporated is:

(1) not within the boundary of an existing municipality and not within the urbanized area of a municipality; or

(2) within the urbanized area of another municipality and in compliance with Section 3-2-3 NMSA 1978, the board of county commissioners shall accept the data provided by the university of New Mexico geospatial and population studies group regarding whether or not the territory proposed to be incorporated contains a population density of not less than one person per acre.

C. Within fifteen days after the date the university of New Mexico geospatial and population studies group data and the municipal incorporation review team's report have been filed with the board of county commissioners, the board of county commissioners shall determine if the conditions for incorporation of the territory as a municipality have been met as required in Sections 3-2-1 through 3-2-3 NMSA 1978 and shall have its determination recorded in the minutes of its meeting.

D. Based on the university of New Mexico geospatial and population studies group data and the municipal incorporation review team's report, if the board of county commissioners determines that the conditions for incorporation have not been met, the board of county commissioners shall notify the petitioners of its determination by publishing in a newspaper of general circulation in the territory proposed to be incorporated, once, not more than ten days after its determination, a notice of its determination that the conditions for incorporation have not been met. If there is no newspaper of general circulation in the territory proposed to be incorporated, notice of the determination shall be posted in eight public places within the territory proposed to be incorporated.

E. After the board of county commissioners has determined that all of the conditions for incorporation of the territory as a municipality have been met, the board of county commissioners shall hold an election on the question of incorporating the territory as a municipality. Special elections for the incorporation of municipalities shall only be held in June or July in odd-numbered years or July or August in even-numbered years and shall be held pursuant to the provisions of the Local Election Act. The county clerk shall notify the secretary of finance and administration and the secretary of taxation and revenue of the date of the incorporation election within ten days after the adoption of the resolution calling the election.

F. The signers of the petition or a municipality within whose urbanized area the territory proposed to be incorporated is located may appeal any determination of the board of county commissioners to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978."

## **LAWS 2021, CHAPTER 113**

**House Bill 269, aa**  
**Approved April 6, 2021**

AN ACT

RELATING TO MEDICAL RECORDS; ALLOWING DISCLOSURES FOR TREATMENT, PAYMENT AND OTHER ACTIVITIES.

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

## **Chapter 113 Section 1 Laws 2021**

SECTION 1. Section 24-14B-6 NMSA 1978 (being Laws 2009, Chapter 69, Section 6) is amended to read:

"24-14B-6. USE AND DISCLOSURE OF ELECTRONIC HEALTH CARE INFORMATION.--

A. A provider, health care institution, health information exchange or health care group purchaser shall not use or disclose health care information in an individual's electronic medical record to another person without the consent of the individual except as allowed by state or federal law.

B. A provider, health care institution or health care group purchaser may disclose demographic information and information about the location of an individual's electronic medical records to a record locator service in accordance with state or federal law. A provider or health care institution participating in a health information exchange using a record locator service shall not have access to demographic information, information about the location of the individual's electronic medical records or information in an individual's electronic medical record except in connection with the treatment of the individual or as permitted by the consent of the individual or as otherwise permitted by state or federal law.

C. A record locator service shall maintain an audit log of persons obtaining access to information in the record locator service, which audit log shall contain, at a minimum, information on:

- (1) the identity of the person obtaining access to the information;
- (2) the identity of the individual whose information was obtained;
- (3) the location from which the information was obtained;
- (4) the specific information obtained; and
- (5) the date that the information was obtained.

D. The audit log shall be made available by a health information exchange on the request of an individual whose health care information is the subject of the audit log; provided, however, that the audit log made available to the individual shall include only information related to that individual. The audit log shall be made available to the requesting individual annually for a fee not to exceed twenty-five cents (\$.25) per page as established by the department of health.

E. A record locator service shall provide a mechanism under which individuals may exclude their demographic information and information about the location of their electronic medical records from the record locator service. A person operating a record locator service or a health information exchange that receives an individual's request to exclude all of the individual's information from the record locator service is responsible for removing that information from the record locator service within thirty days. An individual's request for exclusion of information shall be in writing and shall include a waiver of liability for any harm caused by the exclusion of the individual's information.

F. When information in an individual's electronic medical record is requested using a record locator service or a health information exchange:

- (1) the requesting provider or health care institution shall warrant that the request is for the treatment of the individual, is permitted by the individual's written authorization or is otherwise permitted by state or federal law; and

(2) the person disclosing the information may rely upon the warranty of the person making the request that the request is for the treatment of the individual, is permitted with the consent of the individual or is otherwise permitted by state or federal law.

G. Notwithstanding any other provision of law, information in an individual's electronic medical record may be disclosed:

(1) to a provider that has a need for information about the individual to treat a condition that poses an immediate threat to the life of any individual and that requires immediate medical attention;

(2) except as provided in the Electronic Medical Records Act, to a record locator service or a health information exchange for the development and operation of the record locator service and the health information exchange; and

(3) to a provider, health care institution or health care group purchaser for treatment, payment or health care operation activities, in compliance with the federal Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated pursuant to that act, and if applicable, in compliance with 42 U.S.C. Section 290dd-2 and the regulations promulgated pursuant to that section.

H. For the purposes of this section, "health care operation activities" includes administrative, financial, legal and quality improvement activities of a covered entity that are necessary to conduct business and to support the core functions of treatment and payment and are limited to the activities listed in the definition of "health care operations" at 45 C.F.R. 164.501."

## **Chapter 113 Section 2 Laws 2021**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.



# LAWS 2021, CHAPTER 114

HFL/HCEDC/House Bill 270, w/cc  
Approved April 6, 2021

AN ACT

RELATING TO MOTOR VEHICLES; ADDING DEFINITIONS TO THE MOTOR VEHICLE CODE; PROVIDING FOR AUTONOMOUS MOTOR VEHICLES; REQUIRING PERMITS; ALLOWING PLATOONING OF MOTOR VEHICLES.

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

## Chapter 114 Section 1 Laws 2021

SECTION 1. Section 66-1-4.1 NMSA 1978 (being Laws 1990, Chapter 120, Section 2, as amended) is amended to read:

"66-1-4.1. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "abandoned vehicle" means a vehicle or motor vehicle that has been determined by a New Mexico law enforcement agency:

- (1) to have been left unattended on either public or private property for at least thirty days;
- (2) not to have been reported stolen;
- (3) not to have been claimed by any person asserting ownership; and
- (4) not to have been shown by normal record-checking procedures to be owned by any person;

B. "access aisle" means a space designed to allow a person with a significant mobility limitation to safely exit and enter a motor vehicle that is immediately adjacent to a designated parking space for persons with significant mobility limitation and that may be common to two such parking spaces of at least sixty inches in width or, if the parking space is designed for van accessibility, ninety-six inches in width, and clearly marked and maintained with blue striping and, after January 1, 2011, the words "NO PARKING" in capital letters, each of which shall be at least one foot high and at least two inches wide, placed at the rear of the access aisle so as to be close to where an adjacent vehicle's rear tires would be placed;

C. "actual empty weight" means the weight of a vehicle without a load;

D. "additional place of business", for dealers and auto recyclers, means locations in addition to an established place of business as defined in Section 66-1-4.5 NMSA 1978 and meeting all the requirements of an established place of business, except Paragraph (5) of Subsection C of Section 66-1-4.5 NMSA 1978, but "additional place of business" does not mean a location used solely for storage and that is not used for wrecking, dismantling, sale or resale of vehicles;

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

F. "authorized emergency vehicle" means any fire department vehicle, police vehicle and ambulance and any emergency vehicles of municipal departments or public utilities that are designated or authorized as emergency vehicles by the director of the New Mexico state police division of the department of public safety or local authorities;

G. "autocycle" means a three-wheeled motorcycle on which the driver and all passengers ride in a completely or partially enclosed seating area and that is

manufactured to comply with all applicable federal standards, regulations and laws and is equipped with:

- (1) non-straddle seating;
- (2) rollover protection;
- (3) safety belts for all occupants;
- (4) antilock brakes;
- (5) a steering wheel; and
- (6) pedals;

H. "automated driving system" means the hardware and software that are collectively capable of performing the entire dynamic driving task on a sustained basis, regardless of whether it is limited to a specific operational design domain; "automated driving system" is used specifically to describe a level three, four or five driving automation system as defined in society of automotive engineers standard J3016, as published in the Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles;

I. "autonomous commercial motor vehicle" means a commercial motor vehicle, as defined in Subsection J of Section 66-1-4.3 NMSA 1978, that is being controlled by an automated driving system;

J. "autonomous motor vehicle" means a motor vehicle that is being controlled by an automated driving system;

K. "autonomous motor vehicle operator" means the person who engages the automated driving system of an autonomous motor vehicle or autonomous commercial motor vehicle;

L. "autonomous motor vehicle testing" or "autonomous commercial motor vehicle testing" means activities taken in full or in part to evaluate and assess:

(1) the automated driving system's performance of the dynamic driving task; and

(2) the automated driving system's performance with respect to applicable safety areas as defined by the federal national highway traffic safety administration for autonomous vehicle operations; and

M. "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 114 Section 2 Laws 2021**

SECTION 2. Section 66-1-4.4 NMSA 1978 (being Laws 1990, Chapter 120, Section 5, as amended) is amended to read:

"66-1-4.4. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "day" means calendar day, unless otherwise provided in the Motor Vehicle Code;

B. "dealer", except as specifically excluded, means any person who sells or solicits or advertises the sale of new or used motor vehicles, manufactured homes or trailers subject to registration in this state; "dealer" does not include:

(1) receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under judgment, decree or order of any court;

- (2) public officers while performing their duties as such officers;
- (3) persons making casual sales of their own vehicles;
- (4) finance companies, banks and other lending institutions making sales of repossessed vehicles; or
- (5) licensed brokers under the Manufactured Housing Act who, for a fee, commission or other valuable consideration, engage in brokerage activities related to the sale, exchange or lease purchase of pre-owned manufactured homes on a site installed for a consumer;

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

D. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

E. "designated accessible parking space for persons with significant mobility limitation" means any space, including an access aisle, that is marked and reserved for the parking of a passenger vehicle that carries registration plates or a parking placard with the international symbol of access issued in accordance with Section 66-3-16 NMSA 1978 and that is designated by a conspicuously posted sign bearing the international symbol of access and, if the parking space is paved, by a clearly visible depiction of this symbol painted in blue on the pavement of the space;

F. "director" means the secretary;

G. "disqualification" means a prohibition against driving a commercial motor vehicle;

H. "distinguishing number" means the number assigned by the department to a vehicle whose identifying number has been destroyed or obliterated or the number assigned by the department to a vehicle that has never had an identifying number;

I. "distributor" means a person who distributes or sells new or used motor vehicles to dealers and who is not a manufacturer;

J. "division", without further specification, "division of motor vehicles" or "motor vehicle division" means the department;

K. "driveaway-towaway operation" means an operation in which any motor vehicle, new or used, is the item being transported when one set or more of wheels of any such motor vehicle is on the roadway during the course of transportation, whether or not the motor vehicle furnishes the motive power;

L. "driver" means every person who drives or is in actual physical control of a motor vehicle, including a motorcycle, upon a highway, who is exercising control over or steering a vehicle being towed by a motor vehicle or who operates or is in actual physical control of an off-highway motor vehicle;

M. "driver-assisted platoon" means a series of motor vehicles platooning with a driver in each vehicle;

N. "driver's license" means any license, permit or driving authorization card issued by a state or other jurisdiction recognized under the laws of New Mexico pertaining to the authorizing of persons to operate motor vehicles and includes a REAL ID-compliant driver's license and a standard driver's license; and

O. "dynamic driving task" means all of the real-time operational and tactical functions required to operate a vehicle in on-road traffic, excluding the strategic functions such as trip scheduling and selection of destinations and waypoints."

## **Chapter 114 Section 3 Laws 2021**

SECTION 3. Section 66-1-4.13 NMSA 1978 (being Laws 1990, Chapter 120, Section 14) is amended to read:

"66-1-4.13. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "odometer" means a device for recording the total mileage traveled by a vehicle from the vehicle's manufacture and for so long as the vehicle is operable on the highways;

B. "off-highway motor vehicle" means any motor vehicle operated or used exclusively off the highways of this state and that is not legally equipped for operation on the highways of this state;

C. "official printout" means any record supplied by the division or a similar agency or government entity that indicates the lienholders of record or owners of record of a vehicle or motor vehicle registered within that government's jurisdiction or indicates information about a driver's license or identification card, including traffic violation history or status;

D. "official traffic-control devices" means all signs, signals, markings and devices consistent with the Motor Vehicle Code placed or erected, by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic;

E. "operational design domain" means the specific conditions under which a given automated driving system or feature of the system is designed to function;

F. "operator" means driver, as defined in Section 66-1-4.4 NMSA 1978; and

G. "owner" means a person who holds the legal title of a vehicle and may include a conservator, guardian, personal representative, executor or similar fiduciary, or, in the event that a vehicle is the subject of an agreement for conditional sale or lease with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or, in the event that a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor."

## **Chapter 114 Section 4 Laws 2021**

SECTION 4. Section 66-1-4.14 NMSA 1978 (being Laws 1990, Chapter 120, Section 15, as amended) is amended to read:

"66-1-4.14. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "park" or "parking" means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading and unloading;

B. "parking lot" means a parking area provided for the use of patrons of any office of state or local government or of any public accommodation, retail or commercial establishment;

C. "parts car" means a motor vehicle generally in nonoperable condition that is owned by a collector to furnish parts that are usually nonobtainable from normal sources, thus enabling a collector to preserve, restore and maintain a motor vehicle of historic or special interest;

D. "pedestrian" means any natural person on foot;



E. "person" means every natural person, firm, copartnership, association, corporation or other legal entity;

F. "personal information" means information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address other than zip code, telephone number and medical or disability information, but "personal information" does not include information on vehicles, vehicle ownership, vehicular accidents, driving violations or driver status;

G. "placard" or "parking placard" means a card-like device that identifies the vehicle as being currently in use to transport a person with severe mobility impairment and issued pursuant to Section 66-3-16 NMSA 1978 to be displayed inside a motor vehicle so as to be readily visible to an observer outside the vehicle;

H. "platoon" means a series of motor vehicles that are traveling in a unified manner by means of being connected with wireless communications or other technology allowing for coordinated movement;

I. "pneumatic tire" means every tire in which compressed air is designed to support the load;

J. "pole trailer" means any vehicle without motive power, designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or irregularly shaped loads such as poles, structures, pipes and structural members capable, generally, of sustaining themselves as beams between the supporting connections;

K. "police or peace officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of the Motor Vehicle Code;

L. "private road or driveway" means every way or place in private ownership used for vehicular travel by the owner and those having express or implied permission from the owner, but not other persons; and

M. "property owner" means the owner of a piece of land or the agent of that property owner."

## **Chapter 114 Section 5 Laws 2021**

SECTION 5. Section 66-7-206 NMSA 1978 (being Laws 1953, Chapter 139, Section 44, as amended) is amended to read:

"66-7-206. IMMEDIATE NOTICE OF ACCIDENTS.--The driver of a vehicle, the autonomous motor vehicle operator or the autonomous commercial motor vehicle operator, if applicable, involved in an accident resulting in bodily injury to or death of any person or property damage to an apparent extent of five hundred dollars (\$500) or more shall immediately, by the quickest means of communication, give notice of the accident to the police department if the accident occurs within a municipality; otherwise to the office of the county sheriff or the nearest office of the New Mexico state police. In the case of an autonomous motor vehicle or autonomous commercial motor vehicle operating without a human driver, the owner of that motor vehicle or person working on behalf of the vehicle owner shall be responsible for providing the notice required by this section."

## **Chapter 114 Section 6 Laws 2021**

SECTION 6. Section 66-7-318 NMSA 1978 (being Laws 1953, Chapter 139, Section 72, as amended) is amended to read:

"66-7-318. FOLLOWING TOO CLOSELY.--

A. The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicles and the traffic upon and the condition of the highway.

B. The driver of any motor truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district shall not follow another motor truck or motor vehicle drawing another vehicle within three hundred feet, except that this shall not prevent a motor truck or motor vehicle drawing another vehicle from overtaking and passing any like vehicle or other vehicle.

C. Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade, whether or not towing other vehicles, shall not follow the preceding vehicle closer than three hundred feet. This provision shall not apply to:

(1) funeral processions nor shall it apply within or outside of a business or residence district to motor vehicle escort vehicles of a motor vehicle escort service, which may, if necessary to maintain the continuity of the escorted unit or units, precede or follow at a distance closer than three hundred feet to the escorted unit or units; or

(2) a vehicle that is part of a driver-assisted platoon and that is not the lead motor vehicle."

## **Chapter 114 Section 7 Laws 2021**

SECTION 7. A new section of the Motor Vehicle Code is enacted to read:

"AUTONOMOUS MOTOR VEHICLES--NOTIFICATION AND REGULATION OF TESTING.--

A. Prior to testing an autonomous motor vehicle or an autonomous commercial motor vehicle on a public highway in New Mexico, a person owning or

operating such a motor vehicle shall notify the department of transportation at least five calendar days in advance of such operation on a form provided by rule by the department of at least the following information:

- (1) the serial number and type of each motor vehicle to be tested;
- (2) the routes to be used by the motor vehicles;
- (3) the level of automated driving systems to be used by the motor vehicles; and
- (4) such additional information as may be required by the department of transportation by rule.

B. The department of transportation shall promulgate rules regarding the notification and regulation process provided for in Subsection A of this section, including forms to be used and information to be submitted by operators of autonomous motor vehicles and autonomous commercial motor vehicles when testing such motor vehicles on public highways in New Mexico."

## **Chapter 114 Section 8 Laws 2021**

SECTION 8. A new section of the Motor Vehicle Code is enacted to read:

"AUTONOMOUS MOTOR VEHICLES--STANDARDS--LOCAL REGULATION.--

A. Autonomous motor vehicles and autonomous commercial motor vehicles shall meet all applicable federal motor vehicle safety standards. Additionally, autonomous motor vehicles and autonomous commercial motor vehicles shall be capable of being operated in compliance with applicable traffic and motor vehicle laws in New Mexico.

B. No political subdivision of the state may, by ordinance, resolution or any other means, prohibit the testing or operation of an autonomous motor vehicle or autonomous commercial motor vehicle within the jurisdictional boundaries of the political subdivision solely on the basis of the motor vehicle being equipped with an automated driving system."

## **Chapter 114 Section 9 Laws 2021**

SECTION 9. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2022.

## **LAWS 2021, CHAPTER 115**

**House Bill 277, aa**  
**Approved April 6, 2021**

AN ACT

RELATING TO PUBLIC EMPLOYEE RETIREMENT; PROVIDING ADDITIONAL OPTIONS TO CHANGE THE SURVIVOR BENEFICIARY FOR RETIRED MEMBERS WHO HAVE DESIGNATED A SPOUSE AS A SURVIVOR BENEFICIARY.

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

## **Chapter 115 Section 1 Laws 2021**

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

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

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

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

C. A retired member who is being paid a pension under form of payment B or C with the member's spouse as the designated survivor beneficiary may:

(1) exercise a one-time irrevocable option to designate another individual as the survivor beneficiary and may select either form of payment B or form of payment C; provided that:

(a) the amount of the pension under the form of payment selected shall be recalculated and have the same actuarial present value, computed on

the effective date of the designation, as the amount of pension under form of payment A;

(b) the member's spouse provides a notarized, written statement expressing the spouse's consent to relinquish the designation as a survivor beneficiary; and

(c) the retired member shall pay one hundred dollars (\$100) to the retirement board to defray the cost of determining the new pension amount;

(2) upon becoming divorced from the named spouse and subject to an order of a court as provided for in Section 10-11-136 NMSA 1978, elect to have future payments made under form of payment A; or

(3) upon becoming divorced from the named spouse, exercise a one-time irrevocable option to designate another individual as the survivor beneficiary and may select either form of payment B or form of payment C; provided that:

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

(b) the designation and the amount of the pension shall be subject to a court order as provided for in Section 10-11-136 NMSA 1978; and

(c) the retired member shall pay one hundred dollars (\$100) to the retirement board to defray the cost of determining the new pension amount.

D. A retired member who was previously being paid a pension under form of payment B or C but, because of the death of or divorce from the designated survivor beneficiary, is currently receiving a pension under form of payment A may exercise a

one-time irrevocable option to designate another individual as the survivor beneficiary and may select either form of payment B or form of payment C; provided that:

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

(2) the designation and the amount of the pension shall be subject to a court order as provided for in Section 10-11-136 NMSA 1978; and

(3) the retired member shall pay one hundred dollars (\$100) to the retirement board to defray the cost of determining the new pension amount.

E. A retired member who is being paid a pension under form of payment B or C with a living designated survivor 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 beneficiary and may select either form of payment B or form of payment C, provided that:

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

(b) the retired member shall pay one hundred dollars (\$100) to the retirement board to defray the cost of determining the new pension amount; or

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



## **Chapter 115 Section 2 Laws 2021**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

## **LAWS 2021, CHAPTER 116**

**HTRC/House Bill 291, aa**  
**Approved April 6, 2021**

AN ACT

RELATING TO TAXATION; INCREASING AND INDEXING THE LOW-INCOME COMPREHENSIVE TAX REBATE; INCREASING THE AMOUNT OF THE WORKING FAMILIES TAX CREDIT; EXPANDING THE CREDIT TO CERTAIN RESIDENTS WHO ARE INELIGIBLE FOR THE FEDERAL EARNED INCOME TAX CREDIT ON WHICH THE WORKING FAMILIES TAX CREDIT IS BASED; REQUIRING WITHHOLDERS OF THE WITHHOLDING TAX TO PROVIDE TO WITHHOLDEES INFORMATION REGARDING STATE ASSISTANCE FOR LOW-INCOME NEW MEXICANS FROM THE TAXATION AND REVENUE DEPARTMENT.

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

## **Chapter 116 Section 1 Laws 2021**

SECTION 1. Section 7-2-14 NMSA 1978 (being Laws 1972, Chapter 20, Section 2, as amended) is amended to read:

"7-2-14. LOW-INCOME COMPREHENSIVE TAX REBATE.--

A. Except as otherwise provided in Subsection B of this section, any resident who files an individual New Mexico income tax return and who is not a dependent of

another individual may claim a tax rebate for a portion of state and local taxes to which the resident has been subject during the taxable year for which the return is filed. The tax rebate may be claimed even though the resident has no income taxable under the Income Tax Act. Married individuals who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax rebate that would have been allowed on a joint return.

B. No claim for the tax rebate provided in this section shall be filed by a resident who was an inmate of a public institution for more than six months during the taxable year for which the tax rebate could be claimed or who was not physically present in New Mexico for at least six months during the taxable year for which the tax rebate could be claimed.

C. For the purposes of this section, the total number of exemptions for which a tax rebate may be claimed or allowed is determined by adding the number of federal exemptions allowable for federal income tax purposes for each individual included in the return who is domiciled in New Mexico plus two additional exemptions for each individual domiciled in New Mexico included in the return who is sixty-five years of age or older plus one additional exemption for each individual domiciled in New Mexico included in the return who, for federal income tax purposes, is blind plus one exemption for each minor child or stepchild of the resident who would be a dependent for federal income tax purposes if the public assistance contributing to the support of the child or stepchild was considered to have been contributed by the resident.

D. Except as provided in Subsection F of this section, the tax rebate provided for in this section may be claimed in the amount shown in the following table:

Modified gross income is:		And the total number of exemptions is:						
Over	But Not Over	1	2	3	4	5	6 or More	
\$ 0	\$ 1,000	\$ 195	\$ 260	\$ 325	\$ 390	\$ 455	\$ 520	
1,000	1,500	220	315	405	505	570	675	

1,500	2,500	220	315	405	505	570	705
2,500	7,500	220	315	405	505	570	730
7,500	8,000	205	310	390	495	575	730
8,000	9,000	185	285	375	480	575	700
9,000	10,000	170	250	340	425	510	665
10,000	11,500	145	210	275	360	445	600
11,500	13,000	130	185	235	295	365	480
13,000	14,500	115	170	220	275	315	390
14,500	16,500	105	155	185	235	285	335
16,500	18,000	100	130	165	210	250	300
18,000	19,500	90	115	145	180	220	260
19,500	21,000	80	105	140	165	185	230
21,000	23,000	80	105	140	165	185	230
23,000	24,500	75	100	120	145	170	195
24,500	26,000	65	90	115	140	155	180
26,000	27,500	55	80	105	130	140	170
27,500	29,500	50	75	100	115	130	155
29,500	31,000	40	55	80	100	115	130
31,000	32,500	35	50	65	80	100	105
32,500	34,000	25	40	50	65	80	90
34,000	36,000	15	35	40	55	65	75.

E. If a taxpayer's modified gross income is zero, the taxpayer may claim a credit in the amount shown in the first row of the table appropriate for the taxpayer's number of exemptions as adjusted by the provisions of Subsection F of this section.

F. For the 2022 taxable year and each subsequent taxable year, the amount of rebate shown in the table in Subsection D of this section shall be adjusted to account for inflation. The department shall make the adjustment by multiplying each amount of rebate by a fraction, the numerator of which is the consumer price index ending during the prior taxable year and the denominator of which is the consumer price index ending in tax year 2021. The result of the multiplication shall be rounded down to the nearest one dollar (\$1.00), except that if the result would be an amount less than the

corresponding amount for the preceding taxable year, then no adjustment shall be made.

G. The tax rebates provided for in this section may be deducted from the taxpayer's New Mexico income tax liability for the taxable year. If the tax rebates exceed the taxpayer's income tax liability, the excess shall be refunded to the taxpayer.

H. For purposes of this section:

(1) "consumer price index" means the consumer price index for all urban consumers published by the United States department of labor for the month ending September 30; and

(2) "dependent" means "dependent" as defined by Section 152 of the Internal Revenue Code of 1986, as that section may be amended or renumbered, but also includes any minor child or stepchild of the resident who would be a dependent for federal income tax purposes if the public assistance contributing to the support of the child or stepchild was considered to have been contributed by the resident."

## **Chapter 116 Section 2 Laws 2021**

SECTION 2. Section 7-2-18.15 NMSA 1978 (being Laws 2007, Chapter 45, Section 9, as amended) is amended to read:

"7-2-18.15. WORKING FAMILIES TAX CREDIT.--

A. A taxpayer who is a resident and who files an individual New Mexico income tax return may claim a credit in an amount equal to twenty percent for taxable years beginning on or after January 1, 2021, and twenty-five percent for taxable years beginning on or after January 1, 2023, of the federal earned income tax credit for which that taxpayer is eligible for the same taxable year or would have been eligible but for the

identification number requirement pursuant to 26 U.S.C. 32(m), as that section may be amended or renumbered.

B. A taxpayer who is a resident and who files an individual New Mexico tax return may claim a credit in an amount equal to twenty percent for taxable years beginning on or after January 1, 2021, and twenty-five percent for taxable years beginning on or after January 1, 2023, of the federal earned income tax credit for which that taxpayer would have been eligible for the same taxable year but for the age requirement pursuant to 26 U.S.C. 32(c)(1)(A)(ii)(II), as that section may be amended or renumbered; provided that the taxpayer is at least eighteen years of age but has not reached the age of twenty-five.

C. The credit provided in this section may be referred to as the "working families tax credit".

D. The working families tax credit may be deducted from the income tax liability of an individual who claims the credit and qualifies for the credit pursuant to this section. If the credit exceeds the individual's income tax liability for the taxable year, the excess shall be refunded to the individual.

E. As used in this section, "federal earned income tax credit" means the tax credit allowed pursuant to 26 U.S.C. 32, as that section may be amended or renumbered."

## **Chapter 116 Section 3 Laws 2021**

SECTION 3. Section 7-3-8 NMSA 1978 (being Laws 1961, Chapter 243, Section 9, as amended) is amended to read:

"7-3-8. ANNUAL STATEMENT OF WITHHOLDING AND INFORMATION REGARDING STATE ASSISTANCE FOR LOW-INCOME NEW MEXICANS TO BE PROVIDED TO WITHHOLDEES.--On or before January 31 of the year following that for

which the annual statement of withholding is made pursuant to Section 7-3-7 NMSA 1978, a withholder shall provide to a withholdee:

- A. a copy of the annual statement of withholding; and
- B. information regarding state assistance for low-income New Mexicans, including information regarding refundable tax rebates and credits for low-income filers provided by the state, such as the low-income comprehensive tax rebate and the working families tax credit. The information shall be provided in English and in Spanish on a form and in a manner required by the department, and the department shall make the information available on the department's website."

## **Chapter 116 Section 4 Laws 2021**

SECTION 4. APPLICABILITY.--The provisions of Sections 1 and 2 of this act apply to taxable years beginning on or after January 1, 2021.

# **LAWS 2021, CHAPTER 117**

**House Bill 303**  
**Approved April 6, 2021**

AN ACT

RELATING TO LIQUOR CONTROL; SPECIFYING UNLAWFUL INDUCEMENTS FOR CERTAIN LICENSEES.

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

## **Chapter 117 Section 1 Laws 2021**

SECTION 1. A new section of the Liquor Control Act, Section 60-8A-1.1 NMSA 1978, is enacted to read:

"60-8A-1.1. UNLAWFUL INDUCEMENTS.--

A. No retailer licensee, restaurant licensee, club licensee, governmental licensee or licensee that dispenses any kind or class of alcoholic beverage shall directly or indirectly, or through an affiliate, give or permit to be given money or any other thing of substantial value in any effort to induce any person to persuade or influence any other person to purchase, or contract for the purchase of, any particular brand or kind of alcoholic beverages, or to persuade or influence any person to refrain from purchasing, or refrain from contracting for the purchase of, any particular brand or kind of alcoholic beverages.

B. No retailer licensee, restaurant licensee, club licensee, governmental licensee or licensee that dispenses any kind or class of alcoholic beverage shall directly or indirectly, or through an affiliate, receive or otherwise accept an inducement prohibited pursuant to Subsection A of this section."

## **Chapter 117 Section 2 Laws 2021**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

# **LAWS 2021, CHAPTER 118**

**Senate Bill 204**  
**Approved April 7, 2021**

AN ACT

RELATING TO TELECOMMUNICATIONS; AMENDING THE RURAL TELECOMMUNICATIONS ACT OF NEW MEXICO TO MAKE ACCESS TO THE STATE RURAL UNIVERSAL SERVICE FUND FOR TELECOMMUNICATIONS CARRIERS ESTABLISHED AFTER ENACTMENT OF THAT ACT COMPARABLE TO THE ACCESS FOR TELECOMMUNICATIONS CARRIERS ESTABLISHED PRIOR TO ENACTMENT OF THAT ACT; PROVIDING DEFINITIONS.

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

## **Chapter 118 Section 1 Laws 2021**

SECTION 1. Section 63-9H-3 NMSA 1978 (being Laws 1999, Chapter 295, Section 3, as amended) is amended to read:

"63-9H-3. DEFINITIONS.--As used in the Rural Telecommunications Act of New Mexico:

A. "affordable rates" means rates for basic service that promote universal service within a local exchange service area, giving consideration to the economic conditions and costs to provide service in the area in which service is provided;

B. "basic service" means service that is provided to a rural end-user customer that is consistent with the federal act;

C. "cable service" means the transmission to subscribers of video programming or other programming service and subscriber interaction, if any, that is required for the selection or use of the video programming or other programming service;

D. "commission" means the public regulation commission;



E. "comparable carrier" means an eligible telecommunications carrier established prior to enactment of the Rural Telecommunications Act of New Mexico that has a similar number of access lines as an eligible telecommunications carrier established after enactment of that act;

F. "eligible telecommunications carrier" means an eligible telecommunications carrier as defined in the federal act;

G. "federal act" means the federal Telecommunications Act of 1996;

H. "fund" means the state rural universal service fund;

I. "incumbent local exchange carrier" means a person that:

(1) was designated as an eligible telecommunications carrier by the state corporation commission in Docket #97-93-TC by order dated October 23, 1997, or that provided local exchange service in this state on February 8, 1996; or

(2) became a successor or assignee of an incumbent local exchange carrier;

J. "incumbent rural telecommunications carrier" means an incumbent local exchange carrier that serves fewer than fifty thousand access lines within the state and has been designated as an eligible telecommunications carrier by the state corporation commission or the public regulation commission;

K. "local exchange area" means a geographic area encompassing one or more local communities, as described in maps, tariffs or rate schedules filed with the commission, where local exchange rates apply;

L. "local exchange service" means the transmission of two-way interactive switched voice communications furnished by a telecommunications carrier within a local exchange area;

M. "long distance service" means telecommunications service between local exchange areas that originate and terminate within the state;

N. "private telecommunications service" means a system, including its construction, maintenance or operation for the provision of telecommunications service, or any portion of that service, by a person for the sole and exclusive use of that person and not for resale, directly or indirectly. For purposes of this definition, the person that may use the service includes any affiliates of the person if at least eighty percent of the assets or voting stock of the affiliates is owned by the person. If any other person uses the telecommunications service, whether for hire or not, the private telecommunications service is a public telecommunications service;

O. "public telecommunications service" means the transmission of signs, signals, writings, images, sounds, messages, data or other information of any nature by wire, radio, lightwaves or other electromagnetic means originating and terminating in this state regardless of actual call routing. "Public telecommunications service" does not include the provision of terminal equipment used to originate or terminate the service; private telecommunications service; broadcast transmissions by radio, television and satellite broadcast stations regulated by the federal communications commission; radio common carrier services, including mobile telephone service and radio paging; or cable service; and

P. "telecommunications carrier" means a person that provides public telecommunications service."

## **Chapter 118 Section 2 Laws 2021**

SECTION 2. Section 63-9H-6 NMSA 1978 (being Laws 1999, Chapter 295, Section 6, as amended) is amended to read:

"63-9H-6. STATE RURAL UNIVERSAL SERVICE FUND-- ESTABLISHMENT.--

A. The commission shall implement and maintain a "state rural universal service fund" to maintain and support universal service that is provided by eligible telecommunications carriers, including commercial mobile radio services carriers, as are determined by the commission. As used in this section, "universal service" means basic local exchange service, comparable retail alternative services at affordable rates, service pursuant to a low-income telephone assistance plan and broadband internet access service to unserved and underserved areas as determined by the commission.

B. The fund shall be financed by a surcharge on intrastate retail public telecommunications services to be determined by the commission, excluding services provided pursuant to a low-income telephone assistance plan billed to end-user customers by a telecommunications carrier, and excluding all amounts from surcharges, gross receipts taxes, excise taxes, franchise fees and similar charges. For the purpose of funding the fund, the commission has the authority to apply the surcharge on intrastate retail public telecommunications services provided by telecommunications carriers, including commercial mobile radio services and voice over internet protocol services, at a competitively and technologically neutral rate or rates to be determined by the commission. The commission may establish the surcharge as a percentage of intrastate retail public telecommunications services revenue or as a fixed amount applicable to each communication connection. For purposes of this section, a "communication connection" means a voice-enabled telephone access line, wireless voice connection, unique voice over internet protocol service connection or other uniquely identifiable functional equivalent as determined by the commission. Such surcharges shall be competitively and technologically neutral. Money deposited in the fund is not public money, and the administration of the fund is not subject to the provisions of law regulating public funds. The commission shall not apply this surcharge to a private telecommunications network; to the state, a county, a municipality or other governmental entity; to a public school district; to a public institution of higher education; to an Indian nation, tribe or pueblo; or to Native American customers who reside on tribal or pueblo land.

C. The fund shall be competitively and technologically neutral, equitable and nondiscriminatory in its collection and distribution of funds, portable between eligible

telecommunications carriers and additionally shall provide a specific, predictable and sufficient support mechanism as determined by the commission that ensures universal service in the state.

D. The commission shall:

(1) establish eligibility criteria for participation in the fund consistent with federal law that ensure the availability of universal service at affordable rates. The eligibility criteria shall not restrict or limit an eligible telecommunications carrier from receiving federal universal service support;

(2) provide for the collection of the surcharge on a competitively neutral basis and for the administration and disbursement of money from the fund;

(3) determine those services and areas requiring support from the fund;

(4) provide for the separate administration and disbursement of federal universal service funds consistent with federal law; and

(5) establish affordability benchmark rates for local residential and business services that shall be utilized in determining the level of support from the fund. The process for determining subsequent adjustments to the benchmark shall be established through a rulemaking.

E. All incumbent telecommunications carriers and competitive carriers already designated as eligible telecommunications carriers for the fund shall be eligible for participation in the fund. All other carriers that choose to become eligible to receive support from the fund may petition the commission to be designated as an eligible telecommunications carrier for the fund. The commission may grant eligible carrier status to a competitive carrier in a rural area upon a finding that granting the application is in the public interest. In making a public interest finding, the commission may consider at least the following items:

- (1) the impact of designation of an additional eligible carrier on the size of the fund;
- (2) the unique advantages and disadvantages of the competitor's service offering; and
- (3) any commitments made regarding the quality of telephone service.

F. The commission shall adopt rules, including a provision for variances, for the implementation and administration of the fund in accordance with the provisions of this section. The rules shall enumerate the appropriate uses of fund support and any restrictions on the use of fund support by eligible telecommunications carriers. The rules shall require that an eligible telecommunications carrier receiving support from the fund pursuant to Subsection K, L or M of this section must expend no less than sixty percent of the support it receives to deploy and maintain broadband internet access services in rural areas of the state. The rules also shall provide for annual reporting by eligible telecommunications carriers verifying that the reporting carrier continues to meet the requirements for designation as an eligible telecommunications carrier for purposes of the fund and is in compliance with the commission's rules, including the provisions regarding use of support from the fund.

G. The commission shall, upon implementation of the fund, select a neutral third-party administrator to collect, administer and disburse money from the fund under the supervision and control of the commission pursuant to established criteria and rules promulgated by the commission. The administrator may be reasonably compensated for the specified services from the surcharge proceeds to be received by the fund pursuant to Subsection B of this section. For purposes of this subsection, the commission shall not be a neutral third-party administrator.

H. The fund established by the commission shall ensure the availability of universal service as determined by the commission at affordable rates in rural areas of the state; provided, however, that nothing in this section shall be construed as granting

any authority to the commission to impose the surcharge on or otherwise regulate broadband internet access services.

I. The commission shall ensure that intrastate switched access charges are equal to interstate switched access charges established by the federal communications commission as of January 1, 2006. Nothing in this section shall preclude the commission from considering further adjustments to intrastate switched access charges based on changes to interstate switched access charges.

J. To ensure that providers of intrastate retail communications service contribute to the fund and to further ensure that the surcharge determined pursuant to Subsection B of this section to be paid by the end-user customer will be held to a minimum, the commission shall adopt rules, or take other appropriate action, to require all such providers to participate in a plan to ensure accurate reporting.

K. The commission shall authorize payments from the fund to incumbent local exchange carriers, in combination with revenue-neutral rate rebalancing up to the affordability benchmark rates. Beginning in 2018, the commission shall make access reduction support payments in the amount made from the fund in base year 2014, adjusted each year thereafter by:

(1) the annual percentage change in the number of access lines served by the incumbent local exchange carriers receiving such support for the prior calendar year, as compared to base year 2014; and

(2) changes in the affordability benchmark rates that have occurred since 2014.

L. The commission shall determine the methodology to be used to authorize payments to all other carriers that apply for and receive eligible carrier status; provided that:

(1) an eligible incumbent telecommunications carrier that is not eligible for funding pursuant to rate rebalancing in Subsection K of this section and that has been previously authorized pursuant to Subsection M of this section for need-based support may apply for ongoing fund support;

(2) the commission shall award an applicant ongoing fund support at no less than the average access line amount of funding support for comparable carriers; provided that an eligible telecommunications carrier receiving fund support pursuant to this subsection shall not offer basic local exchange residential and business services at rate levels lower than the rates for such services charged by any of the comparable carriers used for the determination of the level of support;

(3) the commission shall act upon a request for ongoing fund support within one hundred twenty days of the filing of the request; and

(4) nothing in this section shall limit the commission's authority to adopt rules pursuant to Subsection F of this section regarding appropriate uses of fund support and any restrictions on the use of the fund support by eligible telecommunications carriers.

M. The commission may also authorize payments from the fund to incumbent rural telecommunications carriers or to telecommunications carriers providing comparable retail alternative services that have been designated as eligible telecommunications carriers serving in rural areas of the state upon a finding, based on factors that may include a carrier's regulated revenues, expenses or investment, by the commission that such payments are needed to ensure the widespread availability and affordability of universal service. The commission shall decide cases filed pursuant to this subsection with reasonable promptness, with or without a hearing, but no later than six months following the filing of an application seeking payments from the fund, unless the commission finds that a longer time will be required, in which case the commission may extend the period for an additional three months.

N. The commission shall adopt rules that establish and implement a broadband program to provide funding to eligible telecommunications carriers for the construction and maintenance of facilities capable of providing broadband internet access service. Such rules shall require that the commission consider applications for funding on a technology-neutral basis and shall require that the awards of support be consistent with federal universal service support programs and be based on the best use of the fund for rural areas of the state. Each year, a minimum of five million dollars (\$5,000,000) of the fund shall be dedicated to the broadband program.

O. The total obligations of the fund determined by the commission pursuant to this section, plus administrative expenses and a prudent fund balance, shall not exceed a cap of thirty million dollars (\$30,000,000) per year. The commission shall evaluate the amount of the cap in an appropriate proceeding to be completed by June 30, 2019 and consider whether, based on the then-current status of the fund, the cap should be modified, maintained or eliminated.

P. By December 31, 2019, the commission shall make a report to the legislature regarding the status of the fund, including relevant data relating to implementation of the broadband program and expansion of broadband internet access services in rural areas of the state. The report shall also make recommendations for any changes to the structure, size and purposes of the fund and whether the cap on the fund provided for in Subsection O of this section should be modified, maintained or eliminated."

## **LAWS 2021, CHAPTER 119**

**HJC/House Bill 4, aa**  
**Approved April 7, 2021**

AN ACT



RELATING TO CIVIL RIGHTS; ENACTING THE NEW MEXICO CIVIL RIGHTS ACT; PERMITTING AN INDIVIDUAL TO BRING A CLAIM AGAINST A PUBLIC BODY OR PERSON ACTING ON BEHALF OF OR UNDER THE AUTHORITY OF A PUBLIC BODY FOR A VIOLATION OF THE INDIVIDUAL'S RIGHTS, PRIVILEGES OR IMMUNITIES ARISING PURSUANT TO THE BILL OF RIGHTS OF THE CONSTITUTION OF NEW MEXICO; PROHIBITING THE USE OF THE DEFENSE OF QUALIFIED IMMUNITY; PERMITTING ATTORNEY FEES; LIMITING RECOVERY; PROVIDING A THREE-YEAR STATUTE OF LIMITATIONS.

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

### **Chapter 119 Section 1 Laws 2021**

SECTION 1. SHORT TITLE.--This act may be cited as the "New Mexico Civil Rights Act".

### **Chapter 119 Section 2 Laws 2021**

SECTION 2. DEFINITION.--As used in the New Mexico Civil Rights Act, "public body" means a state or local government, an advisory board, a commission, an agency or an entity created by the constitution of New Mexico or any branch of government that receives public funding, including political subdivisions, special tax districts, school districts and institutions of higher education, but not including an acequia or community ditch, a soil and water conservation district, a land grant-merced, a mutual domestic water consumers association or other association organized pursuant to the Sanitary Projects Act or a water users' association.

### **Chapter 119 Section 3 Laws 2021**

SECTION 3. CLAIM FOR VIOLATION OF RIGHTS ESTABLISHED PURSUANT TO THE BILL OF RIGHTS OF THE CONSTITUTION OF NEW MEXICO.--

A. A public body or person acting on behalf of, under color of or within the course and scope of the authority of a public body shall not subject or cause to be subjected any resident of New Mexico or person within the state to deprivation of any rights, privileges or immunities secured pursuant to the bill of rights of the constitution of New Mexico.

B. A person who claims to have suffered a deprivation of any rights, privileges or immunities pursuant to the bill of rights of the constitution of New Mexico due to acts or omissions of a public body or person acting on behalf of, under color of or within the course and scope of the authority of a public body may maintain an action to establish liability and recover actual damages and equitable or injunctive relief in any New Mexico district court.

C. Claims brought pursuant to the New Mexico Civil Rights Act shall be brought exclusively against a public body. Any public body named in an action filed pursuant to the New Mexico Civil Rights Act shall be held liable for conduct of individuals acting on behalf of, under color of or within the course and scope of the authority of the public body.

D. Individuals employed by a public body shall be prohibited from using the New Mexico Civil Rights Act to pursue a claim arising from the individual's employment by the public body.

E. The remedies provided for in the New Mexico Civil Rights Act are not exclusive and shall be in addition to any other remedies prescribed by law or available pursuant to common law.

## **Chapter 119 Section 4 Laws 2021**

**SECTION 4. PROHIBITING THE USE OF THE DEFENSE OF QUALIFIED IMMUNITY.**--In any claim for damages or relief under the New Mexico Civil Rights Act, no public body or person acting on behalf of, under color of or within the course and

scope of the authority of a public body shall enjoy the defense of qualified immunity for causing the deprivation of any rights, privileges or immunities secured by the bill of rights of the constitution of New Mexico.

## **Chapter 119 Section 5 Laws 2021**

SECTION 5. ATTORNEY FEES.--In any action brought under the New Mexico Civil Rights Act, the court may, in its discretion, allow a prevailing plaintiff or plaintiffs reasonable attorney fees and costs to be paid by the defendant.

## **Chapter 119 Section 6 Laws 2021**

### SECTION 6. LIMITATION ON RECOVERY.--

A. In any action for damages against a public body pursuant to the New Mexico Civil Rights Act, the liability per occurrence shall not exceed the sum of two million dollars (\$2,000,000) per claimant, inclusive of the claimant's costs of action and reasonable attorney fees. In jury cases, the jury shall not be given any instructions dealing with this limitation. Interest shall be allowed on judgments against a public body at a rate equal to two percentage points above the bank prime loan rate published by the board of governors of the federal reserve system on the last business day of the month preceding entry of the judgment. Interest shall be computed daily from the date of the entry of the judgment until the date of payment.

B. As of July 1, 2022 and on July 1 of each successive year, the maximum recovery limit shall be increased for the cost of living as provided in Subsection C of this section.

C. On July 1, 2022 and on July 1 of each successive year, the maximum recovery limit shall be increased by the increase in the cost of living. The increase in the cost of living shall be measured by the percentage increase as of August of the immediately preceding year over the level as of August of the previous year of the

consumer price index for all urban consumers, United States city average for all items, or its successor index, as published by the United States department of labor or its successor agency, with the amount of the increase rounded to the nearest multiple of ten thousand dollars (\$10,000); however, the maximum recovery limit shall not be adjusted downward as a result of a decrease in the cost of living. The risk management division of the general services department shall publish by May 1 of each year the adjusted maximum recovery limit that shall take effect the following July 1.

## **Chapter 119 Section 7 Laws 2021**

SECTION 7. STATUTE OF LIMITATIONS AND ABATEMENT.--A claim made pursuant to the New Mexico Civil Rights Act shall be commenced no later than three years from the date a claim can be brought for the deprivation of a right, privilege or immunity pursuant to the bill of rights of the constitution of New Mexico unless a longer statute of limitations is otherwise provided by state law.

## **Chapter 119 Section 8 Laws 2021**

SECTION 8. INDEMNIFICATION BY PUBLIC BODY.--A judgment awarded pursuant to the New Mexico Civil Rights Act against a person acting on behalf of, under color of or within the course and scope of the authority of the public body shall be paid by the public body. The public body shall also pay for all litigation costs for the public body and for any person acting on behalf of, under color of or within the course and scope of the authority of the public body, including attorney fees.

## **Chapter 119 Section 9 Laws 2021**

SECTION 9. WAIVER OF SOVEREIGN IMMUNITY.--The state shall not have sovereign immunity for itself or any public body within the state for claims brought pursuant to the New Mexico Civil Rights Act, and the public body or person acting on behalf of, under color of or within the course and scope of the authority of the public

body provided pursuant to the New Mexico Civil Rights Act shall not assert sovereign immunity as a defense or bar to an action.

### **Chapter 119 Section 10 Laws 2021**

SECTION 10. COMMON LAW JUDICIAL, LEGISLATIVE OR OTHER ESTABLISHED IMMUNITY.--The prohibition on the use of the defense of qualified immunity pursuant to Section 4 of the New Mexico Civil Rights Act and the waiver of sovereign immunity pursuant to Section 9 of that act shall not abrogate judicial immunity, legislative immunity or any other constitutional, statutory or common law immunity.

### **Chapter 119 Section 11 Laws 2021**

SECTION 11. RECORDS OF CLAIMS.--Each public body shall maintain a record of all final judgments and settlements paid by the public body for claims made pursuant to the New Mexico Civil Rights Act and attach a copy of the complaint to each record. All judgments, settlements and complaints are subject to disclosure pursuant to the Inspection of Public Records Act.

### **Chapter 119 Section 12 Laws 2021**

SECTION 12. PROSPECTIVE APPLICATION.--Claims arising solely from acts or omissions that occurred prior to July 1, 2021 may not be brought pursuant to the New Mexico Civil Rights Act.

### **Chapter 119 Section 13 Laws 2021**

SECTION 13. NOTICE OF CLAIMS.--

A. Every person who claims damages from an act or omission of a certified law enforcement officer under the New Mexico Civil Rights Act shall cause to be

presented to the certified law enforcement officer's agency or department, within one year after an occurrence giving rise to a claim under the New Mexico Civil Rights Act, a written notice stating the time, place and circumstances of the loss or injury.

B. No suit or action for which immunity has been waived under the New Mexico Civil Rights Act shall be maintained, and no court shall have jurisdiction to consider any suit or action against the state or any local public body, unless notice has been given as required by this section or unless the governmental entity had actual notice of the occurrence. The time for giving notice does not include the time, not exceeding one year, during which the injured person is incapacitated from giving the notice by reason of injury.

C. When a claim for which immunity has been waived under the New Mexico Civil Rights Act is one for wrongful death, the required notice may be presented by, or on behalf of, the personal representative of the deceased person or any person claiming benefits of the proceeds of a wrongful death action, or the consular officer of a foreign country of which the deceased was a citizen, within one year and six months after the date of the occurrence of the injury that resulted in the death; but if the person for whose death the claim is made has presented a notice that would have been sufficient had the person lived, an action for wrongful death may be brought without any additional notice.

## **Chapter 119 Section 14 Laws 2021**

SECTION 14. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

## **LAWS 2021, CHAPTER 120**

**H AFC/HTPWC/House Bill 10, aa**  
**Approved April 7, 2021**

## AN ACT

RELATING TO BROADBAND; ENACTING THE CONNECT NEW MEXICO ACT; CREATING THE CONNECT NEW MEXICO COUNCIL; ESTABLISHING DUTIES; ESTABLISHING THE CONNECT NEW MEXICO COUNCIL AS A CO-COORDINATOR OF STATE BROADBAND PROGRAMS WITH THE DEPARTMENT OF INFORMATION TECHNOLOGY OR A STATE BROADBAND PLANNING ENTITY ESTABLISHED BY OTHER LAW; ESTABLISHING THE CONNECT NEW MEXICO FUND; PROVIDING FOR GRANTS; REQUIRING REPORTS; RAISING THE LEVELS OF DISBURSEMENT FOR BROADBAND FROM THE STATE RURAL UNIVERSAL SERVICE FUND.

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

### **Chapter 120 Section 1 Laws 2021**

SECTION 1. SHORT TITLE.--Sections 1 through 7 of this act may be cited as the "Connect New Mexico Act".

### **Chapter 120 Section 2 Laws 2021**

SECTION 2. DEFINITIONS.--As used in the Connect New Mexico Act:

A. "2020 broadband plan" means the *State of New Mexico Broadband Strategic Plan and Rural Broadband Assessment* published by the department of information technology in June 2020;

B. "broadband infrastructure" means any cable or device used for high-capacity transmission of a wide range of frequencies enabling a large number of electronic messages to be transmitted or received simultaneously;

C. "council" means the connect New Mexico council;

D. "department" means the department of information technology; provided that, upon Senate Bill 93 of the first session of the fifty-fifth legislature becoming law, "department" means a state agency, department, division or other organization unit designated in that law to plan or coordinate broadband development efforts by all state agencies;

E. "digital equity" means information technology needed for civic and cultural participation, employment, education, business and economic development, lifelong learning and access to essential services generally available to residents regardless of their racial grouping, socioeconomic status or cultural identity;

F. "digital inclusion" means access to and the ability to use information technologies;

G. "federal assistance funding" means federal grant and loan programs that provide full or matching funding for the development or maintenance of broadband infrastructure, training in the use or administration of internet-based services or the purchase of computers or other devices that access the internet;

H. "local government" means the government of a municipality, county or political subdivision of the state or an entity operating pursuant to a joint powers agreement pursuant to the Planning District Act or the Regional Planning Act;

I. "public educational institution" means a public school that receives state funding for its operations, a school district, a public post-secondary educational institution or a state agency that provides administrative services, funding or technical support to public schools, school districts and public post-secondary educational institutions;

J. "quality of service" means the standards for broadband service established by the department that meet or exceed the baseline standards established by the federal communications commission;



K. "statewide broadband plan" means a plan developed by the department that may be an updated revision of the 2020 broadband plan; provided that, upon Senate Bill 93 of the first session of the fifty-fifth legislature becoming law, "statewide broadband plan" means the statewide broadband plan developed pursuant to that law;

L. "tribal government" means the government of a federally or state-recognized Indian nation, pueblo or tribe;

M. "underserved" means an area or property that does not receive internet quality of service access; and

N. "unserved" means an area or property that does not have internet access that meets the baseline standards established by the federal communications commission.

## **Chapter 120 Section 3 Laws 2021**

### **SECTION 3. COUNCIL CREATED--POWERS.--**

A. The "connect New Mexico council" is created and administratively attached to the department.

B. The council is composed of the following fifteen members:

- (1) the secretary of transportation or the secretary's designee;
- (2) the secretary of economic development or the secretary's designee;
- (3) the secretary of cultural affairs or the secretary's designee;
- (4) the secretary of information technology or the secretary's designee;

- (5) the executive director of the New Mexico mortgage finance authority or the executive director's designee;
- (6) the secretary of higher education or the secretary's designee;
- (7) the director of the public school facilities authority or the director's designee;
- (8) five members of the public who have experience with broadband access and connectivity challenges for either private business or public institutions, appointed as follows:
  - (a) one member appointed by the speaker of the house of representatives;
  - (b) one member appointed by the minority floor leader in the house of representatives;
  - (c) one member appointed by the president pro tempore of the senate;
  - (d) one member appointed by the minority floor leader in the senate; and
  - (e) one member appointed by the governor; and
- (9) three members appointed by the secretary of Indian affairs: one representative of the Navajo Nation, one representative of Apache tribal governments and one representative of Indian pueblo tribal governments, who are experienced with broadband access and connectivity issues.

C. The chair of the council shall be elected by a quorum of the council members. The council shall meet monthly or at the call of the chair. A majority of

members constitutes a quorum for the transaction of business. The affirmative vote of at least a majority of a quorum present shall be necessary for an action to be taken by the council.

D. Each member of the council appointed pursuant to Paragraph (8) or (9) of Subsection B of this section shall be appointed to a four-year term; provided that to provide for staggered terms:

(1) two of the members initially appointed pursuant to Paragraph (8) of Subsection B of this section shall be appointed for a term of two years by lot; and

(2) one member initially appointed pursuant to Paragraph (9) of Subsection B of this section shall be initially appointed for a term of two years by lot.

E. Public members of the council shall be reimbursed for attending meetings of the council as provided for nonsalaried public officers in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

F. Public members of the council are appointed public officials of the state while carrying out their duties and activities under the Connect New Mexico Act.

G. Council members shall be governed by the Governmental Conduct Act.

H. The council shall be staffed by the department.

## **Chapter 120 Section 4 Laws 2021**

SECTION 4. COUNCIL--DUTIES.--The council shall:

A. in consultation with the department, coordinate state agency broadband programs and broadband projects in accordance with the statewide broadband plan;

B. evaluate and prioritize grant proposals and make grant awards from the connect New Mexico fund; and

C. adopt rules establishing a competitive grant program to receive funds from the connect New Mexico fund. The rules shall include the application procedure, the required qualifications for projects and the purposes for which the grants may be used.

## **Chapter 120 Section 5 Laws 2021**

### **SECTION 5. BROADBAND KNOWLEDGE AND DIGITAL EQUITY ANALYSIS AND PLAN--REPORT--INCLUSION IN STATEWIDE BROADBAND PLAN.--**

A. The council shall consult local and tribal governments, public educational institutions and state agencies to develop a digital equity analysis and plan to address:

(1) the challenges to digital inclusion that are posed by the lack of affordable quality service, broadband-enabled devices or the knowledge of how to use the devices effectively in different age, cultural or geographic populations across the state;

(2) the federal and private sector programs that could be applied to by state agencies or local or tribal governments to address the challenges identified in Paragraph (1) of this subsection; and

(3) existing state programs or state programs that could be established that address or could leverage federal and private sector programs to address the challenges identified in Paragraph (1) of this subsection.

B. On or before August 1, 2023, the council shall report on the digital equity analysis and plan to the department and appropriate interim legislative committees.

C. On or before January 1, 2024, the department shall incorporate the digital equity analysis and plan and its recommendations into the statewide broadband plan.

D. The department shall cooperate with and provide relevant broadband-related information collected or developed by the department with the council.

## **Chapter 120 Section 6 Laws 2021**

### SECTION 6. CONNECT NEW MEXICO FUND CREATED.--

A. The "connect New Mexico fund" is created in the state treasury. The fund consists of appropriations, gifts, grants and donations. Money in the fund is subject to appropriation by the legislature to the council for the purpose of administering the broadband grant program. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the chair of the council. Any unexpended or unencumbered balance in the fund remaining at the end of any fiscal year shall not revert to the general fund.

B. The council shall implement the broadband grant program to develop, expand and support digital inclusion; provided that the council shall each year seek to award grants for proposals submitted by the following entities throughout the state:

- (1) local governments;
- (2) state agencies;
- (3) public educational institutions;
- (4) tribal governments; and
- (5) entities created by a joint powers agreement pursuant to the Joint Powers Agreements Act.

C. When approving grants from the connect New Mexico fund, the council shall give consideration to:

(1) the extent to which the project connects unserved and underserved populations of New Mexico, with priority given to projects that will connect unserved populations;

(2) the extent to which the project meets or exceeds the baseline standards established by the federal communications commission;

(3) the extent to which the project leverages existing infrastructure;

(4) the extent to which the project complements or coordinates with the statewide broadband plan;

(5) the extent to which the project leverages regional collaboration;

(6) the degree to which the project fosters digital inclusion;

(7) the extent to which the project stimulates in-state economic development, including the creation of jobs and apprenticeships; and

(8) the extent to which the project leverages in-kind or financial support from local agencies or entities, federal assistance funding or federal Coronavirus Aid, Relief, and Economic Security Act, federal Consolidated Appropriations Act, 2021 or federal American Rescue Plan Act of 2021 funding.

## **Chapter 120 Section 7 Laws 2021**

SECTION 7. DATA COLLECTION--ANNUAL REPORT.--

A. By October 1 of each year, the department, in coordination with the council, shall provide to the appropriate legislative interim committees a report on the access to and quality of service of broadband across the state. Information shall be provided on a county-by-county basis.

B. The report shall contain the following information:

- (1) progress achieved toward digital equity and digital inclusion as identified in the digital equity analysis and plan;
- (2) progress achieved on implementation of the statewide broadband plan;
- (3) identified obstacles to an integrated system of permits, licenses and rules for broadband infrastructure across the state, including an expedited review process for rights of way use applications;
- (4) recommended statutory, regulatory or policy changes and budget recommendations for the development and expansion of broadband infrastructure and digital equity and digital inclusion; and
- (5) information on the broadband grant program, including:
  - (a) a list of grant recipients;
  - (b) the amount and date of each grant;
  - (c) a description of each project funded; and
  - (d) a description of how each project contributes to the statewide broadband plan and demonstrates increased access and quality of service for the unserved and underserved populations of New Mexico.

## Chapter 120 Section 8 Laws 2021

SECTION 8. Section 63-9H-3 NMSA 1978 (being Laws 1999, Chapter 295, Section 3, as amended) is amended to read:

"63-9H-3. DEFINITIONS.--As used in the Rural Telecommunications Act of New Mexico:

A. "affordable rates" means rates for basic service that promote universal service within a local exchange service area, giving consideration to the economic conditions and costs to provide service in the area in which service is provided;

B. "basic service" means service that is provided to a rural end-user customer that is consistent with the federal act;

C. "broadband infrastructure" means any cable or device used for high-capacity transmission over a wide range of frequencies that enables a large number of electronic messages to be transmitted or received simultaneously;

D. "cable service" means the transmission to subscribers of video programming or other programming service and subscriber interaction, if any, that is required for the selection or use of the video programming or other programming service;

E. "commission" means the public regulation commission;

F. "digital equity" means information technology needed for civic and cultural participation, employment, education, business and economic development, lifelong learning and access to essential services generally available to residents regardless of their racial grouping, socioeconomic status or cultural identity;



G. "digital inclusion" means access to and the ability to use information technologies;

H. "eligible telecommunications carrier" means an eligible telecommunications carrier as defined in the federal act;

I. "federal act" means the federal Telecommunications Act of 1996;

J. "fund" means the state rural universal service fund;

K. "incumbent local exchange carrier" means a person that:

(1) was designated as an eligible telecommunications carrier by the state corporation commission in Docket #97-93-TC by order dated October 23, 1997, or that provided local exchange service in this state on February 8, 1996; or

(2) became a successor or assignee of an incumbent local exchange carrier;

L. "incumbent rural telecommunications carrier" means an incumbent local exchange carrier that serves fewer than fifty thousand access lines within the state and has been designated as an eligible telecommunications carrier by the state corporation commission or the public regulation commission;

M. "local exchange area" means a geographic area encompassing one or more local communities, as described in maps, tariffs or rate schedules filed with the commission, where local exchange rates apply;

N. "local exchange service" means the transmission of two-way interactive switched voice communications furnished by a telecommunications carrier within a local exchange area;

O. "long distance service" means telecommunications service between local exchange areas that originate and terminate within the state;

P. "private telecommunications service" means a system, including its construction, maintenance or operation for the provision of telecommunications service, or any portion of that service, by a person for the sole and exclusive use of that person and not for resale, directly or indirectly. For purposes of this definition, the person that may use the service includes any affiliates of the person if at least eighty percent of the assets or voting stock of the affiliates is owned by the person. If any other person uses the telecommunications service, whether for hire or not, the private telecommunications service is a public telecommunications service;

Q. "public telecommunications service" means the transmission of signs, signals, writings, images, sounds, messages, data or other information of any nature by wire, radio, lightwaves or other electromagnetic means originating and terminating in this state regardless of actual call routing. "Public telecommunications service" does not include the provision of terminal equipment used to originate or terminate the service; private telecommunications service; broadcast transmissions by radio, television and satellite broadcast stations regulated by the federal communications commission; radio common carrier services, including mobile telephone service and radio paging; or cable service;

R. "statewide broadband plan" means the *State of New Mexico Broadband Strategic Plan and Rural Broadband Assessment* published by the department of information technology in June 2020; provided that, upon Senate Bill 93 of the first session of the fifty-fifth legislature becoming law, "statewide broadband plan" means the statewide broadband plan developed pursuant to that law; and

S. "telecommunications carrier" means a person that provides public telecommunications service."

## Chapter 120 Section 9 Laws 2021

SECTION 9. Section 63-9H-6 NMSA 1978 (being Laws 1999, Chapter 295, Section 6, as amended) is amended to read:

### "63-9H-6. STATE RURAL UNIVERSAL SERVICE FUND--ESTABLISHMENT.--

A. The commission shall implement and maintain a "state rural universal service fund" to maintain and support universal service that is provided by eligible telecommunications carriers, including commercial mobile radio services carriers, as are determined by the commission. As used in this section, "universal service" means basic local exchange service, comparable retail alternative services at affordable rates, service pursuant to a low-income telephone assistance plan and broadband internet access service to unserved and underserved areas as determined by the commission.

B. The fund shall be financed by a surcharge on intrastate retail public telecommunications services to be determined by the commission, excluding services provided pursuant to a low-income telephone assistance plan billed to end-user customers by a telecommunications carrier, and excluding all amounts from surcharges, gross receipts taxes, excise taxes, franchise fees and similar charges. For the purpose of funding the fund, the commission has the authority to apply the surcharge on intrastate retail public telecommunications services provided by telecommunications carriers, including commercial mobile radio services and voice over internet protocol services, at a competitively and technologically neutral rate or rates to be determined by the commission. The commission may establish the surcharge as a percentage of intrastate retail public telecommunications services revenue or as a fixed amount applicable to each communication connection. For purposes of this section, a "communication connection" means a voice-enabled telephone access line, wireless voice connection, unique voice over internet protocol service connection or other uniquely identifiable functional equivalent as determined by the commission. Such surcharges shall be competitively and technologically neutral. Money deposited in the fund is not public money, and the administration of the fund is not subject to the

provisions of law regulating public funds. The commission shall not apply this surcharge to a private telecommunications network; to the state, a county, a municipality or other governmental entity; to a public school district; to a public institution of higher education; to an Indian nation, tribe or pueblo; or to Native American customers who reside on tribal or pueblo land.

C. The fund shall be competitively and technologically neutral, equitable and nondiscriminatory in its collection and distribution of funds, portable between eligible telecommunications carriers and additionally shall provide a specific, predictable and sufficient support mechanism as determined by the commission that ensures universal service in the state.

D. The commission shall:

(1) establish eligibility criteria for participation in the fund consistent with federal law that ensure the availability of universal service at affordable rates. The eligibility criteria shall not restrict or limit an eligible telecommunications carrier from receiving federal universal service support;

(2) provide for the collection of the surcharge on a competitively neutral basis and for the administration and disbursement of money from the fund;

(3) determine those services and areas requiring support from the fund;

(4) provide for the separate administration and disbursement of federal universal service funds consistent with federal law; and

(5) establish affordability benchmark rates for local residential and business services that shall be utilized in determining the level of support from the fund. The process for determining subsequent adjustments to the benchmark shall be established through a rulemaking.

E. All incumbent telecommunications carriers and competitive carriers already designated as eligible telecommunications carriers for the fund shall be eligible for participation in the fund. All other carriers that choose to become eligible to receive support from the fund may petition the commission to be designated as an eligible telecommunications carrier for the fund. The commission may grant eligible carrier status to a competitive carrier in a rural area upon a finding that granting the application is in the public interest. In making a public interest finding, the commission may consider at least the following items:

- (1) the impact of designation of an additional eligible carrier on the size of the fund;
- (2) the unique advantages and disadvantages of the competitor's service offering; and
- (3) any commitments made regarding the quality of telephone service.

F. The commission shall adopt rules, including a provision for variances, for the implementation and administration of the fund in accordance with the provisions of this section. The rules shall enumerate the appropriate uses of fund support and any restrictions on the use of fund support by eligible telecommunications carriers. The rules shall require that an eligible telecommunications carrier receiving support from the fund pursuant to Subsection K, L or M of this section must expend no less than sixty percent of the support it receives to deploy and maintain broadband internet access services in rural areas of the state. The rules also shall provide for annual reporting by eligible telecommunications carriers verifying that the reporting carrier continues to meet the requirements for designation as an eligible telecommunications carrier for purposes of the fund and is in compliance with the commission's rules, including the provisions regarding use of support from the fund.

G. The commission shall, upon implementation of the fund, select a neutral third-party administrator to collect, administer and disburse money from the fund under the supervision and control of the commission pursuant to established criteria and rules

promulgated by the commission. The administrator may be reasonably compensated for the specified services from the surcharge proceeds to be received by the fund pursuant to Subsection B of this section. For purposes of this subsection, the commission shall not be a neutral third-party administrator.

H. The fund established by the commission shall ensure the availability of universal service as determined by the commission at affordable rates in rural areas of the state; provided, however, that nothing in this section shall be construed as granting any authority to the commission to impose the surcharge on or otherwise regulate broadband internet access services.

I. The commission shall ensure that intrastate switched access charges are equal to interstate switched access charges established by the federal communications commission as of January 1, 2006. Nothing in this section shall preclude the commission from considering further adjustments to intrastate switched access charges based on changes to interstate switched access charges.

J. To ensure that providers of intrastate retail communications service contribute to the fund and to further ensure that the surcharge determined pursuant to Subsection B of this section to be paid by the end-user customer will be held to a minimum, the commission shall adopt rules, or take other appropriate action, to require all such providers to participate in a plan to ensure accurate reporting.

K. The commission shall authorize payments from the fund to incumbent local exchange carriers, in combination with revenue-neutral rate rebalancing up to the affordability benchmark rates. Beginning in 2018, the commission shall make access reduction support payments in the amount made from the fund in base year 2014, adjusted each year thereafter by:

(1) the annual percentage change in the number of access lines served by the incumbent local exchange carriers receiving such support for the prior calendar year, as compared to base year 2014; and

(2) changes in the affordability benchmark rates that have occurred since 2014.

L. The commission shall determine the methodology to be used to authorize payments to all other carriers that apply for and receive eligible carrier status; provided, however, that nothing in this section shall limit the commission's authority to adopt rules pursuant to Subsection F of this section regarding appropriate uses of fund support and any restrictions on the use of the fund support by eligible telecommunications carriers.

M. The commission may also authorize payments from the fund to incumbent rural telecommunications carriers or to telecommunications carriers providing comparable retail alternative services that have been designated as eligible telecommunications carriers serving in rural areas of the state upon a finding, based on factors that may include a carrier's regulated revenues, expenses or investment, by the commission that such payments are needed to ensure the widespread availability and affordability of universal service. The commission shall decide cases filed pursuant to this subsection with reasonable promptness, with or without a hearing, but no later than six months following the filing of an application seeking payments from the fund, unless the commission finds that a longer time will be required, in which case the commission may extend the period for an additional three months.

N. The commission shall adopt rules that establish and implement a broadband program to provide funding to eligible telecommunications carriers for the construction and maintenance of broadband infrastructure. Each year, a minimum of eight million dollars (\$8,000,000) of the fund shall be dedicated to the broadband program.

O. Rules adopted pursuant to Subsection N of this section shall require that the commission:

(1) consider applications for funding on a technology-neutral basis;

(2) submit applications for funding to the connect New Mexico council for prioritization and alignment with the statewide broadband plan to ensure digital equity and digital inclusion; and

(3) require that the awards of support be consistent with federal universal service support programs.

P. The total obligations of the fund determined by the commission pursuant to this section, plus administrative expenses and a prudent fund balance, shall not exceed a cap of thirty million dollars (\$30,000,000) per year. The commission shall evaluate the amount of the cap in an appropriate proceeding to be completed by June 30, 2019 and consider whether, based on the then-current status of the fund, the cap should be modified, maintained or eliminated.

Q. By October 1 of each year, the commission shall make a report to the legislature regarding the status of the fund, including:

(1) relevant data relating to implementation of the broadband program and the progress toward digital equity and digital inclusion in rural areas of the state;

(2) recommendations for changes to the structure, size and purposes of the fund and whether the cap on the fund provided for in Subsection P of this section should be modified, maintained or eliminated; and

(3) the service areas that received funding awards from the broadband program and the amounts of those awards."

## **Chapter 120 Section 10 Laws 2021**

SECTION 10. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.



# LAWS 2021, CHAPTER 121

House Bill 51, aa  
Approved April 7, 2021

AN ACT

RELATING TO STATE GOVERNMENT; ENACTING THE ENVIRONMENTAL DATABASE ACT; PROVIDING FOR THE DEVELOPMENT, OPERATION AND MAINTENANCE OF A WEB-BASED INFORMATION PORTAL THAT ALLOWS PUBLIC ACCESS TO STATE ENVIRONMENTAL DATA; PROVIDING DUTIES.

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

## Chapter 121 Section 1 Laws 2021

SECTION 1. SHORT TITLE.--This act may be cited as the "Environmental Database Act".

## Chapter 121 Section 2 Laws 2021

SECTION 2. DEFINITIONS.--As used in the Environmental Database Act:

A. "environmental data" means geospatial data relating to the environmental resources in the state specified in Paragraphs (1) through (8) of Subsection D of Section 3 of the Environmental Database Act;

B. "environmental database" means the centralized, map-based, searchable website created pursuant to the Environmental Database Act that houses the state's environmental data;

C. "host" means the natural heritage New Mexico division of the museum of southwestern biology at the university of New Mexico; and

D. "state agency" means the energy, minerals and natural resources department, the department of environment, the state land office, the department of health, the department of game and fish, the public regulation commission and the historic preservation division of the cultural affairs department.

## **Chapter 121 Section 3 Laws 2021**

### **SECTION 3. ENVIRONMENTAL DATABASE--ENVIRONMENTAL DATA REQUIRED--HOST AND STATE AGENCY DUTIES.--**

A. The host, with the cooperation of the state agencies, shall improve the state's environmental data infrastructure by creating, operating and maintaining the environmental database, which shall be user-friendly, searchable and accessible to the public and state agencies and its primary services free of charge. The environmental database shall house the state's environmental data for the purpose of governmental transparency, interagency cooperation and information sharing and to provide widespread access to the best scientific data to address the state's natural resource and environmental management needs.

B. No later than December 31, 2021, the host shall establish an information exchange process for the collection and electronic publication of the state's environmental data.

C. No later than July 1, 2022, the environmental database shall be available for public access and include the environmental data specified in Subsection D of this section, subject to the confidentiality provisions of Section 4 of the Environmental Database Act.

D. The environmental database shall provide access to the state's environmental data, including:

(1) from the energy, minerals and natural resources department:

- (a) locations of active oil and gas wells;
- (b) locations of state parks;
- (c) locations of active mines;
- (d) locations of utility-scale solar and wind projects on state

land; and

(e) maps of important plant areas, maps of rare plant locations and rare plant monitoring data;

(2) from the department of environment:

- (a) locations of current permits for major sources of air pollution;
- (b) locations of current federal Clean Air Act non-attainment

areas;

(c) a map showing surface waters of New Mexico;

(d) locations of impaired waters with federal Clean Water Act Section 303(d) status;

(e) locations of floodplains and wetlands;

(f) locations of waters with special statuses;

- permits;
- (g) locations of national pollutant discharge elimination system
  - (h) ground water quality data, where available; and
  - (i) locations of the state's United States environmental protection agency superfund sites;
- (3) from the state land office:
- (a) locations of active state trust land leases; and
  - (b) locations of active rights of way across state trust land;
- (4) from the department of health:
- (a) health impact assessments;
  - (b) poverty levels across the state by zip code; and
  - (c) child asthma rates across the state by zip code;
- (5) from the department of game and fish:
- (a) designated critical habitat for federal threatened and endangered species;
  - (b) the crucial habitat layer from the crucial habitat assessment tool;
  - (c) likely habitat for state sensitive species;

- (d) riparian corridors;
- (e) identified wildlife corridors;
- (f) state wildlife action plan conservation opportunity areas;
- (g) New Mexico Audubon important bird areas; and
- (h) fisheries management plan water bodies;

(6) from the public regulation commission, the locations of electric transmission lines;

(7) from the historic preservation division of the cultural affairs department, a link to the division's database of publicly available geographic information about archaeological and cultural sites;

(8) from each state agency, at the discretion of the state agency, links to available agency-developed data and research used in decision making that the state agency determines will assist the public in understanding the state environmental data reported;

(9) a link to each state agency's website;

(10) a link to the statutes that govern each state agency;

(11) a link to the New Mexico Administrative Code; and

(12) additional information, as required by the host in cooperation with the state agencies, that will assist the public in understanding the state's environmental data.

E. A state agency shall provide the host with updates to the state agency's environmental data as frequently as possible, but at least annually.

F. The host shall update the environmental database as new data is received, but at least annually.

## **Chapter 121 Section 4 Laws 2021**

SECTION 4. PROTECTION OF CONFIDENTIAL INFORMATION.--Nothing in the Environmental Database Act shall require disclosure by a state agency of:

- A. information that is confidential by state or federal law;
- B. sensitive biological information that cannot be made publicly available for the protection of species;
- C. information required to remain confidential for safety or security reasons;
- D. archaeological or cultural survey information, unless the information is already publicly available or, if the information is of cultural significance to an Indian nation, tribe or pueblo, the disclosure is done with permission from the relevant Indian nation, tribe or pueblo; or
- E. information that is not already provided to a state agency pursuant to rule or law.

## **LAWS 2021, CHAPTER 122**

**House Bill 55, aa, w/ec**  
**Approved April 7, 2021**

AN ACT

RELATING TO CAPITAL EXPENDITURES; REQUIRING PUBLICATION OF ALLOCATIONS BY LEGISLATORS AND THE GOVERNOR OF CAPITAL OUTLAY APPROPRIATIONS OR BOND AUTHORIZATIONS; DECLARING AN EMERGENCY.

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

### **Chapter 122 Section 1 Laws 2021**

SECTION 1. A new section of Chapter 2, Article 3 NMSA 1978 is enacted to read:

"CAPITAL OUTLAY EXPENDITURE ALLOCATIONS--LEGISLATORS AND GOVERNOR--PUBLICATION.--The legislative council service shall publish on the legislative website a searchable list of capital projects that passed the legislature and the name of each legislator or the governor who allocated a portion of the capital outlay appropriation or bond authorization for each project and the amount of the allocation designated by each legislator and the governor. The capital projects list, including vetoes, shall be published thirty days after adjournment of each legislative session in which a capital projects list is approved by both chambers of the legislature."

### **Chapter 122 Section 2 Laws 2021**

SECTION 2. APPLICABILITY.--This act applies to the first session of the fifty-fifth legislature and succeeding legislatures.

### **Chapter 122 Section 3 Laws 2021**

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

# LAWS 2021, CHAPTER 123

Senate Bill 93, aa  
Approved April 7, 2021

AN ACT

RELATING TO BROADBAND; ENACTING THE BROADBAND ACCESS AND EXPANSION ACT; ESTABLISHING THE OFFICE OF BROADBAND ACCESS AND EXPANSION; PROVIDING POWERS AND DUTIES.

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

## Chapter 123 Section 1 Laws 2021

SECTION 1. SHORT TITLE.--This act may be cited as the "Broadband Access and Expansion Act".

## Chapter 123 Section 2 Laws 2021

SECTION 2. DEFINITIONS.--As used in the Broadband Access and Expansion Act:

- A. "broadband infrastructure" means any cable or device used for high-capacity transmission of a wide range of frequencies enabling a large number of electronic messages to be transmitted or received simultaneously;
- B. "broadband office" means the office of broadband access and expansion;
- C. "director" means the director of the broadband office;



D. "local government" means the government of a municipality, county or political subdivision of the state;

E. "public educational institution" means a public school, a school district, a public post-secondary educational institution or a state agency that provides administrative, funding or technical support to public schools, school districts and public post-secondary educational institutions;

F. "quality of service" means the standards established by the federal communications commission; and

G. "statewide broadband plan" means a plan, including recommended statutory changes and implementation procedures, for the development and expansion of broadband infrastructure and services throughout the state to meet the needs:

(1) for the delivery of internet-based educational, medical and emergency services;

(2) for local and tribal communities to foster and recruit internet-reliant business and industry and to promote economic development and job creation; and

(3) to support internet-reliant state, local and tribal government agency functions and facilitate the delivery of governmental services in a manner that is competitive with similar government agencies in neighboring states.

## **Chapter 123 Section 3 Laws 2021**

SECTION 3. OFFICE OF BROADBAND ACCESS AND EXPANSION  
CREATED--DIRECTOR--STANDARDS--DATA COLLECTION--STATEWIDE  
BROADBAND PLAN--ASSISTANCE FOR POLITICAL SUBDIVISIONS.--

A. The "office of broadband access and expansion" is created and is administratively attached to the department of information technology.

B. The broadband office shall be managed by the director, who shall be appointed by the governor. The director may hire staff as needed to meet the responsibilities of the broadband office.

C. The broadband office shall:

(1) establish by rule standards for quality of service for homes, businesses and public institutions;

(2) create and maintain an official, publicly accessible online New Mexico broadband access map showing broadband availability and quality of service for homes, businesses and public institutions on a county-by-county basis; and

(3) create and maintain a repository for broadband data and information in New Mexico on a county-by-county basis, including:

(a) the number of homes and businesses that do not have access to broadband service;

(b) the number of homes and businesses that have broadband service that falls below the quality of service standards established by the broadband office; and

(c) the locations of broadband infrastructure currently owned or projected for construction by the state or local governments on a county-by-county basis.

D. On or before January 1, 2022, the broadband office shall develop and provide to the governor and the legislature a three-year statewide broadband plan.

E. On or before January 1, 2023, and on or before January 1 of each year thereafter, the broadband office shall update and revise the statewide broadband plan developed pursuant to this section for the ensuing three years and report the updated and revised statewide broadband plan to the governor and the legislature. In its initial plan pursuant to Subsection D of this section and in its annual revised and updated plan pursuant to this subsection, the broadband office shall provide an assessment of broadband service across the state compared to the standards established by the various federal broadband regulatory and assistance programs.

F. In the development of the statewide broadband plan, the broadband office shall request advice and provide opportunities for meaningful input from each local and tribal government within New Mexico, and all state agencies and public educational institutions shall cooperate with and provide relevant broadband-related information collected or developed by the agencies as requested by the broadband office.

G. The broadband office shall implement the statewide broadband plan.

H. The broadband office shall provide technical and planning assistance to local governments, public educational institutions and state agencies in the design, development or implementation of their own plans for the development of broadband service. When providing planning and technical assistance, the broadband office shall encourage the use of regional planning and may provide planning and technical assistance to tribal government agencies and schools when those entities are participants in a joint powers agreement with a county, municipality, political subdivision, public educational institution or state agency or memorandum of understanding for the design, development or implementation of a regional broadband plan.

I. The broadband office may form an advisory committee comprising representatives of state, local and tribal government agencies and the general public to facilitate the collection of information and the development of proposals for the statewide broadband plan; provided that if an advisory committee is formed, at least three different tribal agencies shall be represented on the committee.

## **Chapter 123 Section 4 Laws 2021**

### **SECTION 4. COORDINATION OF STATE AND LOCAL GOVERNMENT BROADBAND EFFORTS.--**

A. The broadband office shall identify federal and nongovernmental broadband funding assistance opportunities for local governments, public educational institutions, state agencies and tribal governments and shall publish a list of those opportunities in a manner that can be searched on a county-by-county basis.

B. The broadband office may be the applicant for such funding assistance for all state agencies except the department of transportation.

C. State agencies and public educational institutions shall coordinate with the broadband office concerning the purchase of broadband infrastructure and services with the goal of obtaining best-value or bulk pricing agreements where practicable.

D. The broadband office shall coordinate with and may enter into memoranda of understanding with federal, local government, state and tribal government agencies to create an integrated system of permits, licenses and rules for broadband infrastructure across all governmental jurisdictions within each region of the state, including the creation of a centralized repository, and an expedited review process for rights of way use applications, with the goal of creating uniform coordinated permitting and licensing requirements statewide. The broadband office shall develop proposals for government agencies at the local, county and state levels to build and pay for broadband networks, upon request for such assistance.

## **LAWS 2021, CHAPTER 124**

**Senate Bill 94, aa  
Approved April 7, 2021**

## AN ACT

RELATING TO ATHLETICS; ENACTING THE STUDENT ATHLETE ENDORSEMENT ACT; PROHIBITING IMPOSITION OF LIMITATIONS AGAINST STUDENT ATHLETES AND CERTAIN OTHER INDIVIDUALS EARNING COMPENSATION FROM THE USE OF THEIR NAME, IMAGE OR LIKENESS; ALLOWING FOR THE PROFESSIONAL REPRESENTATION OF A STUDENT ATHLETE BY AN AGENT FOR MATTERS ARISING FROM THE USE OF THE STUDENT ATHLETE'S NAME, IMAGE OR LIKENESS.

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

### **Chapter 124 Section 1 Laws 2021**

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

### **Chapter 124 Section 2 Laws 2021**

SECTION 2. DEFINITIONS.--As used in the Student Athlete Endorsement Act:

A. "post-secondary educational institution" means an academic, vocational, technical, business, professional or other school, college or university or other organization or person offering or purporting to offer courses, instruction, training or education from a physical site in New Mexico, through distance education, correspondence or in person;

B. "student athlete" means an individual who engages in an intercollegiate sport; and

C. "third party" means an individual or entity other than a post-secondary educational institution, athletic association or athletic conference.

## Chapter 124 Section 3 Laws 2021

### SECTION 3. STUDENT ATHLETE COMPENSATION.--

A. A post-secondary educational institution shall not:

(1) uphold any rule, requirement, standard or other limitation that prevents a student athlete of that institution from fully participating in athletics without penalty:

(a) for receiving food, shelter, medical expenses or insurance from a third party; or

(b) for earning compensation from a third party as a result of the use of the student athlete's name, image, likeness or athletic reputation;

(2) prohibit or discourage a student athlete from wearing footwear of the student athlete's choice during official, mandatory team activities so long as the footwear does not have reflective fabric or lights or pose a health risk to a student athlete;

(3) prevent a student athlete from receiving third-party compensation for using the student athlete's name, image, likeness or athletic reputation when the student athlete is not engaged in official, mandatory team activities; or

(4) arrange third-party compensation for the use of a student athlete's name, image, likeness or athletic reputation or use such deals as inducements to recruit prospective student athletes.

B. Earning compensation from the use of a student athlete's name, image, likeness or athletic reputation shall not affect a student athlete's grant-in-aid or stipend eligibility, amount, duration or renewal. For the purposes of this section, a grant-in-aid or

stipend shall not be revoked or reduced as a result of a student athlete earning compensation pursuant to this section.

C. A third party shall not offer a student athlete a contract to provide compensation to the student athlete for use of the student athlete's name, image, likeness or athletic reputation that requires a student athlete to advertise for the sponsor in person during official, mandatory team activities without the approval of the student athlete's post-secondary educational institution.

## **Chapter 124 Section 4 Laws 2021**

SECTION 4. PROFESSIONAL REPRESENTATION.--A post-secondary educational institution shall not interfere with or prevent a student athlete from fully participating in athletics for obtaining representation unaffiliated with a post-secondary educational institution or its partners in relation to contracts or legal matters. An entity or individual that represents a post-secondary educational institution or has represented that post-secondary educational institution in the previous four years shall not represent a student athlete who is attending that post-secondary educational institution in any business agreement.

## **Chapter 124 Section 5 Laws 2021**

SECTION 5. APPLICABILITY.--The provisions of this act apply to contracts entered into on and after July 1, 2021.

# **LAWS 2021, CHAPTER 125**

**Senate Bill 256, aa**  
**Approved April 7, 2021**

AN ACT

RELATING TO PUBLIC FINANCE; INCREASING TRANSFERS FROM THE FIRE PROTECTION FUND TO THE FIRE PROTECTION GRANT FUND; PROVIDING THAT THE FIRE PROTECTION GRANT FUND SHALL NOT REVERT AT THE END OF A FISCAL YEAR; REMOVING THE REQUIREMENT THAT STIPENDS FOR VOLUNTEER FIREFIGHTERS BE PROVIDED ONLY IN UNDERSERVED AREAS; REQUIRING THAT THE FIRE PROTECTION GRANT COUNCIL ASSESS THE NEED FOR RECRUITING AND RETENTION PROGRAMS FOR VOLUNTEER FIREFIGHTERS.

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

## **Chapter 125 Section 1 Laws 2021**

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 state fire marshal for the purpose of making the following distributions:

(1) the total amount to be distributed during the fiscal year pursuant to Sections 59A-53-4, 59A-53-5 and 59A-53-5.1 NMSA 1978;

(2) the total amount of other appropriations from the fire protection fund for the fiscal year;

(3) on June 30, 2017, no distribution shall be made to the fire protection grant fund;



(4) in fiscal years 2019 through 2021, periodic allotments not to exceed forty and two-tenths percent of the projected remaining balance in the fire protection fund shall be distributed to the fire protection grant fund; and

(5) beginning in fiscal year 2022, periodic allotments equaling the total projected remaining balance in the fire protection fund shall be distributed to the fire protection grant fund.

B. As of June 30 of each year, the remaining unexpended balance in the fire protection fund shall be transferred to the general fund."

## **Chapter 125 Section 2 Laws 2021**

SECTION 2. Section 59A-53-18 NMSA 1978 (being Laws 2006, Chapter 103, Section 7, as amended) is amended to read:

"59A-53-18. FIRE PROTECTION GRANT FUND--CREATED--USES.--The "fire protection grant fund" is created in the state treasury. The fund shall consist of transfers, distributions, appropriations, gifts, grants, donations and bequests made to the fund. Income from the fund shall be credited to the fund, and money in the fund shall not revert or be transferred to any other fund at the end of a fiscal year. Money in the fund is appropriated to the fire protection grant council for the purposes of making distributions approved by the council for the critical needs of municipal fire departments and county fire districts. Expenditures from the fund shall be made on warrant of the secretary of finance and administration pursuant to vouchers signed by the marshal."

## **Chapter 125 Section 3 Laws 2021**

SECTION 3. 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. The council consists 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 fire services council, who shall serve at the pleasure of the council;
  - (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. 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.

C. The council shall develop criteria for assessing the critical needs of municipal fire departments 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;

- (6) stipends for volunteer firefighters; and
- (7) recruiting and retention programs for volunteer firefighters.

D. 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.

E. In awarding grant assistance, the council may require conditions and procedures necessary to ensure that the money is expended in the most prudent manner.

F. When considering applications for grant assistance to pay stipends to volunteer firefighters, the council shall:

- (1) 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;

- (2) require a basic level of training before a volunteer may receive a stipend;

- (3) consider whether the fire district requires a service commitment from its volunteer firefighters in exchange for stipends; and

- (4) weight the applications against other criteria or requirements determined by the council."

## **Chapter 125 Section 4 Laws 2021**

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

## **LAWS 2021, CHAPTER 126**

**SFC/Senate Bill 439, aa, w/ec**  
**Approved April 7, 2021**

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE; MAKING AN APPROPRIATION FOR LEGISLATIVE STAFF WHO HAVE BEEN WORKING IN THE STATE CAPITOL DURING THE PUBLIC HEALTH EMERGENCY.

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

## **Chapter 126 Section 1 Laws 2021**

SECTION 1. APPROPRIATION.--One hundred sixty-five thousand dollars (\$165,000) is appropriated from legislative cash balances to the legislature for expenditure in fiscal year 2021 to provide a one-time three-hundred-dollar (\$300) compensation adjustment for legislative permanent, session and contract staff who have been working in the state capitol during the public health emergency. Any unexpended or unencumbered balance remaining at the end of fiscal year 2021 shall revert to legislative cash balances.

## **LAWS 2021, CHAPTER 127**

**House Bill 112, aa, w/cc**

**Approved April 8, 2021**

AN ACT

RELATING TO HEALTH; REQUIRING PROVISION OF HEALTH-RELATED BENEFITS AND SERVICES FOR INDIGENT PATIENTS REGARDLESS OF IMMIGRATION STATUS.

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

**Chapter 127 Section 1 Laws 2021**

SECTION 1. ELIGIBILITY FOR STATE OR LOCAL HEALTH BENEFITS.--

A. A state or local health benefit shall be provided to all non-citizens, regardless of immigration status, if they meet all other qualifying criteria for such benefit.

B. For purposes of this section:

(1) "health care services" means treatment and services designed to promote improved health, including primary care, prenatal care, dental care, behavioral health care, provision of prescription drugs, preventive care or health outreach services, provided by a state agency, county, local government or state educational institution named in Article 12, Section 11 of the constitution of New Mexico or an entity with which the state agency, county, local government or state educational institution named in Article 12, Section 11 of the constitution of New Mexico contracts to provide such services; and

(2) "state or local health benefit" means any health benefit for which payments, assistance or health care services are provided to an individual, household or family eligibility unit by an agency of the state, a county, a local government or a state educational institution named in Article 12, Section 11 of the constitution of New Mexico

or by appropriated funds of the state, a county, a local government or a state educational institution named in Article 12, Section 11 of the constitution of New Mexico, as permitted by federal law. "State or local health benefit" includes care or services for indigent persons or patients provided or funded pursuant to the Hospital Funding Act or the Indigent Hospital and County Health Care Act.

## **Chapter 127 Section 2 Laws 2021**

SECTION 2. Section 4-48B-8 NMSA 1978 (being Laws 1947, Chapter 148, Section 6, as amended) is amended to read:

"4-48B-8. SICK AND INDIGENT PERSONS--AGREEMENTS FOR CARE WITH STATE AND COUNTY AGENCIES.--Counties, by their county commissioners, are authorized to make agreements with state or county agencies or other agencies for the care of sick and indigent persons. Such care shall be provided to all non-citizens, regardless of immigration status, if they meet all other qualifying criteria for such care."

## **Chapter 127 Section 3 Laws 2021**

SECTION 3. Section 27-5-6 NMSA 1978 (being Laws 1965, Chapter 234, Section 6, as amended) is amended to read:

"27-5-6. POWERS AND DUTIES OF COUNTIES RELATING TO INDIGENT CARE.--A county:

A. may budget for expenditure on ambulance services, burial expenses, hospital or medical expenses for indigent residents of that county and for costs of development of a countywide or multicounty health plan. The combined costs of administration and planning shall not exceed the following percentages of revenues based on the previous fiscal year revenues for a fund that has existed for at least one fiscal year or based on projected revenues for the year being budgeted for a fund that has existed for less than one fiscal year. The percentage of the revenues in the fund

that may be used for such combined administrative and planning costs is equal to the sum of the following:

(1) ten percent of the amount of the revenues in the fund not over five hundred thousand dollars (\$500,000);

(2) eight percent of the amount of the revenues in the fund over five hundred thousand dollars (\$500,000) but not over one million dollars (\$1,000,000); and

(3) four and one-half percent of the amount of the revenues in the fund over one million dollars (\$1,000,000);

B. may accept contributions of public funds for county health care services, which shall be deposited in the fund;

C. may hire personnel to carry out the provisions of the Indigent Hospital and County Health Care Act;

D. shall transfer to the state by the last day of March, June, September and December of each year an amount equal to one-fourth of the county's payment pursuant to Section 27-5-6.2 NMSA 1978. This money shall be deposited in the safety net care pool fund;

E. shall, in carrying out the provisions of the Indigent Hospital and County Health Care Act, comply with the standards of the federal Health Insurance Portability and Accountability Act of 1996;

F. may provide for the transfer of money from the fund to the county-supported medicaid fund to meet the requirements of the Statewide Health Care Act; and

G. may contract with ambulance providers, hospitals or health care providers for the provision of services for indigent patients domiciled within the county; such

services shall be provided to all non-citizens, regardless of immigration status, if they meet all other qualifying criteria for such services."

## **Chapter 127 Section 4 Laws 2021**

SECTION 4. A new section of the Indigent Hospital and County Health Care Act is enacted to read:

"NONDISCRIMINATION--INDIGENT PATIENTS.--Qualifying hospitals and hospitals with which a county contracts to provide for the services of indigent patients shall provide those services for indigent patients, including financial assistance, to all non-citizens, regardless of immigration status, if they meet all other qualifying criteria for such services."

## **LAWS 2021, CHAPTER 128**

**HSEIC/House Bill 234, aa**  
**Approved April 8, 2021**

AN ACT

RELATING TO GUARDIANSHIP; STRENGTHENING OFFICE OF GUARDIANSHIP LEGAL AND PROFESSIONAL SERVICES FOR INCOME-ELIGIBLE ADULTS; ESTABLISHING A WORKING INTERDISCIPLINARY NETWORK OF GUARDIANSHIP STAKEHOLDERS; REQUIRING THE OFFICE OF GUARDIANSHIP TO PUBLISH AN ANNUAL REPORT; ESTABLISHING THE OFFICE OF GUARDIANSHIP VOLUNTEER COURT VISITOR PROGRAM; REQUIRING CONSIDERATION OF LESS RESTRICTIVE ALTERNATIVES TO GUARDIANSHIP; ESTABLISHING THE COURT VISITOR PILOT PROGRAM.

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



## **Chapter 128 Section 1 Laws 2021**

SECTION 1. A new section of the Office of Guardianship Act is enacted to read:

"DEFINITIONS.--As used in the Office of Guardianship Act:

A. "professional guardian" means an individual or entity appointed by a court that serves as a guardian for more than two individuals who are not related to the guardian by marriage, adoption or third degree of blood or affinity; and

B. "protected person" means a person eighteen years of age or older for whom a guardian or conservator has been appointed or other protective order has been made."

## **Chapter 128 Section 2 Laws 2021**

SECTION 2. Section 28-16B-2 NMSA 1978 (being Laws 2003, Chapter 280, Section 2) is amended to read:

"28-16B-2. OFFICE OF GUARDIANSHIP--CREATED--STAFF.--

A. The "office of guardianship" is created in the developmental disabilities planning council.

B. The executive director of the developmental disabilities planning council shall employ a head of the office who shall be an attorney licensed in New Mexico who is hired on the basis of ability, experience and knowledge of guardianship issues under the Uniform Probate Code. The position shall be classified pursuant to the Personnel Act.

C. Subject to appropriations, the executive director may hire such other professional and clerical staff as necessary to carry out the purposes of the office."

## Chapter 128 Section 3 Laws 2021

SECTION 3. Section 28-16B-3 NMSA 1978 (being Laws 2003, Chapter 280, Section 3, as amended) is amended to read:

"28-16B-3. OFFICE--POWERS AND DUTIES.--

A. The office of guardianship may:

(1) promulgate rules in accordance with the State Rules Act to carry out the provisions of the Office of Guardianship Act; and

(2) enter into agreements with other state or federal agencies to provide guardianship services and to provide or receive payment for such services.

B. The office of guardianship shall:

(1) provide for adult guardianship services to income-eligible incapacitated persons, including temporary guardianship as provided in Section 45-5-310 NMSA 1978;

(2) provide for the recruitment and training of persons interested and willing to serve as mental health treatment guardians;

(3) provide training and information to interested persons on the duties and responsibilities of guardians, including alternatives to guardianship and mental health treatment guardianship;

(4) establish procedures for the investigation and resolution of complaints against guardianship and legal services providers that have entered into service agreements with the office;

(5) provide legal services, including petitioning attorney, guardian ad litem and court visitor services, to petition the district court for guardianship of persons believed to be incapacitated or to seek amendment or termination of existing guardianship orders if the needs or situation of protected persons have changed; provided that the selection of persons to receive guardianship and legal services shall be made by the office based on selection criteria established by rule;

(6) prior to providing legal services to petition for guardianship, identify and provide information on least restrictive options, including alternatives to guardianship, to the alleged incapacitated person and to individuals applying for guardianship services;

(7) publish an annual report regarding the guardianship and legal services provided by the office of guardianship, including the:

(a) number and ages of protected persons assigned to a professional guardian, the judicial district where the guardianship case is assigned and the reason for appointment of a guardian;

(b) number of guardianship petitions filed by the office and the status of the petitions;

(c) number of income-eligible alleged incapacitated persons or protected persons on the wait list;

(d) number of applicants requesting family guardians and the number requesting professional guardians;

(e) number of cases dismissed or terminated and the reasons for the dismissal or termination;

(f) number of complaints the office received against guardianship and legal services providers, and the status of the complaints;

(g) disciplinary or legal actions taken by the office against guardianship and legal services providers;

(h) number of complaints filed against the office and the status of the complaints; and

(i) number of cases in which a professional guardian was removed, and the reason for the removal;

(8) establish and manage a volunteer court visitor program to provide post-adjudication court visitor services for adult guardianship cases when requested by the district court; and

(9) serve as an interested person as defined in Subsection I of Section 45-5-101 NMSA 1978."

## **Chapter 128 Section 4 Laws 2021**

SECTION 4. Section 28-16B-4 NMSA 1978 (being Laws 2003, Chapter 280, Section 4, as amended) is amended to read:

"28-16B-4. SERVICE AGREEMENT MONITORING AND ENFORCEMENT.--

A. The office of guardianship shall monitor professional guardians providing services to income-eligible protected persons and enforce agreements the office has executed with guardianship and legal services providers. In carrying out this duty, the office may:

(1) have access to case records, copies of court filings and reports, financial records and other records maintained by guardianship and legal services providers related to the services provided to income-eligible protected persons, unless specifically sequestered by the court;

(2) petition the court of jurisdiction for access to records that have been sequestered;

(3) conduct annual comprehensive service reviews to ensure service providers comply with service agreements and statutory duties;

(4) visit protected persons to evaluate the adequacy of guardianship services provided and determine if the guardianship should be amended or terminated; and

(5) pursue legal and other remedies against service providers for noncompliance with service agreements and statutory duties.

B. The office shall protect and maintain the confidentiality of all client-specific information and records obtained to the same extent as required for the service providers and to any extent otherwise required by state or federal law."

## **Chapter 128 Section 5 Laws 2021**

SECTION 5. Section 28-16B-5 NMSA 1978 (being Laws 2003, Chapter 280, Section 5, as amended) is amended to read:

"28-16B-5. GUARDIANSHIP SERVICE AGREEMENTS.--A service agreement for guardianship services shall include:

A. a requirement that service providers be certified and in good standing with a national or state organization recognized by the supreme court that provides professional certification for guardians;

B. a requirement for adoption and compliance with a code of ethics for guardians;

- C. the maximum caseload for guardians;
- D. the fee schedule for services provided;
- E. assurance that the civil rights of protected persons served by the service provider shall be met, including the right to be served in the most integrated setting appropriate to the needs of the protected person;
- F. provisions for access by the office of guardianship to records, protected persons and service provider staff as needed to monitor and enforce contract compliance and for quality assurance purposes; and
- G. minimum financial accounting and reporting requirements."

## **Chapter 128 Section 6 Laws 2021**

SECTION 6. Section 45-5-303.1 NMSA 1978 (being Laws 1989, Chapter 252, Section 6, as amended) is amended to read:

"45-5-303.1. DUTIES OF GUARDIAN AD LITEM.--

- A. The guardian ad litem shall:
  - (1) interview in person the alleged incapacitated person prior to the hearing;
  - (2) present the alleged incapacitated person's declared position to the court;
  - (3) identify and present all available less restrictive alternatives to guardianship;

- (4) interview the qualified health care professional, the visitor and the proposed guardian;
- (5) review both the medical report submitted by the qualified health care professional and the report by the visitor;
- (6) obtain independent medical or psychological assessments, or both, if necessary; and
- (7) file a written report with the court prior to the hearing on the petition for appointment.

B. Unless otherwise ordered by the court, the duties of the guardian ad litem terminate and the guardian ad litem is discharged from duties upon entry of the order appointing the guardian and acceptance of the appointment by the guardian."

## **Chapter 128 Section 7 Laws 2021**

SECTION 7. Section 45-5-307 NMSA 1978 (being Laws 1975, Chapter 257, Section 5-307, as amended) is amended to read:

"45-5-307. DEATH, SUBSTITUTION, REVIEW AND TERMINATION OF GUARDIANSHIP.--

A. On the petition of the incapacitated person or any person interested in the incapacitated person's welfare and upon notice and hearing, the court may remove a guardian and appoint a successor if it is in the best interest of the incapacitated person or if the guardian fails to comply with the guardian's duties as required by Section 45-5-312 NMSA 1978.

B. Upon death, removal or resignation of a guardian, the court may appoint another guardian or make any other order that may be appropriate. If a successor

guardian is appointed, the successor guardian succeeds to the title and powers of the successor guardian's predecessor.

C. The incapacitated person or any person interested in the incapacitated person's welfare may petition for an order that the incapacitated person is no longer incapacitated and for removal or resignation of the guardian. A request for this order may be made by informal letter to the court or judge. Any person who knowingly interferes with transmission of this kind of request to the court may be adjudged guilty of contempt of court.

D. Unless waived by the court upon the filing of a petition to terminate a guardianship for reasons other than the death of the incapacitated person, the court shall follow the same procedures to safeguard the rights of the incapacitated person as those that apply to a petition for appointment of a guardian as set forth in Section 45-5-303 NMSA 1978.

E. In a proceeding that increases the guardian's authority or reduces the autonomy of the protected person, the court shall follow the same procedures to safeguard the rights of the incapacitated person as those that apply to a petition for appointment of a guardian, as set forth in Section 45-5-303 NMSA 1978.

F. Following receipt of a request for review, the court shall hold a status hearing, which may be informal, to determine the appropriate order to be entered. If the court finds the incapacitated person is capable of more autonomy than at the time of the original order, the court may enter an order removing the guardian, terminating the guardianship or reducing the powers previously granted to the guardian. The court has the option to follow all or part of the procedures that apply for the appointment of a guardian as set forth in Section 45-5-303 NMSA 1978.

G. At any time following the appointment of a guardian, but not later than ten years after the initial appointment of a guardian for a protected person and every ten years thereafter, the court shall:



(1) hold a status hearing, after notice to the guardian, the protected person and appropriate interested persons, to review the status of the protected person's capacity and the continued need for a guardian; or

(2) appoint a court investigator to assess the protected person's capacity. The court investigator shall prepare a detailed report to the court regarding the status of the protected person's capacity and the continued need for a guardian. Any report shall be made available to the guardian, the protected person and interested persons identified by the court.

H. If the court is unable to contact either the guardian or the protected person and neither appears for the status hearing held pursuant to Paragraph (1) of Subsection G of this section, the court shall appoint a guardian ad litem or court investigator to investigate and report to the court as to the status of the protected person and the guardian. Any report shall be made available to the guardian, the protected person and appropriate interested persons, if known to the court.

I. Following the status hearing or the court's report from the court investigator or guardian ad litem on the status of the protected person and the guardian as provided in Subsection H of this section, the court may enter an appropriate order; provided that, in entering an order that increases the guardian's authority or reduces the autonomy of the protected person, the court shall follow the same procedures to safeguard the rights of the incapacitated person as those that apply to a petition for appointment of a guardian, as set forth in Section 45-5-303 NMSA 1978."

## **Chapter 128 Section 8 Laws 2021**

SECTION 8. Section 45-5-312 NMSA 1978 (being Laws 1975, Chapter 257, Section 5-312, as amended) is amended to read:

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

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

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

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

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

(3) if no agent is entitled to make health care decisions for the protected person under the provisions of the Uniform Health-Care Decisions Act, then the guardian shall make health care decisions for the protected person in accordance with the provisions of that act. In exercising health care powers, a guardian may

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

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

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

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

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

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

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

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

(5) the guardian shall exercise the guardian's supervisory powers over the protected person in a manner that is least restrictive of the protected person's personal freedom and consistent with the need for supervision. Professional guardians shall follow the following standards in the national guardianship association standards of practice:

- (a) informed consent;
- (b) standards for decision making;
- (c) least restrictive alternatives;
- (d) self-determination of the person; and
- (e) the guardian's duties regarding diversity and personal preferences of the person.

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

D. Unless authorized by the court by specific order, a guardian for an adult shall not revoke or amend a power of attorney for health care or power of attorney for finances signed by the adult. If a power of attorney for health care is in effect, unless there is a court order to the contrary, a health care decision of an agent takes

precedence over that of the guardian, and the guardian shall cooperate with the agent to the extent feasible. If a power of attorney for finances is in effect, unless there is a court order to the contrary, a decision by the agent that the agent is authorized to make under the power of attorney for finances takes precedence over that of the guardian, and the guardian shall cooperate with the agent to the extent feasible.

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

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

(1) authorized by the court by specific order;

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

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

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

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

G. A guardian for a protected person shall seek and support the least restrictive option, consistent with the court's guardianship order of appointment,

including developing adequate supports and requesting guardianship termination if less restrictive alternatives to guardianship are appropriate."

## **Chapter 128 Section 9 Laws 2021**

SECTION 9. Section 45-5-314 NMSA 1978 (being Laws 1989, Chapter 252, Section 14, as amended) is amended to read:

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

A. The guardian of an incapacitated person shall file an initial report with the appointing court within ninety days of the guardian's appointment. Thereafter, the guardian shall file an annual report within thirty days of the anniversary date of the guardian's appointment. A copy of the report shall also be submitted to the district judge who appointed the guardian or the judge's successor, to the incapacitated person and to the incapacitated person's conservator, if any. The guardianship annual report review division at the administrative office of the courts shall review all reports upon their filing. The results of the review shall be delivered to the district judge presiding over the guardianship case. The report shall include information concerning the progress and condition of the incapacitated person, including the incapacitated person's health, medical and dental care, residence, education, employment and habitation; a report on the manner in which the guardian carried out the guardian's powers and fulfilled the guardian's duties; and the guardian's opinion regarding the continued need for guardianship. If the guardian has been provided power pursuant to Paragraph (4) of Subsection B of Section 45-5-312 NMSA 1978, the report shall contain information on financial decisions made by the guardian. Only reports that substantially comply with forms approved by the supreme court shall be accepted by the court as fulfilling the requirements of this section.

B. Any guardian may rely on a qualified health care professional's current written report to provide descriptions of the physical and mental conditions required in the report provided for in Subsection A of this section.

C. The guardian may be fined twenty-five dollars (\$25.00) per day for an overdue interim or annual report. The fine shall be paid to the current school fund.

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

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

## **Chapter 128 Section 10 Laws 2021**

SECTION 10. Section 45-5-409 NMSA 1978 (being Laws 1989, Chapter 252, Section 22, as amended) is amended to read:

"45-5-409. ANNUAL REPORT AND ACCOUNT--AUDITS.--

A. Every conservator shall file an annual report and account with the appointing court within thirty days of the anniversary date of the conservator's appointment, upon the conservator's resignation or removal or upon termination of the conservatorship. A copy of the annual report and account shall also be submitted to the district judge who appointed the conservator or the conservator's successor, to the incapacitated person and to the incapacitated person's guardian, if any. The report shall include information concerning the progress and condition of the person under conservatorship, a report on the manner in which the conservator carried out the conservator's powers and fulfilled the conservator's duties and the conservator's opinion regarding the continued need for conservatorship. Only reports that substantially comply with forms approved by the supreme court shall be accepted by the court as fulfilling the requirements of this section.

B. Any conservator may rely on a qualified health care professional's current written report to provide descriptions of the physical and mental conditions required in the report provided for in Subsection A of this section.

C. The court shall not waive the requirement of an annual report and account under any circumstance, but may grant an extension of time. The court may require the filing of more than one report and account annually.

D. The conservator may be fined twenty-five dollars (\$25.00) per day for an overdue interim or annual report and account. The fine shall be paid to the current school fund.

E. In connection with an account, the court may require a conservator to submit to a physical check of the property in the conservator's control, to be made in any manner the court may order.

F. In any case in which property consists in whole or in part of benefits paid by the United States department of veterans affairs to the conservator or the conservator's predecessor for the benefit of the protected person, the department office that has jurisdiction over the area is entitled to a copy of any report and account filed under Chapter 45, Article 5 NMSA 1978.

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

H. The court shall forward all reports submitted under Section 45-5-409 NMSA 1978 to the office of the state auditor for review within five business days of receipt of the report. The office of the state auditor shall review the report filed by the conservator and decide whether a full audit is necessary. The office of the state auditor shall submit, within fifteen business days of receiving a report from the court, either a letter of review declining to conduct a full audit or a letter of acceptance to conduct an audit. If the office of the state auditor decides to conduct an audit of the contents in the report, an audit report shall be filed with the court within ninety calendar days of filing an



acceptance for an audit. The state auditor shall have the authority to subpoena any documents, records or statements from any individual, company, entity or financial institution necessary to conduct an audit of the contents of a conservator's report. The office of the state auditor shall be available to testify at any court hearing concerning the results of the audit report."

## **Chapter 128 Section 11 Laws 2021**

SECTION 11. A new section of Chapter 34, Article 2 NMSA 1978 is enacted to read:

### **"WORKING INTERDISCIPLINARY NETWORK OF GUARDIANSHIP STAKEHOLDERS--CREATED.--**

A. The supreme court shall establish the "working interdisciplinary network of guardianship stakeholders" to provide ongoing evaluation of New Mexico laws, services and practices related to adult guardianship and conservatorship.

B. The network shall consist of the following members appointed by the chief justice of the supreme court in a manner that reflects a geographic balance:

- (1) one or more members of the judiciary;
- (2) the secretary of aging and long-term services or the secretary's designee;
- (3) the executive director of the developmental disabilities planning council or the executive director's designee;
- (4) the chief executive officer of the interagency behavioral health purchasing collaborative or the chief executive officer's designee;

- (5) the state auditor or the state auditor's designee;
- (6) the attorney general or the attorney general's designee;
- (7) one or more members of the legislature;
- (8) the chief executive officer of disability rights New Mexico or the chief executive officer's designee;
- (9) a professional guardian;
- (10) a professional conservator;
- (11) a family guardian;
- (12) a family member, who is not a guardian or conservator, of a protected person;
- (13) an attorney;
- (14) a health care provider with experience in working with patients in need of guardianship;
- (15) one or more members of an Indian nation, tribe or pueblo located wholly or partly in New Mexico;
- (16) two protected persons;
- (17) a representative of the administrative office of the courts;
- (18) a representative of the American association of retired persons;

and

(19) any other stakeholder the chief justice deems appropriate.

C. The chief justice shall appoint the network chair and an executive committee from the network membership.

D. After the initial appointments, members shall serve staggered four-year terms and may be reappointed. Initial appointments shall be for terms of at least two years.

E. The network shall meet at least four times each year. Members may be reimbursed for travel expenses in accordance with the Per Diem and Mileage Act. The network shall provide reasonable accommodations to make the meetings accessible to its members."

## **Chapter 128 Section 12 Laws 2021**

SECTION 12. A new section of Chapter 34, Article 2 NMSA 1978 is enacted to read:

"WORKING INTERDISCIPLINARY NETWORK OF GUARDIANSHIP STAKEHOLDERS--DUTIES.--The working interdisciplinary network of guardianship stakeholders shall:

A. identify strengths and weaknesses in New Mexico's system of adult guardianship and conservatorship;

B. identify the least restrictive decision-making options for alleged incapacitated persons and protected persons under guardianship and conservatorship;

C. review national standards on guardianship and conservatorship practices and recommend standards for implementation in New Mexico;

D. propose methods of training guardians and conservators in best practices or adopted standards;

E. recommend outreach, education and training as needed; and

F. serve as an ongoing problem-solving mechanism to enhance the quality of care and quality of life for adults who are or may soon be in the guardianship or conservatorship system."

## **Chapter 128 Section 13 Laws 2021**

### **SECTION 13. COURT VISITOR PILOT PROGRAM.--**

A. The supreme court shall designate three judicial districts to participate in a court visitor pilot program. The administrative office of the courts shall randomly select cases from each judicial district designated to participate in the pilot program, and in each selected case, the court shall appoint a volunteer court visitor post-adjudication, who shall be provided by the office of guardianship.

B. The visitor shall review any reports filed by the guardian, visit the protected person where the person resides, fulfill all responsibilities outlined in the volunteer court visitor agreement executed with the office of guardianship and submit a written report to the court. The report to the court shall include:

(1) any changes to the information provided in the guardian's last report;

(2) any changes in the protected person's needs since the filing of the guardian's last report;

(3) whether any grievances, as defined in Section 45-5-110 NMSA 1978, have been made, and resolutions of the grievances, if any;

(4) whether the guardian adequately meets the protected person's needs, including the protected person's living arrangements, medical and health care needs, and, if not, the reasons why the needs are not adequately met;

(5) a recommendation regarding the appropriateness of the guardianship, including whether the guardianship should be limited, increased or terminated; and

(6) any other information the court deems appropriate.

C. The court visitor pilot program shall be implemented no later than July 1, 2022.

## **Chapter 128 Section 14 Laws 2021**

SECTION 14. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

# **LAWS 2021, CHAPTER 129**

**House Bill 266, aa**  
**Approved April 8, 2021**

AN ACT

RELATING TO SCHOOL PERSONNEL; CHANGING THE REQUIREMENTS FOR AN ALTERNATIVE LEVEL ONE TEACHING LICENSE FOR SPECIAL EDUCATION TEACHERS; GRANDFATHERING CURRENT LICENSEES.

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

## Chapter 129 Section 1 Laws 2021

SECTION 1. Section 22-10A-8 NMSA 1978 (being Laws 2003, Chapter 153, Section 39, as amended by Laws 2011, Chapter 36, Section 1 and by Laws 2011, Chapter 95, Section 2) is amended to read:

"22-10A-8. ALTERNATIVE LEVEL ONE LICENSE.--

A. Except as provided in Subsection B of this section, the department shall issue an alternative level one license to a person who is at least eighteen years of age and who:

(1) has completed a baccalaureate degree at an accredited institution of higher education and has received a passing score on a state-approved subject-area examination in the subject area of instruction for which the person is applying for a license; or

(2) has completed a master's degree at an accredited institution of higher education, including completion of a minimum of twelve graduate credit hours in the subject area of instruction for which the person is applying for a license; or

(3) has completed a doctoral or law degree at an accredited institution of higher education; and

(4) has passed the New Mexico teacher assessments examination, including for elementary licensure beginning January 1, 2013, a rigorous assessment of the candidate's knowledge of the science of teaching reading; and

(5) within two years of beginning teaching, completes a minimum of twelve semester hours of instruction in teaching principles in a program approved by the department; or

(6) demonstrates to the department, in conjunction with the school district or state agency, that the person has met the department-approved competencies for level one teachers that correspond to the grade level that will be taught.

B. A person seeking an alternative level one special education license to teach students with disabilities shall be at least eighteen years of age and meet the educational and assessment requirements of Paragraphs (1) through (4) of Subsection A of this section, as applicable. In addition, the person shall serve a fifteen-week apprenticeship under a level two or three-A special education teacher while taking related and interwoven coursework at a post-secondary educational institution that is designed to connect pedagogical theory with teaching practice, including:

- (1) lesson planning;
- (2) classroom and behavior management for students with special needs;
- (3) learning theory;
- (4) foundations of special education; and
- (5) culturally and linguistically relevant teaching techniques.

C. A degree or examination referred to in Subsection A of this section shall correspond to the subject area of instruction and the particular grade level that will enable the applicant to teach in a competent manner as determined by the department.

D. An alternative level one or alternative level one special education teacher shall participate in the same mentorship, evaluation and other professional development requirements as other level one teachers.

E. A school district or state agency shall not discriminate against a teacher on the basis that the teacher holds an alternative level one license.

F. The department shall provide by rule for training and other requirements to support the use of unlicensed content area experts as resources in classrooms, team teaching, on-line instruction, curriculum development and other purposes."

## **Chapter 129 Section 2 Laws 2021**

SECTION 2. SAVING CLAUSE.--Persons holding alternative level one special education licenses on July 1, 2022 are not required to apply for a new license.

## **Chapter 129 Section 3 Laws 2021**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2022.

# **LAWS 2021, CHAPTER 130**

**HEC/House Bill 331**  
**Approved April 8, 2021**

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE; HOLDING SCHOOL DISTRICTS AND CHARTER SCHOOLS HARMLESS IN FISCAL YEAR 2022 FUNDING FORMULA CALCULATIONS FOR EFFECTS OF THE CORONAVIRUS DISEASE 2019 PANDEMIC ON TRANSPORTATION; MAKING TEMPORARY ADJUSTMENTS TO TRANSPORTATION DISTRIBUTIONS.

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



## Chapter 130 Section 1 Laws 2021

SECTION 1. Section 22-8-29 NMSA 1978 (being Laws 1967, Chapter 16, Section 78, as amended) is amended to read:

"22-8-29. TRANSPORTATION DISTRIBUTIONS--REPORTS--PAYMENTS.--

A. On the second reporting date and the third reporting date of each year, each local school board of a school district and governing body of a state-chartered charter school shall report to the state transportation director, upon forms furnished by the state transportation director, the following information concerning the school district's or state-chartered charter school's operation on each respective reporting date of the current year:

- (1) the number and designation of school bus routes in operation in the school district;
- (2) the number of miles traveled by each school bus on each school bus route, showing the route mileage in accordance with the type of road surface traveled;
- (3) the number of students, including special education students, transported on each reporting date of the current year and adjusted for special education students on December 1;
- (4) the projected number of students to be transported in the next school year;
- (5) the seating capacity, age and mileage of each bus used in the school district for student transportation; and

(6) the number of total miles traveled for each school district's or state-chartered charter school's per capita feeder routes.

B. Each local school board of a school district and governing body of a state-chartered charter school maintaining a school bus route shall make further reports to the state transportation director at other times specified by the state transportation director.

C. The state transportation director shall certify to the secretary that the allocations from the transportation distributions to each school district and state-chartered charter school are based upon the transportation distribution formula established in the Public School Code, calculated and distributed for the entire school year using an average of the amounts reported pursuant to Subsection A of this section on the second reporting date and third reporting date of the prior school year, and are subject to audit and verification; provided that for fiscal year 2022, the state transportation director shall use an average of the amounts reported pursuant to Subsection A of this section on the second and third reporting dates of fiscal year 2020.

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 130 Section 2 Laws 2021**

SECTION 2. Section 22-8-29.1 NMSA 1978 (being Laws 1995, Chapter 208, Section 10, as amended) is amended to read:

"22-8-29.1. CALCULATION OF TRANSPORTATION ALLOCATION.--

A. As used in this section:

(1) "annual variables" means the coefficients calculated by regressing the total operational expenditures from two years prior to the current school year for each school district and state-chartered charter school using the number of students transported and the numerical value of site characteristics; provided that for fiscal year 2022, the coefficients shall be calculated by regressing the total operational expenditures from fiscal year 2019;

(2) "base amount" means the fixed amount that is the same for all school districts and an amount established by rule for state-chartered charter schools;

(3) "total operational expenditures" means the sum of all to-and-from school transportation expenditures, excluding expenditures incurred in accordance with the provisions of Section 22-8-27 NMSA 1978; and

(4) "variable amount" means the sum of the product of the annual variables multiplied by each school district's or state-chartered charter school's numerical value of the school district's and state-chartered charter school's site characteristics multiplied by the number of days of operation for each school district or state-chartered charter school.

B. The department shall calculate the transportation allocation for each school district and state-chartered charter school.

C. The base amount is designated as product A. Product A is the constant calculated by regressing the total operational expenditures from the two years prior to the current school year for school district or state-chartered charter school operations using the numerical value of site characteristics approved by the department. The legislative education study committee and the legislative finance committee may review the site characteristics developed by the state transportation director prior to approval by the department.

D. The variable amount is designated as product B. Product B is the predicted additional expenditures for each school district or state-chartered charter

school based on the regression analysis using the site characteristics as predictor variables multiplied by the number of days.

E. The allocation to each school district and state-chartered charter school shall be equal to product A plus product B. The adjustment factor shall be applied to the calculation.

F. For the 2001-2002, 2002-2003 and 2003-2004 school years, the transportation allocation for each school district shall not be less than ninety-five percent or more than one hundred five percent of the prior school year's transportation expenditure."

## **LAWS 2021, CHAPTER 131**

**HJC/HLVMC/House Bill 20, aa, w/cc**  
**Approved April 8, 2021**

AN ACT

RELATING TO EMPLOYMENT; ENACTING THE HEALTHY WORKPLACES ACT;  
PROVIDING REQUIREMENTS FOR EARNED SICK LEAVE; PROVIDING  
PENALTIES.

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

### **Chapter 131 Section 1 Laws 2021**

SECTION 1. SHORT TITLE.--This act may be cited as the "Healthy Workplaces Act".

## Chapter 131 Section 2 Laws 2021

### SECTION 2. DEFINITIONS.--As used in the Healthy Workplaces Act:

A. "division" means the labor relations division of the workforce solutions department;

B. "domestic partner" means an individual with whom another individual maintains a household and a mutual committed relationship without a legally recognized marriage;

C. "earned sick leave" means time that is compensated at the same hourly rate and with the same benefits, including health care benefits, as an employee normally earns during hours worked and is provided by an employer to that employee for the purposes described in the Healthy Workplaces Act, but in no case shall the hourly rate be less than the applicable legally required minimum wage rate;

D. "employ" means suffer or permit to work;

E. "employee" means an individual employed by an employer for remuneration, including an individual employed on a part-time, seasonal or temporary basis; "employee" does not mean an employee of an employer subject to the provisions of Title II of the federal Railway Labor Act or an employee as defined in either the federal Railroad Unemployment Insurance Act or the Federal Employers' Liability Act;

F. "employer" means an individual, partnership, association, corporation, business trust, legal representative or any organized group of persons employing one or more employees at any one time, acting in the interest of an employer in relation to an employee, but shall not include the United States, the state or any political subdivision of the state;

G. "family member" means an employee's spouse or domestic partner or a person related to an employee or an employee's spouse or domestic partner as:

(1) a biological, adopted or foster child, a stepchild or legal ward, or a child to whom the employee stands in loco parentis;

(2) a biological, foster, step or adoptive parent or legal guardian, or a person who stood in loco parentis when the employee was a minor child;

(3) a grandparent;

(4) a grandchild;

(5) a biological, foster, step or adopted sibling;

(6) a spouse or domestic partner of a family member; or

(7) an individual whose close association with the employee or the employee's spouse or domestic partner is the equivalent of a family relationship;

H. "health care professional" means a person licensed pursuant to federal or state law to provide health care services, including nurses, nurse practitioners, physician assistants, doctors and emergency room personnel;

I. "independent contractor" means a person who agrees to do certain work where the person who engages the contractor may direct the result to be accomplished but does not have the right to control the manner in which the details of the work are to be performed; and

J. "retaliation" means any threat, discharge, discipline, suspension, demotion, non-promotion, less favorable scheduling, reduction of hours or application of absence control policies that count an employee's use of earned sick leave as an absence that may lead to adverse action, or other adverse action against employees for

the exercise of a right guaranteed pursuant to the Healthy Workplaces Act, including sanctions against an employee who is a recipient of benefits or rights pursuant to the Healthy Workplaces Act. "Retaliation" includes interference with or punishment for participating in an investigation, proceeding or hearing pursuant to the Healthy Workplaces Act.

## **Chapter 131 Section 3 Laws 2021**

### **SECTION 3. EARNED SICK LEAVE--USE AND ACCRUAL.--**

A. Employees shall accrue a minimum of one hour of earned sick leave for every thirty hours worked; provided that employers may choose a higher accrual rate; and provided further that an employer may instead elect to grant employees the full sixty-four hours of earned sick leave for the upcoming year on January 1 of each year or, for employees whose employment begins after January 1 of a given year, a pro rata portion of the sixty-four hours for use in the remainder of that year. Such employees shall not be entitled to use more than sixty-four hours of earned sick leave per twelve-month period, unless the employer selects a higher limit.

B. All employees shall accrue earned sick leave as follows:

(1) earned sick leave as provided in the Healthy Workplaces Act shall begin to accrue upon the latter of commencement of the employee's employment or the effective date of the Healthy Workplaces Act and may be used beginning on the latter of those dates;

(2) employees who are exempt from overtime requirements pursuant to the federal Fair Labor Standards Act of 1938, 29 U.S.C. Section 213(a)(1), shall be assumed to work forty hours in each work week for the purposes of earned sick leave accrual unless their normal work week is less than forty hours, in which case earned sick leave accrues based on their normal work week;

(3) accrued unused earned sick leave shall carry over from year to year, but an employer is not required to permit an employee to use more than sixty-four hours in a twelve-month period;

(4) nothing in this section shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement or other separation from employment for accrued earned sick leave that has not been used;

(5) if an employee is transferred to a separate division, entity or location but remains employed by the same employer, the employee is entitled to all earned sick leave accrued at the prior division, entity or location and is entitled to use all earned sick leave as provided in this section. When there is a separation from employment, and the employee is rehired within twelve months of separation by the same employer, previously accrued earned sick leave that has not been used shall be reinstated. Further, the employee shall be entitled to use accrued earned sick leave and accrue additional earned sick leave upon re-commencement of employment;

(6) when a different employer succeeds or takes the place of an existing employer, all employees of the original employer who remain employed by the successor employer are entitled to all earned sick leave accrued when employed by the original employer and are entitled to use all earned sick leave previously accrued as provided in this section;

(7) for purposes of this subsection, an employer may choose any one of the following methods for determining the twelve-month period in which the earned sick leave may be used:

(a) the calendar year;

(b) any fixed twelve-month leave year, such as a fiscal year, a year required by other law or a year starting on an employee's anniversary date;



(c) the twelve-month period measured forward from the date an employee's first use of earned sick leave occurs; or

(d) a rolling twelve-month period measured backward from the date an employee uses any earned sick leave; and

(8) for purposes of this subsection, "year to year" shall run concurrently with the twelve-month period elected by the employer.

C. An employee may use earned sick leave:

(1) for the employee's:

(a) mental or physical illness, injury or health condition;

(b) medical diagnosis, care or treatment of a mental or physical illness, injury or health condition; or

(c) preventive medical care;

(2) for care of family members of the employee for:

(a) mental or physical illness, injury or health condition;

(b) medical diagnosis, care or treatment of a mental or physical illness, injury or health condition; or

(c) preventive medical care;

(3) for meetings at the employee's child's school or place of care related to the child's health or disability; or

(4) for absence necessary due to domestic abuse, sexual assault or stalking suffered by the employee or a family member of the employee; provided that the leave is for the employee to:

(a) obtain medical or psychological treatment or other counseling;

(b) relocate;

(c) prepare for or participate in legal proceedings; or

(d) obtain services or assist a family member of the employee with any of the activities set forth in Subparagraphs (a) through (c) of this paragraph.

D. Earned sick leave shall be provided upon the oral or written request of an employee or an individual acting on the employee's behalf. When possible, the request shall include the expected duration of the sick leave absence.

E. When the use of earned sick leave is foreseeable, the employee shall make a reasonable effort to provide oral or written notice of the need for such sick leave to the employer in advance of the use of the earned sick leave and shall make a reasonable effort to schedule the use of earned sick leave in a manner that does not unduly disrupt the operations of the employer. When the use of earned sick leave is not foreseeable, the employee shall notify the employer orally or in writing as soon as practicable.

F. An employer may not require, as a condition of an employee's taking earned sick leave, that the employee search for or find a replacement worker to cover the hours during which the employee is using earned sick leave.

G. Earned sick leave may be used in the smaller of hourly increments or the smallest increment that the employer's payroll system uses to account for absences or use of other time.

H. An employer shall not require an employee to use other paid leave before the employee uses sick leave pursuant to the Healthy Workplaces Act.

I. An employer's failure to provide earned sick leave based on the employer's misclassification of the employee as an independent contractor is a violation of the Healthy Workplaces Act.

## **Chapter 131 Section 4 Laws 2021**

SECTION 4. MORE GENEROUS EARNED SICK LEAVE POLICY.--An employer with a paid time off policy that makes available an amount of earned sick leave sufficient to meet the accrual requirements of the Healthy Workplaces Act and that may be used for at minimum the same purposes and under the same terms and conditions as that act is deemed to be in compliance with that act. However, on the effective date of the Healthy Workplaces Act, the sick leave required by that act shall be in addition to any paid time off provided by an employer pursuant to a collective bargaining agreement unless that paid time off provided may be used for the same purposes and under the same terms and conditions as the Healthy Workplaces Act.

## **Chapter 131 Section 5 Laws 2021**

### SECTION 5. DOCUMENTATION.--

A. Documentation shall not be required for sick leave, except an employer may require reasonable documentation that sick leave has been used for a covered purpose if the employee uses two or more consecutive work days of sick leave.

B. Documentation signed by a health care professional indicating the amount of earned sick leave taken is necessary shall be considered reasonable documentation for sick leave taken pursuant to the Healthy Workplaces Act. In cases of domestic abuse, sexual assault or stalking, an employee may choose to provide one of the following types of documentation, which shall be considered as reasonable

documentation: a police report, a court-issued document or a signed statement from a victim services organization, clergy member, attorney, advocate, the employee, a family member of the employee or other person affirming that the sick leave was taken for one of the purposes set forth in Paragraph (4) of Subsection C of Section 3 of the Healthy Workplaces Act. A signed statement required pursuant to this subsection may be written in the employee's native language and shall not be required to be in a particular format or notarized. An employer may not require the documentation to explain the nature of any medical condition or the details of the domestic abuse, sexual assault or stalking.

C. An employee shall provide documentation upon request to the employer in a timely manner. The employer shall not delay the commencement of earned sick leave on the basis that the employer has not yet received documentation.

D. All information an employer obtains related to an employee's reasons for taking sick leave shall be treated as confidential and not disclosed except with the permission of the employee or as necessary for validation purposes for insurance disability claims, accommodations consistent with the federal Americans with Disabilities Act of 1990, as required by the Healthy Workplaces Act or by court order.

## **Chapter 131 Section 6 Laws 2021**

### **SECTION 6. NOTICE AND POSTING REQUIREMENTS.--**

A. An employer shall give written or electronic notice to an employee at the commencement of employment of the following:

- (1) the employee's right to earned sick leave;
- (2) the manner in which sick leave is accrued and calculated;
- (3) the terms of the use of earned sick leave as guaranteed by the Healthy Workplaces Act;

(4) that retaliation against employees for the use of sick leave is prohibited;

(5) the employee's right to file a complaint with the division if earned sick leave as required pursuant to the Healthy Workplaces Act is denied by the employer or if the employee is retaliated against; and

(6) all means of enforcing violations of the Healthy Workplaces Act.

B. Notice required pursuant to Subsection A of this section shall be in English, Spanish or any language that is the first language spoken by at least ten percent of the employer's workforce, as requested by the employee.

C. Employers shall display a poster that contains the information required pursuant to Subsection A of this section in a conspicuous and accessible place in each establishment where employees are employed. The poster displayed should be in English, Spanish and any language that is the first language spoken by at least ten percent of the employer's workforce.

D. The division shall create and make available to employers notices and posters in English, Spanish and any other languages deemed appropriate by the division that contain the information required pursuant to Subsection A of this section for employers' use in complying with the provisions of this section.

## **Chapter 131 Section 7 Laws 2021**

SECTION 7. EMPLOYER SHALL RETAIN DOCUMENTATION.--Employers shall retain for the immediately preceding forty-eight-month period records documenting hours worked by employees and earned sick leave taken by employees.

## Chapter 131 Section 8 Laws 2021

### SECTION 8. EXERCISE OF RIGHTS PROTECTED--RETALIATION PROHIBITED.--

A. An employer shall not take or threaten any adverse action whatsoever against an employee:

(1) that is reasonably likely to deter such employee from exercising or attempting to exercise a right granted pursuant to the Healthy Workplaces Act; or

(2) because the employee:

(a) has exercised or attempted to exercise such rights;

(b) has reasonably alleged violations of the Healthy Workplaces Act; or

(c) has raised a concern about violations of the Healthy Workplaces Act to the employer, the employer's agent, other employees, a government agency or to the public through print, online, social or any other media.

B. An employer shall not attempt to require an employee to sign a contract or other agreement that would limit or prevent the employee from asserting rights provided for in the Healthy Workplaces Act or to otherwise establish a workplace policy that would limit or prevent the exercise of such rights. An employer's attempt to impose such a contract, agreement or policy shall constitute an adverse action enforceable pursuant to the Healthy Workplaces Act.

C. An employer shall not count use of sick leave in a way that will lead to discipline, discharge, demotion, non-promotion, less favorable scheduling, reduction of hours, suspension or any other adverse action.

## **Chapter 131 Section 9 Laws 2021**

### SECTION 9. ENFORCEMENT.--

A. The division shall be authorized to coordinate implementation and enforcement of the Healthy Workplaces Act and shall promulgate appropriate rules to implement that act.

B. The division shall coordinate implementation and enforcement of the Healthy Workplaces Act, including:

(1) establishing a system to receive complaints, in writing and by telephone, regarding alleged violations of the Healthy Workplaces Act;

(2) establishing a process for investigating and resolving complaints in a timely manner and keeping complainants notified regarding the status of the investigation of their complaint;

(3) ensuring employer compliance with the Healthy Workplaces Act through the use of audits, investigations or other measures; and

(4) establishing a system for reviewing complaints.

C. The division shall maintain as confidential the identity of any complainant unless disclosure of such complainant's identity is necessary for resolution of the investigation or otherwise required by law. The division shall, prior to such disclosure and to the extent practicable, notify a complainant that the division will be disclosing the complainant's identity.

## **Chapter 131 Section 10 Laws 2021**

### SECTION 10. CIVIL ACTIONS--TIME LIMITS--BURDENS OF PROOF.--

A. A civil action may be filed in a court of competent jurisdiction for a violation of the Healthy Workplaces Act within three years from the date the alleged violation occurred; provided that the time limit to file a civil action established by this subsection shall be tolled during an investigation by the division of the violation or related violations by the same employer. A lack of an investigation by the division shall not act as a bar to a civil action brought by a complainant pursuant to the Healthy Workplaces Act.

B. The division, the office of the attorney general or a person or entity that has a member who has been affected by a violation of the Healthy Workplaces Act may bring a civil action for a violation of the Healthy Workplaces Act.

C. A civil action to enforce any provision of the Healthy Workplaces Act may be filed without first filing an administrative complaint with the division and may:

(1) encompass all violations that occurred after the effective date of the Healthy Workplaces Act as part of a continuing course of conduct, regardless of the date on which the violations occurred;

(2) be pursued by an employee on behalf of the employee or be pursued by an employee on behalf of other employees similarly situated; or

(3) be pursued by an agent or representative designated by an employee.

D. It shall not be a defense to any action brought pursuant to this section that the complaint was brought by or in regard to the employment of a worker who does not have evidence of having a legal presence in the United States.

E. The parties in a civil action regarding retaliation by an employer shall be subject to the following burdens of proof:



(1) when an employee presents a prima facie showing of retaliation, the employer shall then have the burden to establish a legitimate, non-retaliatory reason for the adverse employment action; and

(2) when an employer meets the burden of proof required by Paragraph (1) of this subsection, the employee shall then have the burden to establish that the reason cited by the employer was pretextual.

## **Chapter 131 Section 11 Laws 2021**

### **SECTION 11. EMPLOYER LIABILITY.--**

A. An employer that violates the Healthy Workplaces Act shall be liable to the affected employee:

(1) for an instance of sick leave taken by an employee but unlawfully not compensated by the employer, in an amount equal to three times the wages that should have been paid or five hundred dollars (\$500), whichever is greater;

(2) for an instance of sick leave requested by an employee but unlawfully denied by the employer and not taken by the employee or unlawfully conditioned on searching for or finding a replacement worker, in an amount equal to actual damages or five hundred dollars (\$500), whichever is greater;

(3) for each instance of retaliation prohibited by the Healthy Workplaces Act excepting discharge from employment, in an amount equal to actual damages, including back pay, wages or benefits lost, an additional amount of two hundred fifty dollars (\$250) and equitable relief such as rescission of disciplinary measures taken by the employer or other relief as determined by a court of law;

(4) for each instance of prohibited discharge from employment, in an amount equal to actual damages, including back pay, wages or benefits lost, an

additional amount of five hundred dollars (\$500) and reinstatement or other equitable relief as determined by a court of law;

(5) for each willful notice or recordkeeping violation, two hundred fifty dollars (\$250); and

(6) for each misclassification of an employee as an independent contractor, actual damages or five hundred dollars (\$500), whichever is greater.

B. A plaintiff prevailing in a legal action brought pursuant to the Healthy Workplaces Act shall recover all appropriate legal or equitable relief, the costs and expenses of suit and reasonable attorney fees. In an action brought by the division or the attorney general, any damages recovered shall be payable to the individual employees who experienced the violation.

## **Chapter 131 Section 12 Laws 2021**

SECTION 12. OTHER LEGAL REQUIREMENTS.--The Healthy Workplaces Act provides minimum requirements pertaining to earned sick leave and shall not be construed to preempt, limit or otherwise affect the applicability of any other law, regulation, requirement, policy or standard, including collective bargaining agreements, that provides for greater accrual or use by employees of earned sick leave, whether paid or unpaid, or that extends other protections to employees.

## **Chapter 131 Section 13 Laws 2021**

SECTION 13. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2022.

# **LAWS 2021, CHAPTER 132**

**House Bill 47, aa**

**Approved April 8, 2021**

AN ACT

RELATING TO HEALTH CARE; ENACTING THE ELIZABETH WHITEFIELD END-OF-LIFE OPTIONS ACT; AMENDING A SECTION OF CHAPTER 30, ARTICLE 2 NMSA 1978 TO ESTABLISH RIGHTS, PROCEDURES AND PROTECTIONS RELATING TO MEDICAL AID IN DYING; ESTABLISHING REPORTING REQUIREMENTS; REMOVING CRIMINAL LIABILITY FOR PROVIDING ASSISTANCE PURSUANT TO THE ELIZABETH WHITEFIELD END-OF-LIFE OPTIONS ACT.

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

**Chapter 132 Section 1 Laws 2021**

SECTION 1. SHORT TITLE.--Sections 1 through 8 of this act may be cited as the "End-of-Life Options Act" or the "Elizabeth Whitefield End-of-Life Options Act".

**Chapter 132 Section 2 Laws 2021**

SECTION 2. DEFINITIONS.--As used in the End-of-Life Options Act:

A. "adult" means a resident of the state who is eighteen years of age or older;

B. "capacity" means an individual's ability to understand and appreciate health care options available to that individual, including significant benefits and risks, and to make and communicate an informed health care decision. A determination of capacity shall be made only according to professional standards of care and the provisions of Section 24-7A-11 NMSA 1978;

C. "health care entity" means an entity, other than an individual, that is licensed to provide any form of health care in the state, including a hospital, clinic, hospice agency, home health agency, long-term care agency, pharmacy, group medical practice, medical home or any similar entity;

D. "health care provider" means any of the following individuals authorized pursuant to the New Mexico Drug, Device and Cosmetic Act to prescribe a medication to be used in medical aid in dying:

- (1) a physician licensed pursuant to the Medical Practice Act;
- (2) an osteopathic physician licensed pursuant to the Osteopathic Medicine Act;
- (3) a nurse licensed in advanced practice pursuant to the Nursing Practice Act; or
- (4) a physician assistant licensed pursuant to the Physician Assistant Act or the Osteopathic Medicine Act;

E. "medical aid in dying" means the medical practice wherein a health care provider prescribes medication to a qualified individual who may self-administer that medication to bring about a peaceful death;

F. "mental health professional" means a state-licensed psychiatrist, psychologist, master social worker, psychiatric nurse practitioner or professional clinical mental health counselor;

G. "prescribing health care provider" means a health care provider who prescribes medical aid in dying medication;

H. "qualified individual" means an individual who has met the requirements of Section 3 of the End-of-Life Options Act;

I. "self-administer" means taking an affirmative, conscious, voluntary action to ingest a pharmaceutical substance; and

J. "terminal illness" means a disease or condition that is incurable and irreversible and that, in accordance with reasonable medical judgment, will result in death within six months.

## **Chapter 132 Section 3 Laws 2021**

SECTION 3. MEDICAL AID IN DYING--PRESCRIBING HEALTH CARE PROVIDER DETERMINATION--FORM.--A prescribing health care provider may provide a prescription for medical aid in dying medication to an individual only after the prescribing health care provider has:

- A. determined that the individual has:
  - (1) capacity;
  - (2) a terminal illness;
  - (3) voluntarily made the request for medical aid in dying; and
  - (4) the ability to self-administer the medical aid in dying medication;
- B. provided medical care to the individual in accordance with accepted medical standards of care;
- C. determined that the individual is making an informed decision after discussing with the individual the:
  - (1) individual's medical diagnosis and prognosis;

(2) potential risks associated with self-administering the medical aid in dying medication that the individual has requested the health care provider to prescribe;

(3) probable result of self-administering the medical aid in dying medication to be prescribed;

(4) individual's option of choosing to obtain the medical aid in dying medication and then deciding not to use it; and

(5) feasible alternative, concurrent or additional treatment opportunities, including hospice care and palliative care focused on relieving symptoms and reducing suffering;

D. determined in good faith that the individual's request does not arise from coercion or undue influence by another person;

E. noted in the individual's health record the prescribing health care provider's determination that the individual qualifies to receive medical aid in dying;

F. confirmed in the individual's health record that at least one physician or osteopathic physician licensed pursuant to the Medical Practice Act or the Osteopathic Medicine Act has determined, after conducting an appropriate examination, that the individual has capacity, a terminal illness and the ability to self-administer the medical aid in dying medication. That physician may be the prescribing health care provider pursuant to this section, the individual's hospice health care provider or another physician who meets the requirements of this subsection;

G. affirmed that the individual is:

(1) enrolled in a medicare-certified hospice program; or

(2) eligible to receive medical aid in dying after the prescribing health care provider has referred the individual to a consulting health care provider, who has

experience with the underlying condition rendering the qualified individual terminally ill, and the consulting health care provider has:

- (a) examined the individual;
- (b) reviewed the individual's relevant medical records; and
- (c) confirmed, in writing, the prescribing health care provider's prognosis that the individual is suffering from a terminal illness; and

H. provided substantially the following form to the individual and enters the form into the individual's health record after the form has been completed with all of the required signatures and initials:

"REQUEST FOR MEDICATION TO END MY LIFE IN A PEACEFUL MANNER

I, \_\_\_\_\_, am an adult of sound mind.

I am suffering from a terminal illness, which is a disease or condition that is incurable and irreversible and that, according to reasonable medical judgment, will result in my death within six months. My health care provider has determined that the illness is in its terminal phase. \_\_\_\_\_ (Patient Initials)

I have been fully informed of my diagnosis and prognosis, the nature of the medical aid in dying medication to be prescribed and the potential associated risks, the expected result and the feasible alternative, concurrent or additional treatment opportunities, including hospice care and palliative care focused on relieving symptoms and reducing suffering. \_\_\_\_\_ (Patient Initials)

I request that my health care provider prescribe medication that will end my life in a peaceful manner if I choose to self-administer the medication, and I authorize my

health care provider to contact a willing pharmacist to fulfill this request. \_\_\_\_\_ (Patient Initials)

I understand that I have the right to rescind this request at any time. \_\_\_\_\_ (Patient Initials)

I understand the full import of this request, and I expect to die if I self-administer the medical aid in dying medication prescribed. I further understand that although most deaths occur within three hours, my death may take longer. My health care provider has counseled me about this possibility. \_\_\_\_\_ (Patient Initials)

I make this request voluntarily and without reservation.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_

#### DECLARATION OF WITNESSES:

We declare that the person signing this request:

1. is personally known to us or has provided proof of identity;
2. signed this request in our presence;
3. appears to be of sound mind and not under duress, fraud or undue influence; and
4. is not a patient for whom either of us is a health care provider.

Signature:                      Witness 1:                      Witness 2:  
\_\_\_\_\_



Printed Name: \_\_\_\_\_  
Relationship to Patient: \_\_\_\_\_  
Date: \_\_\_\_\_

NOTE: No more than one witness shall be a relative by blood, marriage or adoption of the person signing this request. No more than one witness shall own, operate or be employed at a health care facility where the person signing this request is a patient or resident."

### **Chapter 132 Section 4 Laws 2021**

SECTION 4. DETERMINING CAPACITY.--If an individual has a recent history of a mental health disorder or an intellectual disability that could cause impaired judgment with regard to end-of-life medical decision making, or if, in the opinion of the prescribing health care provider or consulting health care provider, an individual currently has a mental health disorder or an intellectual disability that may cause impaired judgment with regard to end-of-life medical decision making, the individual shall not be determined to have capacity to make end-of-life decisions until the:

A. health care provider refers the individual for evaluation by a mental health professional with the training and expertise to assess a person with such a disorder or disability; and

B. mental health professional determines the individual to have capacity to make end-of-life decisions after evaluating the individual during one or more visits with the individual.

### **Chapter 132 Section 5 Laws 2021**

SECTION 5. WAITING PERIOD.--A prescription for medical aid in dying medication shall:

A. not be filled until forty-eight hours after the prescription for medical aid in dying medication has been written, unless the qualified individual's prescribing health care provider has medically confirmed that the qualified individual may, within reasonable medical judgment, die before the expiration of the waiting period identified herein, in which case, the prescription may be filled once the prescribing health care provider affirms that all requirements have been fulfilled pursuant to Section 3 of the End-of-Life Options Act; and

B. indicate the date and time that the prescription for medical aid in dying medication was written and indicate the first allowable date and time when it may be filled.

## **Chapter 132 Section 6 Laws 2021**

SECTION 6. MEDICAL AID IN DYING--RIGHT TO KNOW.--A health care provider shall inform a terminally ill patient of all reasonable options related to the patient's care that are legally available to terminally ill patients that meet the medical standards of care for end-of-life care.

## **Chapter 132 Section 7 Laws 2021**

SECTION 7. IMMUNITIES--CONSCIENCE-BASED DECISIONS.--

A. A person shall not be subject to criminal liability, licensing sanctions or other professional disciplinary action for:

(1) participating, or refusing to participate, in medical aid in dying in good faith compliance with the provisions of the End-of-Life Options Act; or

(2) being present when a qualified patient self-administers the prescribed medical aid in dying medication to end the qualified individual's life in accordance with the provisions of the End-of-Life Options Act.

B. A health care entity, professional organization or association, health insurer, managed care organization or health care provider shall not subject a person to censure, discipline, suspension, loss or denial of license, credential, privileges or membership or other penalty for participating, or refusing to participate, in the provision of medical aid in dying in good faith compliance with the provisions of the End-of-Life Options Act.

C. No health care provider who objects for reasons of conscience to participating in the provision of medical aid in dying shall be required to participate in the provision of medical aid in dying under any circumstance. If a health care provider is unable or unwilling to carry out an individual's request pursuant to the End-of-Life Options Act, that health care provider shall so inform the individual and refer the individual to a health care provider who is able and willing to carry out the individual's request or to another individual or entity to assist the requesting individual in seeking medical aid in dying. If the health care provider transfers the individual's care to a new health care provider, the prior health care provider shall transfer, upon request, a copy of the individual's relevant medical records to the new health care provider.

D. A health care entity shall not forbid or otherwise sanction a health care provider who provides medical aid in dying in accordance with the End-of-Life Options Act off the premises of the health care entity or when the health care provider is not acting within the normal course and scope of the health care provider's employment with the health care entity.

E. A health care entity may sanction a health care provider for participating in medical aid in dying on the premises of the prohibiting health care entity only if the health care entity has given written notice to the health care provider of the prohibiting entity's written policy forbidding participation in medical aid in dying and the health care provider participates in medical aid in dying:

- (1) on the premises of the health care entity; or

(2) within the course and scope of the health care provider's employment for the health care entity.

F. Nothing in this section shall be construed to prevent:

(1) a health care provider from participating in medical aid in dying while the health care provider is acting outside the health care entity's premises or outside the course and scope of the health care provider's capacity as an employee; or

(2) an individual who seeks medical aid in dying from contracting with the individual's prescribing health care provider or consulting health care provider to act outside the course and scope of the provider's affiliation with the sanctioning health care entity.

G. A health care entity that imposes sanctions on a health care provider pursuant to the End-of-Life Options Act shall act reasonably, both substantively and procedurally, and shall be neither arbitrary nor capricious in its imposition of sanctions.

H. Participating in medical aid in dying shall not be the basis for a report of unprofessional conduct.

I. A health care entity that prohibits medical aid in dying shall accurately and clearly articulate this in an appropriate location on any website maintained by the entity and in any appropriate materials given to patients to whom the health care entity provides health care in words to be determined by the health care entity.

## **Chapter 132 Section 8 Laws 2021**

SECTION 8. PROHIBITED ACTS.--Nothing in the End-of-Life Options Act shall be construed to authorize a physician or any other person to end an individual's life by lethal injection, mercy killing or euthanasia. Actions taken in accordance with the End-

of-Life Options Act shall not be construed, for any purpose, to constitute suicide, assisted suicide, euthanasia, mercy killing, homicide or adult abuse under the law.

## **Chapter 132 Section 9 Laws 2021**

SECTION 9. A new section of the Public Health Act is enacted to read:

"REPORTING--MEDICAL AID IN DYING.--

A. A health care provider who prescribes medical aid in dying to a qualified individual in accordance with the provisions of the End-of-Life Options Act shall provide, in accordance with department rules, a report of that provider's participation. The department shall adopt and promulgate rules that establish the time frames and forms for reporting pursuant to this section and shall limit the reporting of data relating to qualified individuals who received prescriptions for medical aid in dying medication to the following:

- (1) the qualified individual's age at death;
- (2) the qualified individual's race and ethnicity;
- (3) the qualified individual's gender;
- (4) whether the qualified individual was enrolled in hospice at the time of death;
- (5) the qualified individual's underlying medical condition; and
- (6) whether the qualified individual self-administered the medical aid in dying medication and, if so, the date that this occurred.

B. The department shall promulgate an annual statistical report, containing aggregated data, on the information collected pursuant to Subsection A of this section on the total number of medical aid in dying medication prescriptions written statewide and on the number of health care providers who have issued prescriptions for medical aid in dying medication during that year. Data reported pursuant to this subsection shall not contain individually identifiable health information and are exempt from disclosure pursuant to the Inspection of Public Records Act.

C. As used in this section:

(1) "health care provider" means an individual authorized pursuant to the End-of-Life Options Act to prescribe medical aid in dying;

(2) "medical aid in dying" means the medical practice wherein a health care provider prescribes medication to a qualified individual who may self-administer that medication to end that individual's life in accordance with the provisions of the End-of-Life Options Act; and

(3) "qualified individual" means an individual who has met the requirements to receive medical aid in dying pursuant to the provisions of the End-of-Life Options Act."

## **Chapter 132 Section 10 Laws 2021**

SECTION 10. Section 30-2-4 NMSA 1978 (being Laws 1963, Chapter 303, Section 2-5) is amended to read:

"30-2-4. ASSISTING SUICIDE.--

A. Assisting suicide consists of deliberately aiding another in the taking of the person's own life, unless the person aiding another in the taking of the person's own life is a person acting in accordance with the provisions of the End-of-Life Options Act.

B. A person who commits assisting suicide is guilty of a fourth degree felony."

## **Chapter 132 Section 11 Laws 2021**

SECTION 11. SEVERABILITY.--If any part or application of the End-of-Life Options Act is held invalid, the remainder or its application to other situations or persons shall not be affected.

## **LAWS 2021, CHAPTER 133**

**SFC/Senate Bill 8**  
**Approved April 8, 2021**

### **AN ACT**

RELATING TO THE ENVIRONMENT; AMENDING THE AIR QUALITY CONTROL ACT AND THE HAZARDOUS WASTE ACT TO ALLOW FOR THE PROMULGATION OF RULES MORE STRINGENT THAN FEDERAL LAW; REQUIRING A DETERMINATION, AFTER NOTICE AND A HEARING, THAT A MORE STRINGENT RULE WILL BE MORE PROTECTIVE OF THE PUBLIC HEALTH AND ENVIRONMENT; REORGANIZING A RULEMAKING PROVISION RELATED TO OZONE INTO THE POWERS AND DUTIES SECTION OF THE AIR QUALITY CONTROL ACT; REPEALING SECTION 74-2-5.3 NMSA 1978 (BEING LAWS 2009, CHAPTER 98, SECTION 1).

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

## **Chapter 133 Section 1 Laws 2021**

SECTION 1. Section 74-2-4 NMSA 1978 (being Laws 1967, Chapter 277, Section 4, as amended) is amended to read:

"74-2-4. LOCAL AUTHORITY.--

A. A county or municipality meeting the qualifications set forth in Paragraph (1) or (2) of Subsection J of Section 74-2-2 NMSA 1978 may assume jurisdiction as a local authority by adopting an ordinance providing for the local administration and enforcement of the Air Quality Control Act. The ordinance shall:

(1) create a local board to perform, within the boundaries of the local authority, those functions delegated to the environmental improvement board under the Air Quality Control Act, except any functions reserved exclusively for the environmental improvement board;

(2) create a local agency to administer and enforce the provisions of the Air Quality Control Act within the boundaries of the local authority that shall, within the boundaries of the local authority, perform all of the duties required of the department and exert all of the powers granted to the department, except for those duties and powers reserved exclusively for the department; and

(3) provide for the appointment of a director who shall perform for the local authority the same duties as required of the secretary under the Air Quality Control Act, except the duties and powers reserved exclusively for the secretary.

B. At least a majority of the members of a local board shall be individuals who represent the public interest and do not derive any significant portion of their income from persons subject to or who appear before the local board on issues related to the federal act or the Air Quality Control Act.

C. Prior to adopting any ordinance regulating air pollution, public hearings and consultations shall be held as directed by the local authority adopting the ordinance. The provisions of any ordinance shall be consistent with the substantive provisions of the Air Quality Control Act and shall provide for standards and regulations not lower than those required by regulations adopted by the environmental improvement board.



D. Notwithstanding the provisions of Subsection A of this section, the environmental improvement board and the secretary shall retain jurisdiction and control for the administration and enforcement of the Air Quality Control Act as determined in that act with respect to any act or failure to act, governmental or proprietary, of any local authority that causes or contributes to air pollution, including proceeding against a local authority as provided in Section 74-2-12 NMSA 1978. "Failure to act", as used in this section, includes failure to act against any person violating the applicable ordinance or regulation adopted pursuant thereto.

E. Any local authority that is located within a transportation-related pollutant nonattainment area or maintenance area may provide for a vehicle emission inspection and maintenance program for vehicles registered at an address within the jurisdiction of the local authority and under twenty-six thousand pounds gross vehicle weight rating powered by an internal combustion engine, which program shall be at least as stringent as that required under the federal act or under federal air quality standards. Any two or more local authorities may adopt identical rules and regulations necessary to implement the vehicle emission inspection and maintenance program, including examining the alternatives of public or private operation of the program.

F. Any local authority that has implemented a vehicle emission inspection and maintenance program may extend the enforcement of that program by entering into joint powers agreements with any municipality or county within the designated airshed or with the department.

G. No tax shall be imposed to fund any vehicle emission inspection and maintenance program until the local authority has submitted the question of imposition of a tax to the registered voters of the local authority and those registered voters have approved the imposition of the tax.

H. A local authority having a vehicle emission inspection and maintenance program shall conduct the vehicle emission inspection and maintenance program through a decentralized privately owned and operated system unless air quality emissions result in automatic implementation of another type of program under the

terms of a contingency plan required and approved by the United States environmental protection agency. The local authority shall set the emission inspection fee by ordinance.

I. A local authority having a vehicle emission inspection and maintenance program is authorized to adopt rules, regulations and guidelines governing the establishment of private vehicle emission inspection and maintenance stations. No private vehicle emission inspection and maintenance station shall test vehicles unless the station possesses a valid permit issued by the local agency. Permit fees shall be determined by ordinance of the local authority and shall not exceed two hundred dollars (\$200) per year per station. Additionally, a local authority may charge a permit fee of up to thirty-five dollars (\$35.00) per year for each vehicle emissions mechanic and for each vehicle emissions inspector. The imposition of permit fees does not require a vote of the registered voters of the local authority.

J. Before a local authority adopts an ordinance that is more stringent than the federal act or applicable federal regulations, or that applies to sources not subject to regulation pursuant to the federal act or regulations, the local authority shall make a determination, based on substantial evidence and after notice and public hearing, that the proposed ordinance will be more protective of public health and the environment."

## **Chapter 133 Section 2 Laws 2021**

SECTION 2. Section 74-2-5 NMSA 1978 (being Laws 1967, Chapter 277, Section 5, as amended) is amended to read:

"74-2-5. DUTIES AND POWERS--ENVIRONMENTAL IMPROVEMENT BOARD--LOCAL BOARD.--

A. The environmental improvement board or the local board shall prevent or abate air pollution.

B. The environmental improvement board or the local board shall:

(1) adopt, promulgate, publish, amend and repeal rules and standards consistent with the Air Quality Control Act to attain and maintain national ambient air quality standards and prevent or abate air pollution, including:

(a) rules prescribing air standards within the geographic area of the environmental improvement board's jurisdiction or the local board's jurisdiction or any part thereof; and

(b) standards of performance that limit carbon dioxide emissions to no more than one thousand one hundred pounds per megawatt-hour on and after January 1, 2023 for a new or existing source that is an electric generating facility with an original installed capacity exceeding three hundred megawatts and that uses coal as a fuel source; and

(2) adopt a plan for the regulation, control, prevention or abatement of air pollution, recognizing the differences, needs, requirements and conditions within the geographic area of the environmental improvement board's jurisdiction or the local board's jurisdiction or any part thereof.

C. If the environmental improvement board or the local board determines that emissions from sources within the environmental improvement board's jurisdiction or the local board's jurisdiction cause or contribute to ozone concentrations in excess of ninety-five percent of the primary national ambient air quality standard for ozone promulgated pursuant to the federal act, the environmental improvement board or the local board shall adopt a plan, including rules, to control emissions of oxides of nitrogen and volatile organic compounds to provide for attainment and maintenance of the standard. Rules adopted pursuant to this subsection shall be limited to sources of emissions within the area of the state where the ozone concentrations exceed ninety-five percent of the primary national ambient air quality standard.

D. Rules adopted by the environmental improvement board or the local board may:

(1) include rules to protect visibility in mandatory class I areas to prevent significant deterioration of air quality and to achieve national ambient air quality standards in nonattainment areas; provided that the rules shall be at least as stringent as required by the federal act and federal regulations pertaining to visibility protection in mandatory class I areas, pertaining to prevention of significant deterioration and pertaining to nonattainment areas;

(2) prescribe standards of performance for sources and emission standards for hazardous air pollutants that shall be at least as stringent as required by federal standards of performance;

(3) include rules governing emissions from solid waste incinerators that shall be at least as stringent as any applicable federal emission limitations;

(4) include rules requiring the installation of control technology for mercury emissions that removes the greater of what is achievable with best available control technology or ninety percent of the mercury from the input fuel for all coal-fired power plants, except for coal-fired power plants constructed and generating electric power and energy before July 1, 2007;

(5) require notice to the department or the local agency of the intent to introduce or permit the introduction of an air contaminant into the air within the geographical area of the environmental improvement board's jurisdiction or the local board's jurisdiction; and

(6) require any person emitting any air contaminant to:

(a) install, use and maintain emission monitoring devices;

(b) sample emissions in accordance with methods and at locations and intervals as may be prescribed by the environmental improvement board or the local board;

(c) establish and maintain records of the nature and amount of emissions;

(d) submit reports regarding the nature and amounts of emissions and the performance of emission control devices; and

(e) provide any other reasonable information relating to the emission of air contaminants.

E. Any rule adopted pursuant to this section shall be at least as stringent as federal law, if any, relating to control of motor vehicle emissions.

F. In making its rules, the environmental improvement board or the local board shall give weight it deems appropriate to all facts and circumstances, including:

(1) character and degree of injury to or interference with health, welfare, visibility and property;

(2) the public interest, including the social and economic value of the sources and subjects of air contaminants; and

(3) technical practicability and economic reasonableness of reducing or eliminating air contaminants from the sources involved and previous experience with equipment and methods available to control the air contaminants involved.

G. Before the environmental improvement board or local board adopts a rule that is more stringent than the federal act or federal regulations, or that applies to sources not subject to regulation pursuant to the federal act or regulations, the environmental improvement board or local board shall make a determination, based on

substantial evidence and after notice and public hearing, that the proposed rule will be more protective of public health and the environment."

## **Chapter 133 Section 3 Laws 2021**

SECTION 3. 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 at least as stringent as 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 ensure 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 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 at least as stringent as 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 at least as stringent as 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. The board shall adopt rules concerning the management of used oil that are equivalent to and at least as stringent as federal regulations adopted by the federal environmental protection agency pursuant to the federal Resource Conservation and Recovery Act of 1976, as amended.

K. 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.

L. Before the board adopts a rule for the management of hazardous waste, concerning storage tanks or concerning used oil, that is more stringent than the federal regulations, the board shall make a determination, based on substantial evidence and

after notice and public hearing, that the proposed rule will be more protective of public health and the environment."

### **Chapter 133 Section 4 Laws 2021**

SECTION 4. REPEAL.--Section 74-2-5.3 NMSA 1978 (being Laws 2009, Chapter 98, Section 1) is repealed.

### **Chapter 133 Section 5 Laws 2021**

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

## **LAWS 2021, CHAPTER 134**

**SFC/Senate Bill 40, aa**  
**Approved April 8, 2021**

AN ACT

RELATING TO PUBLIC EDUCATION; SPECIFYING HOW INSTRUCTIONAL TIME IS CALCULATED FOR K-5 PLUS AND EXTENDED LEARNING TIME PROGRAMS.

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

### **Chapter 134 Section 1 Laws 2021**

SECTION 1. Section 22-8-23.10 NMSA 1978 (being Laws 2019, Chapter 206, Section 16 and Laws 2019, Chapter 207, Section 16) is amended to read:

"22-8-23.10. EXTENDED LEARNING TIME PROGRAM.--

A. A school district or charter school is eligible for additional program units if it establishes within its department-approved educational plan a schoolwide extended learning time program that meets the requirements of this section.

B. Program eligibility requires:

(1) except as provided in Subsections C and D of this section, a minimum of one hundred ninety instructional days per school year or ten additional instructional days per school year, whichever requires the addition of the fewest number of instructional days, with at least five and one-half instructional hours per instructional day for kindergarten through sixth grade and at least six instructional hours per day for seventh through twelfth grade;

(2) after-school program opportunities for academic learning, extracurricular or enrichment programming for students that do not supplant federally funded programs; and

(3) a minimum of eighty noninstructional hours per school year for professional development for instructional staff.

C. An extended learning time program in a school district operating a four-day school week in fiscal year 2019 or in a school district with fewer than one thousand MEM operating a four-day school week may include:

(1) a minimum of one hundred sixty instructional days per school year or eight additional instructional days per school year, whichever requires the addition of the fewest number of instructional days, with at least six and one-half hours per instructional day for kindergarten through sixth grade and at least seven instructional hours per instructional day for seventh through twelfth grade;

(2) after-school program opportunities for academic learning, extracurricular or enrichment programming for students that do not supplant federally funded programs; and

(3) a minimum of eighty noninstructional hours per school year for professional development for instructional staff.

D. With department approval, an elementary school that qualifies for extended learning time program units that also has a qualifying K-5 plus program may structure the school year to provide the additional instructional days required pursuant to the applicable subsection of this section by extending the total number of instructional hours provided by the elementary school by no fewer than fifty-five additional instructional hours.

E. The additional instructional days required for an extended learning time program shall be implemented for all students in a participating public school and shall be considered an extended school calendar for all students in each participating school.

F. A school district or charter school that qualified for extended learning time program units in the prior fiscal year shall not be required to add more instructional days in the current school year than it did in the prior school year to qualify for program units in the current school year if the school district or charter school provides the same or more total instructional days and total instructional hours than it provided in the prior school year.

G. The number of additional units to which a school district or charter school is entitled under this section is computed in the following manner:

MEM x 0.11."

## **Chapter 134 Section 2 Laws 2021**

SECTION 2. Section 22-8-23.11 NMSA 1978 (being Laws 2019, Chapter 206, Section 17 and Laws 2019, Chapter 207, Section 17) is amended to read:



"22-8-23.11. K-5 PLUS PROGRAM UNITS.--The number of K-5 plus program units is determined by multiplying the MEM in department-approved K-5 plus schools by the cost differential factor of 0.3; provided that the cohort of students in a K-5 plus public school that spans two fiscal years shall be funded for participation in the required additional instructional days in a single fiscal year."

## **Chapter 134 Section 3 Laws 2021**

SECTION 3. Section 22-13D-2 NMSA 1978 (being Laws 2019, Chapter 206, Section 3 and Laws 2019, Chapter 207, Section 3) is amended to read:

"22-13D-2. K-5 PLUS--ELIGIBILITY--REQUIREMENTS.--

A. A school district or charter school may apply to participate in the K-5 plus program and is eligible to receive program units for students enrolled in elementary schools approved by the department to participate in the K-5 plus program. In approving schools for participation in K-5 plus, the department shall prioritize elementary schools:

- (1) in which eighty percent or more of the elementary school's students are eligible for free or reduced-fee lunch;
- (2) that are low-performing elementary schools; and
- (3) that meet criteria established by department rule.

B. Each K-5 plus school shall:

- (1) except as provided in Subsection C of this section, provide no fewer than two hundred five instructional days per school year or twenty-five additional instructional days per school year, whichever requires the addition of the fewest number of instructional days, to all elementary school students enrolled in the elementary school;

(2) provide a good-faith attempt to keep students with the same teacher and cohort of students during K-5 plus and the regular school year and minimize mid-year transfers to only those transfers that are in the best interest of the student;

(3) include additional professional development for teachers teaching at a K-5 plus school in how young children learn to read; and

(4) be considered an extended school calendar for all students in each participating school.

C. An elementary school operating a four-day school week shall provide no fewer than one hundred seventy-five instructional days per school year or twenty additional instructional days per school year, whichever requires the addition of the fewest number of instructional days to all elementary students enrolled in the elementary school.

D. A school district or charter school that qualified for K-5 plus program units in the prior fiscal year shall not be required to add more instructional days to the current school year to qualify for program units in the current school year if the school district or charter school provides the same or more total instructional days and total instructional hours than it provided in the prior school year.

E. An elementary school is ineligible for K-5 plus program units if it fails to meet the requirements of this section."

## **Chapter 134 Section 4 Laws 2021**

SECTION 4. Section 22-13D-3 NMSA 1978 (being Laws 2019, Chapter 206, Section 4 and Laws 2019, Chapter 207, Section 4) is amended to read:

"22-13D-3. K-5 PLUS--OVERSIGHT--REPORTING.--The department shall:

- A. enforce the provisions of the K-5 Plus Act;
- B. issue rules for the development and implementation of K-5 plus schools;
- C. assist school districts and charter schools in developing and evaluating K-5 plus schools;
- D. develop and disseminate information on best practices in the area of academic success of early learners;
- E. establish reporting and evaluation requirements, including student and program assessments, for K-5 plus schools;
- F. annually report to the legislature and the governor on the efficacy of K-5 plus schools; and
- G. establish a K-5 plus advisory committee composed of representatives of school districts and charter schools that have K-5 plus schools, the legislative education study committee, the legislative finance committee and other stakeholders. The advisory committee shall meet twice a year to advise the department on K-5 plus implementation."

## **Chapter 134 Section 5 Laws 2021**

SECTION 5. Section 22-13D-4 NMSA 1978 (being Laws 2019, Chapter 206, Section 5 and Laws 2019, Chapter 207, Section 5) is amended to read:

"22-13D-4. K-5 PLUS--APPLICATION.--

- A. School districts and charter schools that wish to establish a new K-5 plus school shall apply through their annual educational plans submitted to the department pursuant to the Public School Finance Act.

B. For public schools that previously offered a K-5 plus program, each school district and charter school, in lieu of submitting an application in its annual educational plan, shall notify the department of its intent to provide the K-5 plus program and no formal application shall be required.

C. For planning purposes, no later than October 15 of each year, a school district or charter school that wishes to apply for a new K-5 plus school for the next fiscal year shall submit to the department the actual number of students participating in its approved K-5 plus schools in the current year and an estimate of the number of students the school district or charter school expects will participate in each K-5 plus school in the next year. Nothing in this subsection shall be construed to prohibit the department from approving a new K-5 plus school in a school district or charter school that did not submit the information required by this subsection to the department if sufficient funding is available to fund the school.

D. No later than November 15 of each year, the department shall notify the legislature of the number of students participating in K-5 plus schools in the current school year and of the number of students projected to participate in K-5 plus schools in the next school year."

## **LAWS 2021, CHAPTER 135**

**STBTC/SHPAC/Senate Bill 49**  
**Approved April 8, 2021**

AN ACT

RELATING TO PUBLIC FINANCES; AMENDING THE LOCAL ECONOMIC DEVELOPMENT ACT; INCLUDING RETAIL BUSINESSES LOCATED IN UNINCORPORATED AREAS OF A COUNTY IN THE DEFINITION OF "RETAIL BUSINESS"; CLARIFYING THAT FUNDING MAY BE USED FOR REHABILITATION

OR REMODELING AS WELL AS CONSTRUCTION OF A BUILDING FOR USE BY A QUALIFYING ENTITY.

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

## **Chapter 135 Section 1 Laws 2021**

SECTION 1. Section 5-10-3 NMSA 1978 (being Laws 1993, Chapter 297, Section 3, as amended) is amended to read:

"5-10-3. DEFINITIONS.--As used in the Local Economic Development Act:

A. "arts and cultural district" means a developed district of public and private uses that is created pursuant to the Arts and Cultural District Act;

B. "broadband telecommunications network facilities" means the electronics, equipment, transmission facilities, fiber-optic cables and any other item directly related to a system capable of transmission of internet protocol or other formatted data at current federal communications commission minimum speed standard, all of which will be owned and used by a provider of internet access services;

C. "cultural facility" means a facility that is owned by the state, a county, a municipality or a qualifying entity that serves the public through preserving, educating and promoting the arts and culture of a particular locale, including theaters, museums, libraries, galleries, cultural compounds, educational organizations, performing arts venues and organizations, fine arts organizations, studios and media laboratories and live-work housing facilities;

D. "department" means the economic development department;

E. "economic development project" or "project" means the provision of public support or assistance by the state to a local or regional government or the provision of

direct or indirect assistance to a qualifying entity by a local or regional government.  
"Economic development project":

(1) includes:

(a) the purchase, lease, grant, construction, reconstruction, improvement or other acquisition or conveyance of land, buildings or other infrastructure;

(b) rights-of-way infrastructure, including trenching and conduit, for the placement of new broadband telecommunications network facilities;

(c) public works improvements essential to the location or expansion of a qualifying entity;

(d) payments for professional services contracts necessary for local or regional governments to implement a plan or project;

(e) the provision of direct loans or grants for land, buildings or infrastructure;

(f) technical assistance to cultural facilities;

(g) loan guarantees securing the cost of land, buildings or infrastructure in an amount not to exceed the revenue that may be derived from an increment of the: 1) municipal gross receipts tax imposed at a rate not to exceed one-fourth percent and dedicated by the ordinance imposing the increment to a project; or 2) county gross receipts tax imposed at a rate not to exceed one-eighth percent and dedicated by the ordinance imposing the increment to a project;

(h) grants for public works infrastructure improvements essential to the location or expansion of a qualifying entity and grants or subsidies to cultural facilities;

(i) the purchase of land for a publicly held industrial park or a publicly owned cultural facility; and

(j) the construction of a building for use by a qualifying entity;  
but

(2) does not include the purchase, lease, grant or other acquisition or conveyance of water rights;

F. "governing body" means the city council, city commission or board of trustees of a municipality or the board of county commissioners of a county;

G. "local government" means a municipality or county;

H. "municipality" means an incorporated city, town or village;

I. "new full-time economic base job" means a job:

(1) that is primarily performed in New Mexico;

(2) that is held by an employee who is hired to work an average of at least thirty-two hours per week for at least forty-eight weeks per year;

(3) that is:

(a) involved, directly or in a supervisory capacity, with the production of: 1) a service; provided that the majority of the revenue generated from the service is from sources outside the state; or 2) tangible or intangible personal property for sale; or

(b) held by an employee who is employed at a regional, national or international headquarters operation or at an operation that primarily provides

services for other operations of the qualifying entity that are located outside the state;  
and

(4) that is not directly involved with natural resources extraction or processing, on-site services where the customer is present for the delivery of the service, retail, construction or agriculture except for value-added processing performed on agricultural products that would then be sold for wholesale or retail consumption;

J. "person" means an individual, corporation, association, partnership or other legal entity;

K. "qualifying entity" means a corporation, limited liability company, partnership, joint venture, syndicate, association or other person that is one or a combination of two or more of the following:

(1) an industry for the manufacturing, processing or assembling of agricultural or manufactured products;

(2) a commercial enterprise for storing, warehousing, distributing or selling products of agriculture, mining or industry, but, other than as provided in Paragraph (5), (6) or (9) of this subsection, not including any enterprise for sale of goods or commodities at retail or for distribution to the public of electricity, gas, water or telephone or other services commonly classified as public utilities;

(3) a business, including a restaurant or lodging establishment, in which all or part of the activities of the business involves the supplying of services to the general public or to governmental agencies or to a specific industry or customer, but, other than as provided in Paragraph (5) or (9) of this subsection, not including businesses primarily engaged in the sale of goods or commodities at retail;

(4) an Indian nation, tribe or pueblo or a federally chartered tribal corporation;



(5) a telecommunications sales enterprise that makes the majority of its sales to persons outside New Mexico;

(6) a facility for the direct sales by growers of agricultural products, commonly known as farmers' markets;

(7) a business that is the developer of a metropolitan redevelopment project;

(8) a cultural facility; and

(9) a retail business;

L. "regional government" means any combination of municipalities and counties that enter into a joint powers agreement to provide for economic development projects pursuant to a plan adopted by all parties to the joint powers agreement; and

M. "retail business" means a business that is primarily engaged in the sale of goods or commodities at retail and that is located:

(1) in a municipality with a population, according to the most recent federal decennial census, of:

(a) fifteen thousand or less; or

(b) more than fifteen thousand if the economic development project is not funded or financed with state government revenues; or

(2) in an unincorporated area of a county."

## Chapter 135 Section 2 Laws 2021

SECTION 2. Section 5-10-15 NMSA 1978 (being Laws 2020, Chapter 74, Section 2) is amended to read:

"5-10-15. STATE PARTICIPATION IN ECONOMIC DEVELOPMENT PROJECTS--PROJECT PARTICIPATION AGREEMENT--DUTIES AND REQUIREMENTS--ECONOMIC DEVELOPMENT DEPARTMENT.--

A. The department may participate with local or regional governments in economic development projects that:

(1) provide for:

(a) the purchase, lease, grant, construction, reconstruction, improvement or other acquisition or conveyance of land, buildings or other infrastructure;

(b) rights-of-way infrastructure, including trenching and conduit, for the placement of new broadband telecommunications network facilities;

(c) public works improvements essential to the location or expansion of a qualifying entity;

(d) payments for professional services contracts necessary for local or regional governments to implement a plan or project;

(e) the provision of direct loans or grants for land, buildings or infrastructure;

(f) loan guarantees securing the cost of land, buildings or infrastructure;

(g) grants for public works infrastructure improvements essential to the location or expansion of a qualifying entity and grants or subsidies to cultural facilities;

(h) the purchase of land for a publicly held industrial park or a publicly owned cultural facility;

(i) technical assistance to cultural facilities; or

(j) the construction, rehabilitation or remodeling of a building for use by a qualifying entity; and

(2) that also:

(a) provide new full-time economic base jobs;

(b) are primarily engaged in the sale of goods or commodities at retail if: 1) the department has determined that the retail project would not substantially compete with a specific business already in operation in the state; and 2) the business is located outside a class A county and is located in a municipality with a population of fifteen thousand or less according to the most recent federal decennial census or is located within the unincorporated portion of a county; or

(c) provide extensions or improvements to infrastructure, excluding buildings, on government owned land not obtained through the issuance of industrial revenue bonds pursuant to the Industrial Revenue Bond Act or the County Industrial Revenue Bond Act in a municipality with a population of less than sixty thousand according to the most recent federal decennial census or in an unincorporated area not located within ten miles of the external boundaries of a municipality with a population of sixty thousand or more according to the most recent federal decennial census; provided that the project shall not include a participating qualifying entity; and provided further that the department shall prioritize participation in a project pursuant to this subparagraph based on: 1) the likelihood of creating jobs; 2) the economic impact

on the local economy; and 3) contributions from the local or regional government or other New Mexico governmental entity, the federal government or private entities; but

(3) do not include the purchase, lease, grant or other acquisition or conveyance of water rights.

B. If the department participates in an economic development project in which a qualifying entity participates, the department, the local or regional government and the qualifying entity shall enter into a project participation agreement pursuant to this section.

C. If the department participates in an economic development project that does not include a qualifying entity, the department shall not enter into a project participation agreement pursuant to this section, but shall enter into an intergovernmental agreement with the participating local or regional government.

D. The project participation agreement shall require that public support provided for the economic development project shall be in exchange for a substantive contribution from the qualifying entity as determined by the department.

E. The qualifying entity shall provide security to the state and each local or regional government or any other New Mexico governmental entity providing public support for the economic development project. The security shall secure the qualifying entity's obligations based on terms stated in the project participation agreement with the department and the local or regional government and shall reflect a proportional decline in security as the substantive contribution requirements are met by the qualifying entity. The department at the discretion of the secretary of economic development may release at any time the security for that portion of the public support provided by the state.

F. If a qualifying entity fails to perform its substantive contribution, the state, local, regional or other participating New Mexico governmental entity may enforce the project participation agreement to recover its proportional share of that portion of the

public support for which the qualifying entity failed to provide a substantive contribution; provided that the recovery shall be:

(1) limited to the amount of public support provided by the governmental entity enforcing the project participation agreement, unless otherwise authorized by another participating governmental entity; and

(2) proportional to the failed performance of the substantive contribution and shall take into account all previous substantive contributions for the economic development project performed by the qualifying entity, based on the terms stated in the project participation agreement.

G. The project participation agreement shall at a minimum set out:

(1) the contributions to be made by the qualifying entity, the state and the local or regional government or other New Mexico governmental entity;

(2) the security provided to the state and each local or regional government or other New Mexico governmental entity by the qualifying entity in the form of a letter of credit, lien, mortgage or other indenture and the pledge of the qualifying entity's financial or material participation and cooperation to guarantee the qualifying entity's performance pursuant to the project participation agreement;

(3) a schedule for project development and completion, including measurable goals and time limits for those goals;

(4) provisions for performance review and actions to be taken upon a determination that project performance is unsatisfactory; and

(5) provisions allowing the department and the local or regional government or other New Mexico governmental entity to recover that portion of the public support for which the qualifying entity failed to provide a substantive contribution as determined by the department."

## **Chapter 135 Section 3 Laws 2021**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

## **LAWS 2021, CHAPTER 136**

**Senate Bill 317, aa**  
**Approved April 8, 2021**

### **AN ACT**

RELATING TO HEALTH COVERAGE; INCREASING THE HEALTH INSURANCE PREMIUM SURTAX; DISTRIBUTING A PORTION OF THE REVENUE OF THE SURTAX TO A NEW HEALTH CARE AFFORDABILITY FUND; PROVIDING FOR A REDUCTION IN THE SURTAX IF THE ANNUAL FEE ON HEALTH INSURANCE PROVIDERS PURSUANT TO THE FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT IS IMPOSED; CREATING THE HEALTH CARE AFFORDABILITY FUND TO BE USED TO REDUCE THE COST OF HEALTH CARE COVERAGE FOR NEW MEXICO RESIDENTS AND SMALL BUSINESSES; REQUIRING THE SUPERINTENDENT OF INSURANCE TO REPORT ON EXPENDITURES FROM THE HEALTH CARE AFFORDABILITY FUND; REQUIRING THE SUPERINTENDENT OF INSURANCE TO ESTABLISH AND ANNUALLY UPDATE HEALTH INSURANCE AFFORDABILITY CRITERIA THAT DEFINE AFFORDABILITY STANDARDS; PROHIBITING IMPOSITION OF COST SHARING FOR BEHAVIORAL HEALTH SERVICES UNDER CERTAIN INSURANCE COVERAGE POLICIES OR PLANS; ALLOWING PLANS EXEMPT FROM REGULATION UNDER THE NEW MEXICO INSURANCE CODE TO ELIMINATE COST SHARING FOR BEHAVIORAL HEALTH SERVICES; ESTABLISHING REPORTING REQUIREMENTS.

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

## **Chapter 136 Section 1 Laws 2021**

SECTION 1. A new section of the Tax Administration Act is enacted to read:

"DISTRIBUTION--HEALTH INSURANCE PREMIUM SURTAX--HEALTH CARE AFFORDABILITY FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the health care affordability fund in an amount equal to the following amounts of the net receipts attributable to the health insurance premium surtax; provided that if the rate of the health insurance premium surtax is reduced pursuant to Subsection F of Section 7-40-3 NMSA 1978, no distribution pursuant to this section shall be made:

- A. beginning January 1, 2022 and prior to July 1, 2022, fifty-two percent;
- B. beginning July 1, 2022 and prior to July 1, 2024, fifty-five percent; and
- C. beginning July 1, 2024, thirty percent."

## **Chapter 136 Section 2 Laws 2021**

SECTION 2. Section 7-40-3 NMSA 1978 (being Laws 2018, Chapter 57, Section 3) is amended to read:

"7-40-3. IMPOSITION AND RATE OF TAX--DENOMINATION OF "PREMIUM TAX" AND "HEALTH INSURANCE PREMIUM SURTAX".--

A. A tax is imposed at a rate of three and three-thousandths percent of the gross premiums and membership and policy fees received or written by a taxpayer, as reported by March 1 of each year to the department in the appropriate schedule, as determined by the department, of the taxpayer's annual financial statement on insurance or contracts covering risks within the state during the preceding calendar year. The tax shall not be imposed on return premiums, dividends paid or credited to

policyholders or contract holders and premiums received for reinsurance on New Mexico risks. The tax imposed pursuant to this section may be referred to as the "premium tax".

B. For a taxpayer that is an insurer lawfully organized pursuant to the laws of the Republic of Mexico, the premium tax shall apply solely to the taxpayer's gross premium receipts from insurance policies issued by the taxpayer in New Mexico that cover residents of New Mexico or property or risks principally domiciled or located in New Mexico.

C. With respect to a taxpayer that is a property bondsman, "gross premiums" shall be considered any consideration received as security or surety for a bail bond in connection with a judicial proceeding.

D. The premium tax provided in Subsection A of this section is imposed on the gross premiums received of a surplus lines broker, less return premiums, on surplus lines insurance where New Mexico is the home state of the insured transacted under the surplus lines broker's license, as reported by the surplus lines broker to the department on forms and in the manner prescribed by the department. For purposes of this subsection, "gross premiums" shall include any additional amount charged the insured, including policy fees, risk purchasing group fees and inspection fees; but "premiums" shall not include any additional amount charged the insured for local, state or federal taxes; regulatory authority fees; or examination fees, if any. For a surplus lines policy issued to an insured whose home state is New Mexico and where only a portion of the risk is located in New Mexico, the entire premium tax shall be paid in accordance with this section.

E. In addition to the premium tax, except as provided in Subsection F of this section, a health insurance premium surtax is imposed at a rate of three and seventy-five hundredths percent of the gross health insurance premiums and membership and policy fees received by the taxpayer on hospital and medical expense incurred insurance or contracts; nonprofit health care plan contracts, excluding dental or vision only contracts; and health maintenance organization subscriber contracts covering



health risks within this state during the preceding calendar year. The surtax shall not apply to return health insurance premiums, dividends paid or credited to policyholders or contract holders and health insurance premiums received for reinsurance on New Mexico risks. The surtax imposed pursuant to this section may be referred to as the "health insurance premium surtax".

F. If an act of the United States congress is signed into law that imposes the annual fee on health insurance providers pursuant to Section 9010 of the federal Patient Protection and Affordable Care Act, or that imposes a substantially similar fee on the same class of taxpayers, the rate of the health insurance premium surtax shall be decreased at a rate equal to the rate of the annual fee imposed; provided that the rate of the health insurance premium surtax shall not be less than one percent. A reduction in the health insurance premium surtax pursuant to this subsection shall go into effect on the later of the effective date of the imposition of the federal annual fee or ninety days after the congressional act imposing the federal annual fee is signed into law."

## **Chapter 136 Section 3 Laws 2021**

SECTION 3. A new section of the Health Care Purchasing Act is enacted to read:

"BEHAVIORAL HEALTH SERVICES--ELIMINATION OF COST SHARING.--

A. Until January 1, 2027, group health coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act that offers coverage of behavioral health services shall not impose cost sharing on those behavioral health services.

B. For the purposes of this section:

(1) "behavioral health services" means professional and ancillary services for the treatment, habilitation, prevention and identification of mental illnesses, substance abuse disorders and trauma spectrum disorders, including inpatient,

detrtoxification, residential treatment and partial hospitalization, intensive outpatient therapy, outpatient and all medications, including brand-name pharmacy drugs when generics are unavailable;

(2) "coinsurance" means a cost-sharing method that requires an enrollee to pay a stated percentage of medical expenses after any deductible amount is paid; provided that coinsurance rates may differ for different types of services under the same group health plan;

(3) "copayment" means a cost-sharing method that requires an enrollee to pay a fixed dollar amount when health care services are received, with the plan administrator paying the balance of the allowable amount; provided that there may be different copayment requirements for different types of services under the same group health plan; and

(4) "cost sharing" means a copayment, coinsurance, deductible or any other form of financial obligation of an enrollee other than a premium or a share of a premium, or any combination of any of these financial obligations, as defined by the terms of a group health plan."

## **Chapter 136 Section 4 Laws 2021**

SECTION 4. A new section of the New Mexico Insurance Code is enacted to read:

"HEALTH CARE AFFORDABILITY FUND.--

A. The "health care affordability fund" is created in the state treasury. The fund consists of distributions, appropriations, gifts, grants and donations. Money in the fund at the end of a fiscal year shall not revert to any other fund. The office of superintendent of insurance shall administer the fund, and money in the fund is subject to appropriation by the legislature for purposes provided by this section. Disbursements

from the fund shall be made by warrant of the secretary of finance and administration pursuant to vouchers signed by the superintendent or the superintendent's authorized representative.

B. The purpose of the fund is to:

(1) reduce health care premiums and cost sharing for New Mexico residents who purchase health care coverage on the New Mexico health insurance exchange;

(2) reduce premiums for small businesses and their employees purchasing health care coverage in the fully insured small group market;

(3) provide resources for planning, design and implementation of health care coverage initiatives for uninsured New Mexico residents; and

(4) provide resources for administration of state health care coverage initiatives for uninsured New Mexico residents.

C. If the federal Patient Protection and Affordable Care Act is repealed in full or in part by an act of congress or invalidated by the United States supreme court and eliminates or reduces comprehensive health care coverage for New Mexico residents through medicaid or the New Mexico health insurance exchange, the fund may be used to maintain coverage through the New Mexico health insurance exchange or through medical assistance programs administered by the human services department, provided that coverage is prioritized for New Mexico residents with incomes below two hundred percent of the federal poverty level.

D. Prior to July 1, 2025, the staff of the legislative finance committee shall conduct a program evaluation to measure the impact of changes to the health insurance premium surtax and the creation of the health care affordability fund as it relates to the purpose of the fund.

E. Prior to July 1 of each year, the superintendent shall provide actuarial data from the health care affordability fund to the legislative finance committee.

F. Prior to July 1 of each year, the superintendent, in consultation with the secretary of human services, the secretary of taxation and revenue and the chief executive officer of the New Mexico health insurance exchange, shall work with the legislative finance committee and the department of finance and administration to develop and report on performance measures relating to the health care affordability fund and any programs or initiatives funded by the fund."

## **Chapter 136 Section 5 Laws 2021**

SECTION 5. A new section of the New Mexico Insurance Code is enacted to read:

"HEALTH CARE AFFORDABILITY PLAN--RULEMAKING--REPORTING REQUIREMENTS.--

A. The superintendent, in consultation with the secretary of human services, the secretary of taxation and revenue and the chief executive officer of the New Mexico health insurance exchange, shall promulgate rules to:

(1) provide enhanced premium and cost-sharing assistance to individuals and families for the purchase of qualified health plans on the New Mexico health insurance exchange. In providing this assistance, the superintendent shall develop health care affordability criteria designed to reduce the amount that individuals pay in premiums and out-of-pocket medical expenses for qualified health plans offered on the New Mexico health insurance exchange; and

(2) establish income eligibility parameters for the health care affordability criteria for plan year 2023 and each subsequent calendar year based on available funds. New Mexico residents who qualify shall have an income that is eligible

for advanced premium tax credits under the federal Patient Protection and Affordable Care Act.

B. The superintendent, in consultation with the human services department, the New Mexico medical insurance pool, the department of health and stakeholder groups, including health care providers that serve uninsured residents, health insurance carriers and consumer advocacy groups, shall develop a plan for extending health care coverage access to uninsured New Mexico residents who do not qualify for federal premium assistance or, except by reason of incarceration, qualified health plans, through the New Mexico health insurance exchange. No later than June 30, 2022, the superintendent shall submit the plan to the legislative finance committee and the legislative health and human services committee that could offer health care coverage for eligible New Mexico residents beginning July 1, 2023. The plan shall include:

(1) details about health care benefits;

(2) health care affordability criteria designed to reduce the amount that individuals pay in premiums and out-of-pocket medical expenses under the plan and that result in, to the greatest extent possible, health care costs comparable to costs for New Mexico residents for whom assistance is provided under Subsection A of this section; and

(3) income eligibility parameters that prioritize eligibility for New Mexico residents with incomes under two hundred percent of federal poverty level.

C. On or before October 31, 2023 and each October 31 thereafter, the superintendent shall submit a report to the legislative finance committee and the legislative health and human services committee, which shall include:

(1) a summary of the affordability criteria implemented pursuant to Subsections A and B of this section;

(2) the estimated number of uninsured New Mexico residents who enrolled in coverage following implementation of the affordability criteria pursuant to Subsections A and B of this section; and

(3) the amount in reduced costs and coverage assistance the initiatives provided in the current and previous calendar years by income level, county and coverage source."

## **Chapter 136 Section 6 Laws 2021**

SECTION 6. A new section of Chapter 59A, Article 22 NMSA 1978 is enacted to read:

### **"BEHAVIORAL HEALTH SERVICES--ELIMINATION OF COST SHARING.--**

A. Until January 1, 2027, an individual or group health insurance policy, health care plan or certificate of health insurance that is delivered, issued for delivery or renewed in this state that offers coverage of behavioral health services shall not impose cost sharing on those behavioral health services.

B. For the purposes of this section:

(1) "behavioral health services" means professional and ancillary services for the treatment, habilitation, prevention and identification of mental illnesses, substance abuse disorders and trauma spectrum disorders, including inpatient, detoxification, residential treatment and partial hospitalization, intensive outpatient therapy, outpatient and all medications, including brand-name pharmacy drugs when generics are unavailable;

(2) "coinsurance" means a cost-sharing method that requires the insured to pay a stated percentage of medical expenses after any deductible amount is paid; provided that coinsurance rates may differ for different types of services under the

same individual or group health insurance policy, health care plan or certificate of health insurance;

(3) "copayment" means a cost-sharing method that requires the insured to pay a fixed dollar amount when health care services are received, with the insurer paying the balance of the allowable amount; provided that there may be different copayment requirements for different types of services under the same individual or group health insurance policy, health care plan or certificate of health insurance; and

(4) "cost sharing" means a copayment, coinsurance, deductible or any other form of financial obligation of the insured other than a premium or a share of a premium, or any combination of any of these financial obligations, as defined by the terms of an individual or group health insurance policy, health care plan or certificate of health insurance."

## **Chapter 136 Section 7 Laws 2021**

SECTION 7. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

### **"BEHAVIORAL HEALTH SERVICES--ELIMINATION OF COST SHARING.--**

A. Until January 1, 2027, a group or blanket health insurance policy, health care plan or certificate of health insurance that is delivered, issued for delivery or renewed in this state that offers coverage of behavioral health services shall not impose cost sharing on those behavioral health services.

B. For the purposes of this section:

(1) "behavioral health services" means professional and ancillary services for the treatment, habilitation, prevention and identification of mental illnesses, substance abuse disorders and trauma spectrum disorders, including inpatient,

detoxification, residential treatment and partial hospitalization, intensive outpatient therapy, outpatient and all medications, including brand-name pharmacy drugs when generics are unavailable;

(2) "coinsurance" means a cost-sharing method that requires a covered person to pay a stated percentage of medical expenses after any deductible amount is paid; provided that coinsurance rates may differ for different types of services under the same group or blanket health insurance policy, health care plan or certificate of health insurance;

(3) "copayment" means a cost-sharing method that requires a covered person to pay a fixed dollar amount when health care services are received, with the insurer paying the balance of the allowable amount; provided that there may be different copayment requirements for different types of services under the same group or blanket health insurance policy, health care plan or certificate of health insurance; and

(4) "cost sharing" means a copayment, coinsurance, deductible or any other form of financial obligation of a covered person other than a premium or a share of a premium, or any combination of any of these financial obligations, as defined by the terms of a group or blanket health insurance policy, health care plan or certificate of health insurance."

## **Chapter 136 Section 8 Laws 2021**

SECTION 8. A new section of the Health Maintenance Organization Law is enacted to read:

"BEHAVIORAL HEALTH SERVICES--ELIMINATION OF COST SHARING.--

A. Until January 1, 2027, an individual or group health maintenance organization contract that is delivered, issued for delivery or renewed in this state that



offers coverage of behavioral health services shall not impose cost sharing on those behavioral health services.

B. For the purposes of this section:

(1) "behavioral health services" means professional and ancillary services for the treatment, habilitation, prevention and identification of mental illnesses, substance abuse disorders and trauma spectrum disorders, including inpatient, detoxification, residential treatment and partial hospitalization, intensive outpatient therapy, outpatient and all medications, including brand-name pharmacy drugs when generics are unavailable;

(2) "coinsurance" means a cost-sharing method that requires an enrollee to pay a stated percentage of medical expenses after any deductible amount is paid; provided that coinsurance rates may differ for different types of services under the same individual or group health maintenance organization contract;

(3) "copayment" means a cost-sharing method that requires an enrollee to pay a fixed dollar amount when health care services are received, with the carrier paying the balance of the allowable amount; provided that there may be different copayment requirements for different types of services under the same individual or group health maintenance organization contract; and

(4) "cost sharing" means a copayment, coinsurance, deductible or any other form of financial obligation of an enrollee other than a premium or a share of a premium, or any combination of any of these financial obligations, as defined by the terms of an individual or group health maintenance organization contract."

## **Chapter 136 Section 9 Laws 2021**

SECTION 9. A new section of the Nonprofit Health Care Plan Law is enacted to read:

"BEHAVIORAL HEALTH SERVICES--ELIMINATION OF COST SHARING.--

A. Until January 1, 2027, an individual or group health care plan that is delivered, issued for delivery or renewed in this state that offers coverage of behavioral health services shall not impose cost sharing on those behavioral health services.

B. For the purposes of this section:

(1) "behavioral health services" means professional and ancillary services for the treatment, habilitation, prevention and identification of mental illnesses, substance abuse disorders and trauma spectrum disorders, including inpatient, detoxification, residential treatment and partial hospitalization, intensive outpatient therapy, outpatient and all medications, including brand-name pharmacy drugs when generics are unavailable;

(2) "coinsurance" means a cost-sharing method that requires a subscriber to pay a stated percentage of medical expenses after any deductible amount is paid; provided that coinsurance rates may differ for different types of services under the same individual or group health care plan;

(3) "copayment" means a cost-sharing method that requires a subscriber to pay a fixed dollar amount when health care services are received, with the health care plan paying the balance of the allowable amount; provided that there may be different copayment requirements for different types of services under the same individual or group health care plan; and

(4) "cost sharing" means a copayment, coinsurance, deductible or any other form of financial obligation of a subscriber other than a premium or a share of a premium, or any combination of any of these financial obligations, as defined by the terms of an individual or group health care plan."

## **Chapter 136 Section 10 Laws 2021**

### SECTION 10. REPORTING.--Until January 1, 2027:

A. the office of superintendent of insurance shall report by November 1 of each year to the governor, the legislative finance committee and the interim legislative health and human services committee data regarding the elimination of cost sharing pursuant to the provisions of this 2021 act, including the effects on providers and patients with regard to costs for behavioral health services and the effects on health and social outcomes for patients, by using a set of performance measurement tools related to health care quality assurance, developed by a nationally recognized organization; and

B. the legislative finance committee shall report by November 1 of each year to the governor and the interim legislative health and human services committee data regarding the elimination of cost sharing pursuant to the provisions of this 2021 act, including the effects on providers and patients with regard to costs for behavioral health services and the effects on health and social outcomes for patients, by using a set of performance measurement tools related to health care quality assurance, developed by a nationally recognized organization.

## **Chapter 136 Section 11 Laws 2021**

SECTION 11. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2022.

# LAWS 2021, CHAPTER 137

**H AFC/House Bills 2 and 3, aa, w/cc, partial veto  
Approved April 9, 2021**

AN ACT

MAKING GENERAL APPROPRIATIONS AND AUTHORIZING EXPENDITURES BY STATE AGENCIES REQUIRED BY LAW.

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

## **Chapter 137 Section 1 Laws 2021**

SECTION 1. SHORT TITLE.--This act may be cited as the "General Appropriation Act of 2021".

## **Chapter 137 Section 2 Laws 2021**

SECTION 2. DEFINITIONS.--As used in the General Appropriation Act of 2021:

- A. "agency" means an office, department, agency, institution, board, bureau, commission, court, district attorney, council or committee of state government;
- B. "efficiency" means the measure of the degree to which services are efficient and productive and is often expressed in terms of dollars or time per unit of output;
- C. "explanatory" means information that can help users to understand reported performance measures and to evaluate the significance of underlying factors that may have affected the reported information;
- D. "federal funds" means any payments by the United States government to state government or agencies except those payments made in accordance with the federal Mineral Leasing Act;
- E. "full-time equivalent" means one or more authorized positions that alone or together receives or receive compensation for not more than two thousand eighty-eight hours worked in fiscal year 2022. The

calculation of hours worked includes compensated absences but does not include overtime, compensatory time or sick leave paid pursuant to Section 10-7-10 NMSA 1978;

F. "general fund" means that fund created by Section 6-4-2 NMSA 1978 and includes federal Mineral Leasing Act receipts and those payments made in accordance with the federal block grant and the federal Workforce Investment Act but excludes the general fund operating reserve, the appropriation contingency fund, the tax stabilization reserve and any other fund, reserve or account from which general appropriations are restricted by law;

G. "interagency transfers" means revenue, other than internal service funds, legally transferred from one agency to another;

H. "internal service funds" means:

(1) revenue transferred to an agency for the financing of goods or services to another agency on a cost-reimbursement basis; and

(2) balances in agency internal service fund accounts appropriated by the General Appropriation Act of 2021;

I. "other state funds" means:

(1) nonreverting balances in agency accounts, other than in internal service funds accounts, appropriated by the General Appropriation Act of 2021;

(2) all revenue available to agencies from sources other than the general fund, internal service funds, interagency transfers and federal funds; and

(3) all revenue, the use of which is restricted by statute or agreement;

J. "outcome" means the measure of the actual impact or public benefit of a program;

K. "output" means the measure of the volume of work completed or the level of actual services or products delivered by a program;

L. "performance measure" means a quantitative or qualitative indicator used to assess a program;

M. "quality" means the measure of the quality of a good or service produced and is often an indicator of the timeliness, reliability or safety of services or products produced by a program;

N. "revenue" means all money received by an agency from sources external to that agency, net of refunds and other correcting transactions, other than from issue of debt, liquidation of investments or as agent or trustee for other governmental entities or private persons; and

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

## **Chapter 137 Section 3 Laws 2021**

### SECTION 3. GENERAL PROVISIONS.--

A. Amounts set out under column headings are expressed in thousands of dollars.

B. Amounts set out under column headings are appropriated from the source indicated by the column heading. All amounts set out under the column heading "Internal Service Funds/Interagency Transfers" are intergovernmental transfers and do not represent a portion of total state government appropriations. All information designated as "Total" or "Subtotal" is provided for information and amounts are not appropriations.

C. Amounts set out in Section 4 of the General Appropriation Act of 2021, or so much as may be necessary, are appropriated from the indicated source for expenditure in fiscal year 2022 for the objects expressed.

D. Unexpended balances in agency accounts remaining at the end of fiscal year 2021 shall revert to the general fund by October 1, 2021 unless otherwise indicated in the General Appropriation Act of 2021 or otherwise provided by law.

E. Unexpended balances in agency accounts remaining at the end of fiscal year 2022 shall revert to the general fund by October 1, 2022 unless otherwise indicated in the General Appropriation Act of 2021 or otherwise provided by law.

F. The state budget division shall monitor revenue received by agencies from sources other than the general fund and shall reduce the operating budget of any agency whose revenue from such sources is not meeting projections. The state budget division shall notify the legislative finance committee of any operating budget reduced pursuant to this subsection.

G. Except as otherwise specifically stated in the General Appropriation Act of 2021, appropriations are made in this act for the expenditures of agencies and for other purposes as required by existing law for fiscal year 2022. If any other act of the first session of the fifty-fifth legislature changes existing law with regard to the name or responsibilities of an agency or the name or purpose of a fund or distribution, the appropriation made in the General Appropriation Act of 2021 shall be transferred from the agency, fund or distribution to which an appropriation has been made as required by existing law to the appropriate agency, fund or distribution provided by the new law.

H. The department of finance and administration will regularly consult with the legislative finance committee staff to compare fiscal year 2022 revenue collections with the revenue estimate. If the analyses indicate that revenues and transfers to the general fund are not expected to meet appropriations, then the department shall present a plan to the legislative finance committee that outlines the methods by which the administration proposes to address the deficit.

I. Pursuant to Sections 6-3-23 through 6-3-25 NMSA 1978, agencies whose revenue from state board of finance loans, from revenue appropriated by other acts of the legislature, or from gifts, grants, donations, bequests, insurance settlements, refunds or payments into revolving funds exceeds specifically appropriated amounts may request budget increases from the state budget division. If approved by the state budget division, such money is appropriated.

J. Except for gasoline credit cards used solely for operation of official vehicles, telephone credit cards used solely for official business and procurement cards used as authorized by Section 6-5-9.1 NMSA 1978, none of the appropriations contained in the General Appropriation Act of 2021 may be expended for payment of agency-issued credit card invoices.

K. For the purpose of administering the General Appropriation Act of 2021, the state of New Mexico shall follow the modified accrual basis of accounting for governmental funds in accordance with the manual of model accounting practices issued by the department of finance and administration.

## Chapter 137 Section 4 Laws 2021

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
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SECTION 4. FISCAL YEAR 2022 APPROPRIATIONS.—

**A. LEGISLATIVE**

**LEGISLATIVE COUNCIL SERVICE:**

Legislative building services:

Appropriations:

(a) Personal services and employee benefits	3,156.7			3,156.7
(b) Contractual services	142.5			142.5
(c) Other	1,016.6			1,016.6
Subtotal				4,315.8
TOTAL LEGISLATIVE	4,315.8			4,315.8

**B. JUDICIAL**

**NEW MEXICO COMPILATION COMMISSION:**

The purpose of the New Mexico compilation commission program is to publish in print and electronic format, distribute and sell (1) laws enacted by the legislature, (2) opinions of the supreme court and court of appeals, (3) rules approved by the supreme court, (4) attorney general opinions and (5) other state and federal rules and opinions. The commission ensures the accuracy and reliability of its publications.

Appropriations:

(a) Operations	529.9	642.0	400.0	1,571.9
Subtotal				1,571.9

**JUDICIAL STANDARDS COMMISSION:**

The purpose of the judicial standards commission program is to provide a public review process addressing complaints involving judicial misconduct to preserve the integrity and impartiality of the judicial



process.

Appropriations:

(a) Operations	879.2		879.2
Subtotal			879.2

**COURT OF APPEALS:**

The purpose of the court of appeals program is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a) Operations	6,569.6	1.0	6,570.6
Subtotal			6,570.6

**SUPREME COURT:**

The purpose of the supreme court program is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a) Operations	6,509.7	1.5	6,511.2
Subtotal			6,511.2

## ADMINISTRATIVE OFFICE OF THE COURTS:

(1) Administrative support:

The purpose of the administrative support program is to provide administrative support to the chief justice, all judicial branch units and the administrative office of the courts so that they can effectively administer the New Mexico court system.

Appropriations:

(a) Personal services and employee benefit	5,514.1			404.9	5,919.0
(b) Contractual services	1,492.0	143.5	313.6	1,521.8	3,470.9
(c) Other	2,875.5	5,115.2	500.0	403.9	8,894.6

The other state funds appropriations to the administrative support program of the administrative office of the courts include three hundred seventy-five thousand dollars (\$375,000) from the jury and witness fee fund and five hundred fifty thousand dollars (\$550,000) from the language access fund for agency operations. Any unexpended balances in the administrative support program of the administrative office of the courts remaining at the end of fiscal year 2022 from appropriations made from the jury and witness fee fund shall revert to the jury and witness fee fund. Any unexpended balances in the administrative support program of the administrative office of the courts remaining at the end of fiscal year 2022 from appropriations made from the language access fund shall revert to the language access fund.

(2) Statewide judiciary automation:

The purpose of the statewide judicial automation program is to provide development, enhancement, maintenance and support for core court automation and usage skills for appellate, district, magistrate and

municipal courts and ancillary judicial agencies.

Appropriations:

(a) Personal services and employee benefits	4,507.0	2,355.8	6,862.8
(b) Contractual services		907.5	907.5
(c) Other	693.7	2,028.1	2,721.8

(3) Magistrate court:

The purpose of the magistrate court and warrant enforcement program is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status in order to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a) Personal services and employee benefits	984.8	2,636.4	3,621.2
(b) Contractual services	250.0	275.9	525.9
(c) Other	9,070.6	1,094.5	10,165.1

The other state funds appropriations to the magistrate court program of the administrative office of the courts include two hundred nine thousand dollars (\$209,000) from the magistrate court warrant enforcement fund for agency operations. Any unexpended balances in the magistrate court program of the administrative office of the courts remaining at the end of fiscal year 2022 from appropriations made from the magistrate court warrant enforcement fund shall revert to the magistrate court warrant enforcement fund.

(4) Special court services:

The purpose of the special court services program is to provide court advocates, legal counsel and safe exchanges for children and families; to provide judges pro tem; and to adjudicate water rights disputes so the constitutional rights and safety of citizens, especially children and families, are protected.

Appropriations:

(a) Pre-trial services	1,264.3			1,264.3
(b) Court-appointed special advocate	1,398.4			1,398.4
(c) Supervised visitation	849.2			849.2
(d) Water rights	501.0	423.0		924.0
(e) Court-appointed attorneys	6,213.5			6,213.5
(f) Children's mediation	275.7			275.7
(g) Judges pro tem	29.1	70.0		99.1
(h) Access to justice	124.8			124.8
(i) Statewide alternative dispute resolution	195.4			195.4
(j) Drug court	1,433.8			1,433.8
(k) Drug court fund		400.0	2,519.5	2,919.5

Performance measures:

<del>(a) Explanatory:</del>	<del>Percent of released defendants who comply with conditions of their release, appear for all scheduled court appearances, and are not charged with a new offense during pretrial supervision</del>
<del>(b) Explanatory:</del>	<del>Ratio of defendants whose supervision level or detention status corresponds with assessed risk</del>
<del>(c) Explanatory:</del>	<del>Percent of supervised defendants who make all scheduled court appearances</del>
<del>(d) Explanatory:</del>	<del>Percent of supervised defendants who are not charged with a new offense during the pretrial stage]</del>

Subtotal 58,786.5

*LINE ITEM VETO*

## DISTRICT COURTS:

### (1) First judicial district:

The purpose of the first judicial district court program, statutorily created in Santa Fe, Rio Arriba, and Los Alamos counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

#### Appropriations:

(a) Operations	10,586.6	533.7	716.0	11,836.3
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### (2) Second judicial district:

The purpose of the second judicial district court program, statutorily created in Bernalillo county, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

#### Appropriations:

(a) Operations	26,404.3	3,508.5	1,773.3	220.2	31,906.3
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The internal service funds/interagency transfers appropriation to the second judicial district court includes three hundred thousand dollars (\$300,000) from the mortgage regulatory fund of the regulation and licensing department for foreclosure mediation. Any unexpended balances in the second judicial district court program from the mortgage regulatory fund at the end of fiscal year 2022 shall revert to the mortgage

regulatory fund.

(3) Third judicial district:

The purpose of the third judicial district court program, statutorily created in Dona Ana county, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a) Operations	10,164.3	248.6	1,030.5	125.0	11,568.4
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(4) Fourth judicial district:

The purpose of the fourth judicial district court program, statutorily created in Mora, San Miguel and Guadalupe counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a) Operations	3,889.7	48.3	259.2		4,197.2
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(5) Fifth judicial district:

The purpose of the fifth judicial district court program, statutorily created in Eddy, Chaves and Lea counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records

of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a) Operations	10,528.0	283.4	567.2	11,378.6
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(6) Sixth judicial district:

The purpose of the sixth judicial district court program, statutorily created in Grant, Luna and Hidalgo counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a) Operations	5,457.6	84.0	244.1	5,785.7
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(7) Seventh judicial district:

The purpose of the seventh judicial district court program, statutorily created in Torrance, Socorro, Catron and Sierra counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a) Operations	4,042.1	36.0	483.6	4,561.7
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(8) Eighth judicial district:

The purpose of the eighth judicial district court program, statutorily created in Taos, Colfax and Union counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a) Operations	4,675.2	139.7	177.9	4,992.8
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(9) Ninth judicial district:

The purpose of the ninth judicial district court program, statutorily created in Curry and Roosevelt counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a) Operations	5,070.6	103.1	682.7	5,856.4
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(10) Tenth judicial district:

The purpose of the tenth judicial district court program, statutorily created in Quay, De Baca and Harding counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.



Appropriations:

(a) Operations	1,833.9				1,833.9
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(11) Eleventh judicial district:

The purpose of the eleventh judicial district court program, statutorily created in San Juan and McKinley counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a) Operations	10,532.7	409.0	904.4		11,846.1
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(12) Twelfth judicial district:

The purpose of the twelfth judicial district court program, statutorily created in Otero and Lincoln counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a) Operations	5,242.5	137.0	125.4	52.1	5,557.0
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(13) Thirteenth judicial district:

The purpose of the thirteenth judicial district court program, statutorily created in Valencia, Sandoval

and Cibola counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a) Operations	10,797.2	445.9	1,089.0	12,332.1
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The internal service funds/interagency transfers appropriation to the thirteenth judicial district court includes one hundred fifty-five thousand seven hundred dollars (\$155,700) from the mortgage regulatory fund of the regulation and licensing department for foreclosure mediation. Any unexpended balances in the thirteenth judicial district court program from the mortgage regulatory fund at the end of fiscal 2022 shall revert to the mortgage regulatory fund.

Subtotal				123,652.5
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**BERNALILLO COUNTY METROPOLITAN COURT:**

The purpose of the Bernalillo county metropolitan court program is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a) Operations	25,115.0	2,626.6	546.8	405.1	28,693.5
Subtotal					28,693.5

## DISTRICT ATTORNEYS:

### (1) First judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Santa Fe, Rio Arriba and Los Alamos counties.

#### Appropriations:

(a) Personal services and employee benefits	5,659.9	10.0	183.7	120.1	5,973.7
(b) Contractual services	22.8				22.8
(c) Other	403.0				403.0

#### Performance measures:

(a) Explanatory:	Percent of pretrial detention motions granted
(b) Explanatory:	Number of pretrial detention motions made

### (2) Second judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Bernalillo county.

#### Appropriations:

(a) Personal services and employee benefits	21,901.6	437.8	894.1	401.6	23,635.1
(b) Contractual services	694.9			15.4	710.3

(c) Other 1,903.4 1,903.4

Performance measures:

(a) Explanatory: Number of pretrial detention motions made  
(b) Explanatory: Percent of pretrial detention motions granted

(3) Third judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Dona Ana county.

Appropriations:

(a) Personal services and employee benefits	5,121.9	200.0	161.7	340.9	5,824.5
(b) Contractual services	20.7				20.7
(c) Other	269.2				269.2

Performance measures:

(a) Explanatory: Percent of pretrial detention motions granted  
(b) Explanatory: Number of pretrial detention motions made

(4) Fourth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Mora, San Miguel and Guadalupe counties.

Appropriations:

(a) Personal services and employee benefits	3,458.4			3,458.4
(b) Contractual services	29.3			29.3
(c) Other	89.3	69.1		158.4

Performance measures:

(a) Explanatory:	Number of pretrial detention motions made
(b) Explanatory:	Percent of pretrial detention motions granted

(5) Fifth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Eddy, Lea and Chaves counties.

Appropriations:

(a) Personal services and employee benefits	5,768.6	128.3	287.7	6,184.6
(b) Contractual services	25.6			25.6
(c) Other	229.4	10.0		239.4

Performance measures:

(a) Explanatory:	Percent of pretrial detention motions granted
(b) Explanatory:	Number of pretrial detention motions made

(6) Sixth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and

ensure the protection, safety, welfare and health of the citizens within Grant, Hidalgo and Luna counties.

Appropriations:

(a) Personal services and employee benefits	3,078.0	20.0	113.1	93.6	3,304.7
(b) Contractual services	13.8				13.8
(c) Other	184.6				184.6

Performance measures:

(a) Explanatory:	Percent of pretrial detention motions granted
(b) Explanatory:	Number of pretrial detention motions made

(7) Seventh judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Catron, Sierra, Socorro and Torrance counties.

Appropriations:

(a) Personal services and employee benefits	2,717.0	3.8			2,720.8
(b) Contractual services	14.0				14.0
(c) Other	140.0	6.2			146.2

Performance measures:

(a) Explanatory:	Number of pretrial detention motions made
(b) Explanatory:	Percent of pretrial detention motions granted

(8) Eighth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Taos, Colfax and Union counties.

Appropriations:

(a) Personal services and employee benefits	3,065.3	3,065.3
(b) Contractual services	16.8	16.8
(c) Other	140.1	140.1

Performance measures:

(a) Explanatory:	Number of pretrial detention motions made
(b) Explanatory:	Percent of pretrial detention motions granted

(9) Ninth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Curry and Roosevelt counties.

Appropriations:

(a) Personal services and employee benefits	3,385.9	3,385.9
(b) Contractual services	12.5	12.5
(c) Other	151.0	151.0

Performance measures:

(a) Explanatory:	Percent of pretrial detention motions granted
(b) Explanatory:	Number of pretrial detention motions made

(10) Tenth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Quay, Harding and De Baca counties.

Appropriations:

(a) Personal services and employee benefits	1,381.0				1,381.0
(b) Contractual services	25.0				25.0
(c) Other	163.9				163.9

Performance measures:

(a) Explanatory:	Number of pretrial detention motions made
(b) Explanatory:	Percent of pretrial detention motions granted

(11) Eleventh judicial district, division I:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within San Juan county.

Appropriations:

(a) Personal services and employee benefits	4,633.7	55.8	98.4	233.3	5,021.2
(b) Contractual services	153.0				153.0
(c) Other	257.8		39.3	1.0	298.1



Performance measures:

- (a) Explanatory: Percent of pretrial detention motions granted
- (b) Explanatory: Number of pretrial detention motions made

(12) Eleventh judicial district, division II:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within McKinley county.

Appropriations:

(a) Personal services and employee benefits	2,579.8	236.4	2,816.2
(b) Contractual services	105.9		105.9
(c) Other	145.5		145.5

Performance measures:

- (a) Explanatory: Number of pretrial detention motions made
- (b) Explanatory: Percent of pretrial detention motions granted

(13) Twelfth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Lincoln and Otero counties.

Appropriations:

(a) Personal services and employee benefits	3,459.0	235.2	194.8	3,889.0
(b) Contractual services	50.0			50.0
(c) Other	227.3			227.3

Performance measures:

(a) Explanatory:	Number of pretrial detention motions made
(b) Explanatory:	Percent of pretrial detention motions granted

(14) Thirteenth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Cibola, Sandoval and Valencia counties.

Appropriations:

(a) Personal services and employee benefits	5,423.3	198.3	5,621.6
(b) Contractual services	100.0	16.3	116.3
(c) Other	390.0	31.9	421.9

Performance measures:

(a) Explanatory:	Number of pretrial detention motions made	
(b) Explanatory:	Percent of pretrial detention motions granted	
Subtotal		82,450.0

**ADMINISTRATIVE OFFICE OF THE DISTRICT ATTORNEYS:**

(1) Administrative support:

The purpose of the administrative support program is to provide fiscal, human resource, staff development, automation, victim program services and support to all district attorneys' offices in New Mexico and to members of the New Mexico children's safe house network so they may obtain and access the necessary resources to effectively and efficiently carry out their prosecutorial, investigative and programmatic functions.

Appropriations:

(a) Personal services and employee benefits	1,573.0	100.2	1,673.2
(b) Contractual services	280.4	16.9	297.3
(c) Other	590.5	187.8	778.3
Subtotal			2,748.8

**PUBLIC DEFENDER DEPARTMENT:**

(1) Criminal legal services:

The purpose of the criminal legal services program is to provide effective legal representation and advocacy for eligible clients so their liberty and constitutional rights are protected and to serve the community as a partner in assuring a fair and efficient criminal justice system that sustains New Mexico's statutory and constitutional mandate to adequately fund a statewide indigent defense system.

Appropriations:

(a) Personal services and employee benefits	36,400.5		36,400.5
(b) Contractual services	14,537.2	393.6	14,930.8
(c) Other	6,292.7	200.0	6,492.7

Performance measures:

(a) Output:	Average cases assigned to attorneys yearly				330
Subtotal					57,824.0
TOTAL JUDICIAL	323,286.5	26,970.3	14,610.0	4,821.4	369,688.2

### C. GENERAL CONTROL

#### ATTORNEY GENERAL:

(1) Legal services:

The purpose of the legal services program is to deliver quality legal services, including opinions, counsel and representation to state government entities and to enforce state law on behalf of the public so New Mexicans have an open, honest, efficient government and enjoy the protection of state law.

#### Appropriations:

(a) Personal services and employee benefits	10,829.9	6,547.0	989.4	18,366.3
(b) Contractual services	677.6	396.1	12.3	1,086.0
(c) Other	1,855.0	1,186.0	427.7	3,468.7
(d) Other financing uses		3,000.0		3,000.0

The internal service funds/interagency transfers appropriations to the legal services program of the attorney general include eight million one hundred twenty-nine thousand one hundred dollars (\$8,129,100) from the consumer settlement fund of the office of the attorney general.

The internal service funds/interagency transfers appropriation to the legal services program of the attorney general in the other financing uses category includes one million dollars (\$1,000,000) from the consumer settlement fund for the public health program of the department of health for teen suicide prevention and two million dollars (\$2,000,000) from the consumer settlement fund for the facilities management program of the department of health. Any unexpended balances from the consumer settlement fund

shall revert to the consumer settlement fund at the office of the attorney general.

(2) Medicaid fraud:

The purpose of the medicaid fraud program is to investigate and prosecute medicaid provider fraud, recipient abuse and neglect in the medicaid program.

Appropriations:

(a) Personal services and employee benefits	594.3	105.5	2,099.5	2,799.3
(b) Contractual services	54.8	9.8	193.6	258.2
(c) Other	151.0	26.7	533.2	710.9

The internal service funds/interagency transfers appropriations to the medicaid fraud program of the attorney general include one hundred forty-two thousand dollars (\$142,000) from the consumer settlement fund at the office of the attorney general.

Subtotal				29,689.4
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**STATE AUDITOR:**

The purpose of the state auditor program is to audit the financial affairs of every agency annually so they can improve accountability and performance and to assure New Mexicans that funds are expended properly.

Appropriations:

(a) Personal services and employee benefits	2,880.8	474.9		3,355.7
(b) Contractual services	40.0	38.1		78.1
(c) Other	300.0	244.1		544.1
Subtotal				3,977.9

## TAXATION AND REVENUE DEPARTMENT:

### (1) Tax administration:

The purpose of the tax administration program is to provide registration and licensure requirements for tax programs and to ensure the administration, collection and compliance of state taxes and fees that provide funding for support services for the general public through appropriations.

#### Appropriations:

(a) Personal services and employee benefits	22,336.2	737.9	1,296.4	24,370.5
(b) Contractual services	318.7		28.2	346.9
(c) Other	6,374.4	389.6	202.2	6,966.2

#### Performance measures:

(a) Outcome:	Collections as a percent of collectible outstanding balances from the end of the prior fiscal year	20%
(b) Outcome:	Collections as a percent of collectible audit assessments generated in the previous fiscal year	60%

### (2) Motor vehicle:

The purpose of the motor vehicle program is to register, title and license vehicles, boats and motor vehicle dealers and to enforce operator compliance with the Motor Vehicle Code and federal regulations by conducting tests, investigations and audits.

#### Appropriations:

(a) Personal services and employee benefits	14,194.1	2,930.2	17,124.3
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(b) Contractual services	7,283.2	1,576.5	8,859.7
(c) Other	11,399.2		11,399.2
(d) Other financing uses	12,094.5		12,094.5

The other state funds appropriation to the motor vehicle program of the taxation and revenue department in the other financing uses category includes twelve million dollars (\$12,000,000) from the weight distance tax identification permit fund for the modal program of the department of transportation and ninety-four thousand five hundred dollars (\$94,500) from the weight distance tax identification permit fund for the law enforcement program of the department of public safety.

Performance measures:

(a) Outcome:	Percent of registered vehicles with liability insurance	93%
(b) Efficiency:	Average call center wait time to reach an agent, in minutes	<10
(c) Efficiency:	Average wait time in qmatic-equipped offices, in minutes	<20

(3) Property tax:

The purpose of the property tax program is to administer the Property Tax Code, to ensure the fair appraisal of property and to assess property taxes within the state.

Appropriations:

(a) Personal services and employee benefits	3,397.6	3,397.6
(b) Contractual services	863.1	863.1
(c) Other	1,024.9	1,024.9

Performance measures:

(a) Output:	Amount of delinquent property tax collected and distributed to counties, in millions	\$10
(b) Outcome:	Percent of total delinquent property taxes recovered	15%

(4) Compliance enforcement:

The purpose of the compliance enforcement program is to support the overall mission of the taxation and revenue department by enforcing criminal statutes relative to the New Mexico Tax Administration Act and other related financial crimes, as they impact New Mexico state taxes, to encourage and achieve voluntary compliance with state tax laws.

Appropriations:

(a) Personal services and employee benefits	1,342.3	1,342.3
(b) Contractual services	6.4	6.4
(c) Other	268.6	268.6

Performance measures:

(a) Outcome:	Percent of tax investigations referred to prosecutors of total investigations assigned during the year	85%
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(5) Program support:

The purpose of program support is to provide information system resources, human resource services, finance and accounting services, revenue forecasting and legal services to give agency personnel the resources needed to meet departmental objectives. For the general public, the program conducts hearings for resolving taxpayer protests and provides stakeholders with reliable information regarding the state's tax programs.



Appropriations:

(a) Personal services and employee benefits	13,271.1	352.5	13,623.6
(b) Contractual services	4,007.0		4,007.0
(c) Other	2,546.7		2,546.7

Performance measures:

(a) Outcome:	Number of tax protest cases resolved	1,600
Subtotal		108,241.5

**STATE INVESTMENT COUNCIL:**

(1) State investment:

The purpose of the state investment program is to provide investment management of the state's permanent funds for the citizens of New Mexico to maximize distributions to the state's operating budget while preserving the real value of the funds for future generations of New Mexicans.

Appropriations:

(a) Personal services and employee benefits	4,059.8	4,059.8
(b) Contractual services	50,923.8	50,923.8
(c) Other	676.6	676.6

Performance measures:

(a) Outcome:	Five-year annualized investment returns to exceed internal benchmarks, in basis points	>25
(b) Outcome:	Five-year annualized percentile performance ranking in endowment investment peer universe	<49
Subtotal		55,660.2

## ADMINISTRATIVE HEARINGS OFFICE:

(1) Administrative hearings:

The purpose of the administrative hearings program is to adjudicate tax-, property- and motor-vehicle-related administrative hearings in a fair, efficient and impartial manner independent of the executive agency that is party to the proceedings.

### Appropriations:

(a) Personal services and employee benefits	1,500.1	170.0	1,670.1
(b) Contractual services	62.2		62.2
(c) Other	164.3	50.0	214.3

The other state funds appropriation to the administrative hearings office includes one hundred sixty-five thousand dollars (\$165,000) from the motor vehicle suspense fund.

The internal service funds/interagency transfers appropriation to the administrative hearings office includes fifty thousand dollars (\$50,000) from the human services department for costs of conducting administrative hearings under the Medicaid Provider and Managed Care Act.

### Performance measures:

(a) Outcome:	Percent of hearings for Implied Consent Act cases not held within ninety days due to administrative hearings office error	<0.5%
Subtotal		1,946.6

## DEPARTMENT OF FINANCE AND ADMINISTRATION:

(1) Policy development, fiscal analysis, budget oversight and education accountability:

The purpose of the policy development, fiscal analysis, budget oversight and education accountability program is to provide professional and coordinated policy development and analysis and oversight to the governor, the legislature and state agencies so they can advance the state's policies and initiatives using appropriate and accurate data to make informed decisions for the prudent use of the public's tax dollars.

### Appropriations:

(a) Personal services and employee benefits	3,409.0	3,409.0
(b) Contractual services	63.3	63.3
(c) Other	138.4	138.4

### Performance measures:

(a) Outcome:	General fund reserves as a percent of recurring appropriations	25%
(b) Outcome:	Error rate for the eighteen-month general fund revenue forecast, excluding oil and gas revenue and corporate income taxes	5%
(c) Outcome:	Error rate for the eighteen-month general fund revenue forecast, including oil and gas revenue and corporate income taxes	5%

(2) Community development, local government assistance and fiscal oversight:

The purpose of the community development, local government assistance and fiscal oversight program is to help counties, municipalities and special districts maintain strong communities through sound fiscal advice and oversight, technical assistance, monitoring of project and program progress and timely processing of

payments, grant agreements and contracts.

Appropriations:

(a) Personal services and employee benefits	1,777.4	1,180.1	434.1	3,391.6
(b) Contractual services	2,733.6	1,856.5	2.0	4,592.1
(c) Other	63.5	31,214.4	19,544.8	50,822.7
(d) Other financing uses		300.0		300.0

The other state funds appropriations to the community development, local government assistance and fiscal oversight program of the department of finance and administration include twelve million four hundred fifty-one thousand dollars (\$12,451,000) from the enhanced 911 fund, twenty million two hundred thousand dollars (\$20,200,000) from the local DWI grant fund and one million nine hundred thousand dollars (\$1,900,000) from the civil legal services fund.

Performance measures:

(a) Outcome:	Number of counties and municipalities local government division assisted during the fiscal year to resolve audit findings and diminish poor audit opinions	11
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(3) Fiscal management and oversight:

The purpose of the fiscal management and oversight program is to provide for and promote financial accountability for public funds throughout state government by providing state agencies and the citizens of New Mexico with timely, accurate and comprehensive information on the financial status and expenditures of the state.

Appropriations:

(a) Personal services and employee benefits	4,351.1			4,351.1
(b) Contractual services	1,338.7			1,338.7
(c) Other	167.4			167.4
(d) Other financing uses		34,900.0	12,000.0	46,900.0

The internal service funds/interagency transfers appropriation to the fiscal management and oversight program of the department of finance and administration in the other financing uses category includes twelve million dollars (\$12,000,000) from the tobacco settlement program fund. Of this amount, six million dollars (\$6,000,000) is contingent on enactment of legislation in the first session of the fifty-fifth legislature amending Section 6-4-9 NMSA 1978.

The other state funds appropriation to the fiscal management and oversight program of the department of finance and administration in the other financing uses category includes thirty-four million nine hundred thousand dollars (\$34,900,000) from the county-supported medicaid fund.

(4) Program support:

The purpose of program support is to provide other department of finance and administration programs with central direction on agency management processes to ensure consistency, legal compliance and financial integrity, to provide human resources support and to administer the executive's exempt salary plan.

Appropriations:

(a) Personal services and employee benefits	1,660.2			1,660.2
(b) Contractual services	115.8			115.8
(c) Other	197.0			197.0

(5) Dues and membership fees/special appropriations:

Appropriations:

(a) Emergency water supply fund	109.9		109.9
(b) Fiscal agent contract	1,064.8		1,064.8
(c) State planning districts	693.0		693.0
(d) Statewide teen court	17.7	120.2	137.9
(e) Law enforcement protection fund		15,100.0	15,100.0
(f) Leasehold community assistance	120.0		120.0
(g) Acequia and community ditch education program	398.2		398.2
(h) New Mexico acequia commission	88.1		88.1
(i) Land grant council	296.9		296.9
(j) Membership and dues	148.0		148.0
(k) County detention of prisoners	2,387.5		2,387.5

The department of finance and administration shall not distribute a general fund appropriation made in items (a) through (i) and item (k) to a New Mexico agency or local public body that is not current on its audit or financial reporting or otherwise in compliance with the Audit Act.

On certification by the state board of finance pursuant to Section 6-1-2 NMSA 1978 that a critical emergency exists that cannot be addressed by disaster declaration or other emergency or contingency funds, the secretary of the department of finance and administration is authorized to transfer from the general fund operating reserve to the state board of finance emergency fund the amount necessary to meet the emergency. Such transfers shall not exceed an aggregate amount of two million five hundred thousand dollars (\$2,500,000) in fiscal year 2022. Repayments of emergency loans made pursuant to this paragraph shall be deposited in the board of finance emergency fund pursuant to the provisions of Section 6-1-5 NMSA 1978.

Subtotal

137,991.6

**PUBLIC SCHOOL INSURANCE AUTHORITY:**

(1) Benefits:

The purpose of the benefits program is to provide an effective health insurance package to educational employees and their eligible family members so they can be protected against catastrophic financial losses due to medical problems, disability or death.

Appropriations:

(a) Contractual services	343,164.9	343,164.9
(b) Other financing uses	700.5	700.5

Performance measures:

(a) Outcome:	Percent change in per-member health claim costs	≤7%
(b) Outcome:	Percent change in medical premium as compared with industry average	≤4.5%

(2) Risk:

The purpose of the risk program is to provide economical and comprehensive property, liability and workers' compensation programs to educational entities so they are protected against injury and loss.

Appropriations:

(a) Contractual services	82,370.5	82,370.5
(b) Other financing uses	700.5	700.5

Performance measures:

(a) Explanatory:	Total dollar amount of excess insurance claims for property	
(b) Explanatory:	Total dollar amount of excess insurance claims for liability	
(c) Efficiency:	Annual loss ratio for the risk fund	75%

(3) Program support:

The purpose of program support is to provide administrative support for the benefits and risk programs and to assist the agency in delivering services to its constituents.

Appropriations:

(a) Personal services and employee benefits	1,120.5	1,120.5
(b) Contractual services	91.9	91.9
(c) Other	188.6	188.6

Any unexpended balances in program support of the New Mexico public school insurance authority remaining at the end of fiscal year 2022 shall revert in equal amounts to the benefits program and risk program.

Subtotal		428,337.4
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**RETIREE HEALTH CARE AUTHORITY:**

(1) Healthcare benefits administration:

The purpose of the healthcare benefits administration program is to provide fiscally solvent core group and optional healthcare benefits and life insurance to current and future eligible retirees and their dependents so they may access covered and available core group and optional healthcare benefits and life insurance benefits when they need them.



Appropriations:

(a) Contractual services	353,501.7	353,501.7
(b) Other	43.9	43.9
(c) Other financing uses	3,247.1	3,247.1

Performance measures:

(a) Output:	Minimum number of years of positive fund balance	30
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(2) Program support:

The purpose of program support is to provide administrative support for the healthcare benefits administration program to assist the agency in delivering its services to its constituents.

Appropriations:

(a) Personal services and employee benefits	2,077.1	2,077.1
(b) Contractual services	621.4	621.4
(c) Other	548.6	548.6

Any unexpended balances in program support of the retiree health care authority remaining at the end of fiscal year 2022 shall revert to the healthcare benefits administration program.

Subtotal		360,039.8
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**GENERAL SERVICES DEPARTMENT:**

(1) Employee group health benefits:

The purpose of the employee group health benefits program is to effectively administer comprehensive health-benefit plans to state and local government employees.

Appropriations:

(a) Contractual services	20,177.7	20,177.7
(b) Other	392,758.3	392,758.3

Performance measures:

(a) Outcome:	Percent change in state employee medical premium	≤5%
(b) Outcome:	Percent change in the average per-member per-month total healthcare cost	≤5%
(c) Efficiency:	Annual loss ratio for the health benefits fund	98%
(d) Explanatory:	Projected year-end fund balance of the health benefits fund	

(2) Risk management:

The purpose of the risk management program is to protect the state's assets against property, public liability, workers' compensation, state unemployment compensation, local public bodies unemployment compensation and surety bond losses so agencies can perform their missions in an efficient and responsive manner.

Appropriations:

(a) Personal services and employee benefits	4,323.7	4,323.7
(b) Contractual services	150.0	150.0
(c) Other	430.3	430.3
(d) Other financing uses	3,857.0	3,857.0

Any unexpended balances in the risk management program of the general services department remaining at the end of fiscal year 2022 shall revert to the public liability fund, public property reserve fund, workers' compensation retention fund, state unemployment compensation fund, local public body unemployment compensation fund and group self-insurance fund based on the proportion of each individual fund's

assessment for the risk management program.

(3) Risk management funds:

Appropriations:

(a) Public liability	44,471.2	44,471.2
(b) Surety bond	58.0	58.0
(c) Public property reserve	15,200.4	15,200.4
(d) Local public body unemployment compensation reserve	3,090.0	3,090.0
(e) Workers' compensation retention	21,881.7	21,881.7
(f) State unemployment compensation	12,100.0	12,100.0

The other state funds appropriation to the public liability fund includes sufficient funding to pay costs of providing liability insurance coverage to members of the New Mexico mounted patrol.

Performance measures:

(a) Explanatory:	Projected financial position of the public property fund
(b) Explanatory:	Projected financial position of the workers' compensation fund
(c) Explanatory:	Projected financial position of the public liability fund

(4) State printing services:

The purpose of the state printing services program is to provide cost-effective printing and publishing services for governmental agencies.

Appropriations:

(a) Personal services and employee benefits	557.0	557.0
(b) Contractual services	100.0	100.0
(c) Other	1,315.9	1,315.9
(d) Other financing uses	57.4	57.4

Performance measures:

(a) Outcome:	Growth in quarterly sales revenue compared with the previous thirty- or sixty-day legislative session	-20%
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(5) Facilities management:

The purpose of the facilities management division program is to provide employees and the public with effective property management so agencies can perform their missions in an efficient and responsive manner.

Appropriations:

(a) Personal services and employee benefits	8,541.6	8,541.6
(b) Contractual services	235.6	235.6
(c) Other	6,393.5	6,393.5
(d) Other financing uses	200.0	200.0

Performance measures:

(a) Outcome:	Percent of new office space leases achieving adopted space standards	90%
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(6) Transportation services:

The purpose of the transportation services program is to provide centralized and effective administration

of the state's motor pool and aircraft transportation services so agencies can perform their missions in an efficient and responsive manner.

Appropriations:

(a) Personal services and employee benefits	314.0	1,856.6	2,170.6
(b) Contractual services	1.3	196.5	197.8
(c) Other	185.5	6,452.8	6,638.3
(d) Other financing uses	28.5	361.6	390.1

Performance measures:

(a) Outcome:	Percent of leased vehicles used 750 miles per month or daily	70%
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(7) Procurement services:

The purpose of the procurement services program is to provide a procurement process for tangible property for government entities to ensure compliance with the Procurement Code so agencies can perform their missions in an efficient and responsive manner.

Appropriations:

(a) Personal services and employee benefits	692.4	1,171.9	1,864.3
(b) Contractual services		29.0	29.0
(c) Other	8.8	290.1	298.9
(d) Other financing uses	13.1	60.8	73.9

Performance measures:

(a) Output:	Average number of days for completion of contract review	≤5
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(8) Program support:

The purpose of program support is to manage the program performance process to demonstrate success.

Appropriations:

(a) Personal services and employee benefits	3,333.1	3,333.1
(b) Contractual services	463.5	463.5
(c) Other	781.8	781.8

Any unexpended balances in program support of the general services department remaining at the end of fiscal year 2022 shall revert to the procurement services, state printing services, risk management, facilities management and transportation services programs based on the proportion of each individual program's assessment for program support.

Subtotal		552,140.6
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**EDUCATIONAL RETIREMENT BOARD:**

(1) Educational retirement:

The purpose of the educational retirement program is to provide secure retirement benefits to active and retired members so they can have secure monthly benefits when their careers are finished.

Appropriations:

(a) Personal services and employee benefits	7,933.1	7,933.1
(b) Contractual services	18,437.2	18,437.2
(c) Other	1,819.1	1,819.1

Performance measures:

(a) Outcome:	Funding period of unfunded actuarial accrued liability, in years	≤30
Subtotal		28,189.4

**NEW MEXICO SENTENCING COMMISSION:**

The purpose of the New Mexico sentencing commission is to provide information, analysis, recommendations and assistance from a coordinated cross-agency perspective to the three branches of government and interested citizens so they have the resources they need to make policy decisions that benefit the criminal and juvenile justice systems.

Appropriations:

(a) Contractual services	606.0	52.0	658.0
(b) Other	582.6		582.6
Subtotal			1,240.6

**GOVERNOR:**

(1) Executive management and leadership:

The purpose of the executive management and leadership program is to provide appropriate management and leadership to the executive branch of government to allow for a more efficient and effective operation of the agencies within that branch of government on behalf of the citizens of the state.

Appropriations:

(a) Personal services and employee benefits	3,968.3		3,968.3
(b) Contractual services	86.0		86.0

(c) Other	507.4	507.4
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The general fund appropriation to the office of the governor in the other category includes ninety-six thousand dollars (\$96,000) for the governor's contingency fund.

Subtotal		4,561.7
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### **LIEUTENANT GOVERNOR:**

(1) State ombudsman:

The purpose of the state ombudsman program is to facilitate and promote cooperation and understanding between the citizens of New Mexico and the agencies of state government, refer any complaints or special problems citizens may have to the proper entities, keep records of activities and submit an annual report to the governor.

#### Appropriations:

(a) Personal services and employee benefits	449.5	449.5
(b) Contractual services	36.9	36.9
(c) Other	92.3	92.3
Subtotal		578.7

### **DEPARTMENT OF INFORMATION TECHNOLOGY:**

(1) Compliance and project management:

The purpose of the compliance and project management program is to provide information technology strategic planning, oversight and consulting services to New Mexico government agencies so they can improve services provided to New Mexico citizens.



Appropriations:

(a) Personal services and employee benefits	578.4	1,301.2	1,879.6
(b) Contractual services	1,000.0	21.5	1,021.5
(c) Other	42.6	88.2	130.8
(d) Other financing uses	173.1		173.1

The general fund appropriation to the compliance and project management program of the department of information technology in the contractual services category includes one million dollars (\$1,000,000) for cybersecurity services [~~contingent on submission of a plan to address cybersecurity to the legislative finance committee by May 1, 2021~~]. *LINE ITEM VETO*

Performance measures:

(a) Outcome:	Percent of information technology professional service contracts greater than one million dollars in value reviewed within seven business days	95%
(b) Outcome:	Percent of information technology professional service contracts less than one million dollars in value reviewed within five business days	95%

(2) Enterprise services:

The purpose of the enterprise services program is to provide reliable and secure infrastructure for voice, radio, video and data communications through the state's enterprise data center and telecommunications network.

Appropriations:

(a) Personal services and employee benefits		10,196.1	10,196.1
(b) Contractual services		5,765.7	5,765.7

(c) Other	31,370.2	31,370.2
(d) Other financing uses	8,522.1	8,522.1

Performance measures:

(a) Outcome:	Percent of service desk incidents resolved within the timeframe specified for their priority level	95%
(b) Output:	Number of independent vulnerability scans of information technology assets identifying potential cyber risks	2

(3) Equipment replacement revolving funds:

Appropriations:

(a) Other	8,522.1	8,522.1
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(4) Program support:

The purpose of program support is to provide management and ensure cost recovery and allocation services through leadership, policies, procedures and administrative support for the department.

Appropriations:

(a) Personal services and employee benefits	3,253.2	173.1	3,426.3
(b) Contractual services	31.6		31.6
(c) Other	321.1		321.1

Performance measures:

(a) Outcome:	Percent of enterprise services achieving a cost recovery rate within ten percent of breaking even	95%
Subtotal		71,360.2

## **PUBLIC EMPLOYEES RETIREMENT ASSOCIATION:**

### (1) Pension administration:

The purpose of the pension administration program is to provide information, retirement benefits and an actuarially sound fund to association members so they can receive the defined benefit they are entitled to when they retire from public service.

#### Appropriations:

(a) Personal services and employee benefits	45.2	8,156.1	8,201.3
(b) Contractual services		25,968.8	25,968.8
(c) Other	3.7	2,035.1	2,038.8

#### Performance measures:

(a) Outcome:	Funding period of unfunded actuarial accrued liability, in years	≤30
Subtotal		36,208.9

## **STATE COMMISSION OF PUBLIC RECORDS:**

### (1) Records, information and archival management:

The purpose of the records, information and archival management program is to develop, implement and provide tools, methodologies and services for use by, and for the benefit of, government agencies, historical record repositories and the public so the state can effectively create, preserve, protect and properly dispose of records, facilitate their use and understanding and protect the interests of the citizens of New Mexico.

Appropriations:

(a) Personal services and employee benefits	2,339.0			2,339.0
(b) Contractual services	15.2	14.0	16.3	45.5
(c) Other	60.9	294.7	16.2	371.8
Subtotal				2,756.3

**SECRETARY OF STATE:**

(1) Administration and operations:

The purpose of the administration and operations program is to provide operational services to commercial and business entities and citizens, including administration of notary public commissions, uniform commercial code filings, trademark registrations and partnerships, and to provide administrative services needed to carry out elections.

Appropriations:

(a) Personal services and employee benefits	3,015.2			3,015.2
(b) Contractual services	149.9			149.9
(c) Other	535.6	65.0		600.6

(2) Elections:

The purpose of the elections program is to provide voter education and information on election law and government ethics to citizens, public officials and candidates so they can comply with state law.

Appropriations:

(a) Personal services and employee benefits	907.9	410.3	1,318.2
(b) Contractual services	1,334.9	303.7	1,638.6
(c) Other	10,646.3	940.5	11,586.8

Performance measures:

(a) Outcome:	Percent of eligible voters registered to vote	87%
(b) Outcome:	Percent of reporting individuals in compliance with campaign finance reporting requirements	99%
Subtotal		18,309.3

**PERSONNEL BOARD:**

(1) Human resource management:

The purpose of the human resource management program is to provide a merit-based system in partnership with state agencies, appropriate compensation, human resource accountability and employee development that meets the evolving needs of the agencies, employees, applicants and the public so economy and efficiency in the management of state affairs may be provided while protecting the interest of the public.

Appropriations:

(a) Personal services and employee benefits	3,353.3	111.4	3,464.7
(b) Contractual services	51.0		51.0
(c) Other	295.8		295.8

Performance measures:

(a) Explanatory:	Average number of days to fill a position from the date of posting
(b) Explanatory:	Classified service vacancy rate
(c) Explanatory:	Number of salary increases awarded

(d) Explanatory:	Average classified service employee total compensation	
(e) Explanatory:	Cost of overtime pay	
Subtotal		3,811.5

**PUBLIC EMPLOYEES LABOR RELATIONS BOARD:**

The purpose of the public employee labor relations board is to ensure all state and local public body employees have the right to organize and bargain collectively with their employer or to refrain from such.

Appropriations:

(a) Personal services and employee benefits	186.2		186.2
(b) Contractual services	18.6		18.6
(c) Other	37.8		37.8
Subtotal			242.6

**STATE TREASURER:**

The purpose of the state treasurer program is to provide a financial environment that maintains maximum accountability for receipt, investment and disbursement of public funds to protect the financial interests of New Mexico citizens.

Appropriations:

(a) Personal services and employee benefits	3,156.6		2.0	3,158.6
(b) Contractual services	422.5			422.5
(c) Other	267.2	390.0		657.2

Performance measures:

(a) Outcome:	One-year annualized investment return on general fund core portfolio to exceed internal benchmarks, in basis points	10
Subtotal		4,238.3
TOTAL GENERAL CONTROL	156,695.2      1,559,625.5      105,827.4      27,374.4	1,849,522.5

**D. COMMERCE AND INDUSTRY**

**BOARD OF EXAMINERS FOR ARCHITECTS:**

(1) Architectural registration:

The purpose of the architectural registration program is to regulate, through enforcement and licensing, the professional conduct of architects to protect the health, safety and welfare of the general public of the state.

Appropriations:

(a) Personal services and employee benefits	318.0	318.0
(b) Contractual services	11.0	11.0
(c) Other	83.3	83.3
Subtotal		412.3

**STATE ETHICS COMMISSION:**

The purpose of the New Mexico ethics commission is to receive, investigate and adjudicate complaints against public officials, public employees, candidates, those subject to the Campaign Reporting Act, government contractors, lobbyists and lobbyists' employers and to ensure that public ethics laws are clear, comprehensive and effective.

Appropriations:

(a) Personal services and employee benefits	623.2		623.2
(b) Contractual services	175.0		175.0
(c) Other	102.1		102.1
Subtotal			900.3

### **BORDER AUTHORITY:**

(1) Border development:

The purpose of the border development program is to encourage and foster trade development in the state by developing port facilities and infrastructure at international ports of entry to attract new industries and business to the New Mexico border and to assist industries, businesses and the traveling public in their efficient and effective use of ports and related facilities.

Appropriations:

(a) Personal services and employee benefits	394.1		394.1
(b) Contractual services	9.5	18.0	27.5
(c) Other	29.8	55.4	85.2

Performance measures:

(a) Outcome:	Annual trade share of New Mexico ports within the west Texas and New Mexico region	25%
(b) Outcome:	Number of commercial and noncommercial vehicles passing through New Mexico ports	1,575,000
Subtotal		506.8

### **TOURISM DEPARTMENT:**

(1) Marketing and promotion:



The purpose of the marketing and promotion program is to produce and provide collateral, editorial and special events for the consumer and trade industry so they may increase their awareness of New Mexico as a premier tourist destination.

Appropriations:

(a) Personal services and employee benefits	768.2		768.2
(b) Contractual services	876.1		876.1
(c) Other	12,568.2	30.0	12,598.2

Performance measures:

(a) Outcome:	Percent change in New Mexico leisure and hospitality employment	1%
(b) Output:	Percent change in year-over-year visitor spending	1%

(2) Tourism development:

The purpose of the tourism development program is to provide constituent services for communities, regions and other entities so they may identify their needs and assistance can be provided to locate resources to fill those needs, whether internal or external to the organization.

Appropriations:

(a) Personal services and employee benefits	917.8	125.6	1,043.4
(b) Contractual services	2.0	2.2	4.2
(c) Other	152.9	1,105.3	1,258.2

Performance measures:

(a) Output:	Number of entities participating in collaborative applications for the cooperative marketing grant program	140
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(3) New Mexico magazine:

The purpose of the New Mexico magazine program is to produce a monthly magazine and ancillary products for a state and global audience so the audience can learn about New Mexico from a cultural, historical and educational perspective.

Appropriations:

(a) Personal services and employee benefits	996.9	996.9
(b) Contractual services	830.0	830.0
(c) Other	1,405.0	1,405.0

Performance measures:

(a) Output:	True adventure guide advertising revenue	\$445,000
(b) Output:	Advertising revenue per issue, in thousands	\$75

(4) Program support:

The purpose of program support is to provide administrative assistance to support the department's programs and personnel so they may be successful in implementing and reaching their strategic initiatives and maintaining full compliance with state rules and regulations.

Appropriations:

(a) Personal services and employee benefits	1,128.7	1,128.7
(b) Contractual services	32.5	32.5

(c) Other	142.5	142.5
Subtotal		21,083.9

**ECONOMIC DEVELOPMENT DEPARTMENT:**

(1) Economic development:

The purpose of the economic development program is to assist communities in preparing for their role in the new economy, focusing on high-quality job creation and improved infrastructure so New Mexicans can increase their wealth and improve their quality of life.

Appropriations:

(a) Personal services and employee benefits	1,791.9	1,791.9
(b) Contractual services	1,540.0	1,540.0
(c) Other	5,947.7	5,947.7

The general fund appropriation to the economic development program of the economic development department in the other category includes five million dollars (\$5,000,000) for the development training fund.

Performance measures:

(a) Outcome:	Number of workers trained by the job training incentive program	2,000
(b) Outcome:	Number of jobs created due to economic development department efforts	4,000
(c) Outcome:	Number of rural jobs created	1,320
(d) Output:	Number of jobs created through the use of Local Economic Development Act funds	3,000
(e) Outcome:	Number of jobs created through business relocations facilitated by the New Mexico economic development partnership	2,250

(2) Film:

The purpose of the film program is to maintain the core business for the film location services and stimulate growth in digital film media to maintain the economic vitality of New Mexico's film industry.

Appropriations:

(a) Personal services and employee benefits	680.8	680.8
(b) Contractual services	53.4	53.4
(c) Other	78.9	78.9

Performance measures:

(a) Outcome:	Direct spending by film industry productions, in millions	\$530
<del>[(b) Outcome:]</del>	<del>New television or episodic series filmed in a rural tax credit community per year</del>	<del>1]</del>

LINE ITEM VETO

(3) Outdoor recreation:

Appropriations:

(a) Personal services and employee benefits	244.4	244.4
(b) Contractual services	25.0	25.0
(c) Other	209.4	209.4

The general fund appropriation to the outdoor recreation program of the economic development department in the other category includes one hundred thousand dollars (\$100,000) for the outdoor equity grant program fund.

(4) Program support:

The purpose of program support is to provide central direction to agency management processes and fiscal support to agency programs to ensure consistency, continuity and legal compliance.

Appropriations:

(a) Personal services and employee benefits	1,695.5	1,695.5
(b) Contractual services	1,123.3	1,123.3
(c) Other	172.0	172.0

The general fund appropriation to program support of the economic development department in the contractual services category includes one million dollars (\$1,000,000) for the New Mexico economic development corporation.

Subtotal	13,562.3
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**REGULATION AND LICENSING DEPARTMENT:**

(1) Construction industries and manufactured housing:

The purpose of the construction industries and manufactured housing program is to provide code compliance oversight; issue licenses, permits and citations; perform inspections; administer exams; process complaints; and enforce laws, rules and regulations relating to general construction and manufactured housing standard.

Appropriations:

(a) Personal services and employee benefits	7,948.2	20.5			7,968.7
(b) Contractual services	473.0	50.3	29.9		553.2
(c) Other	888.7	121.3	170.1	25.0	1,205.1
(d) Other financing uses		147.2			147.2

Performance measures:

(a) Outcome:	Percent of commercial plans reviewed within ten working days	92%
(b) Outcome:	Percent of residential plans reviewed within five working days	95%
(c) Output:	Time to final action, referral or dismissal of complaint, in months	8

(2) Financial institutions:

The purpose of the financial institutions and securities program is to issue charters and licenses; perform examinations; investigate complaints; enforce laws, rules and regulations; and promote investor protection and confidence so capital formation is maximized and a secure financial infrastructure is available to support economic development.

Appropriations:

(a) Personal services and employee benefits	398.2	1,369.2	930.8	2,698.2
(b) Contractual services	6.4	75.8		82.2
(c) Other	33.7	484.4	41.8	559.9
(d) Other financing uses		261.5	455.7	717.2

The internal service funds/interagency transfers appropriations to the financial institutions program of the regulation and licensing department include nine hundred seventy-two thousand six hundred dollars (\$972,600) from the mortgage regulatory fund for the general operations of the financial institutions

program.

The internal service funds/interagency transfers appropriation to the financial institutions program of the regulation and licensing department in the other financing uses category includes three hundred thousand dollars (\$300,000) from the mortgage regulatory fund for the second judicial district court for foreclosure mediation and one hundred fifty-five thousand seven hundred dollars (\$155,700) from the mortgage regulatory fund for the thirteenth judicial district court for foreclosure mediation.

(3) Alcohol and gaming:

The purpose of the alcohol and gaming program is to regulate the sale, service and public consumption of alcoholic beverages and, in cooperation with the department of public safety, enforce the Liquor Control Act to protect the health, safety and welfare of the citizens of and visitors to New Mexico.

Appropriations:

(a) Personal services and employee benefits	1,012.7	150.0	1,162.7
(b) Contractual services	13.3		13.3
(c) Other	77.1	50.0	127.1

Performance measures:

(a) Output:	Number of days to resolve an administrative citation that does not require a hearing	160
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(4) Securities:

The purpose of the securities program is to protect the integrity of the capital markets in New Mexico by setting standards for licensed professionals, investigating complaints, educating the public and enforcing

the law.

Appropriations:

(a) Personal services and employee benefits	468.2	925.4	1,393.6
(b) Contractual services	4.0	70.0	74.0
(c) Other	50.0	333.4	383.4
(d) Other financing uses		252.2	252.2

Performance measures:

(a) Outcome:	Total revenue collected from licensing, in millions	\$23.6
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(5) Boards and commissions:

Appropriations:

(a) Personal services and employee benefits	246.9	5,894.1	6,141.0
(b) Contractual services	30.0	562.7	592.7
(c) Other	154.2	1,616.0	1,770.2
(d) Other financing uses		2,123.5	2,123.5

(6) Program support:

The purpose of program support is to provide leadership and centralized direction, financial management, information systems support and human resources support for all agency organizations in compliance with governing regulations, statutes and procedures so they can license qualified applicants, verify compliance with statutes and resolve or mediate consumer complaints.

Appropriations:



(a) Personal services and employee benefits	997.6	1,819.3		2,816.9
(b) Contractual services	26.1	514.6		540.7
(c) Other	133.2	600.6		733.8
Subtotal				32,056.8

**PUBLIC REGULATION COMMISSION:**

(1) Policy and regulation:

The purpose of the policy and regulation program is to fulfill the constitutional and legislative mandates regarding regulated industries through rulemaking, adjudications and policy initiatives to ensure the provisions of adequate and reliable services at fair, just and reasonable rates so the interests of the consumers and regulated industries are balanced to promote and protect the public interest.

Appropriations:

(a) Personal services and employee benefits	7,057.9	274.1		7,332.0
(b) Contractual services	362.9			362.9
(c) Other	795.6		5.0	800.6

(2) Public safety:

The purpose of the public safety program is to provide services and resources to the appropriate entities to enhance their ability to protect the public from fire and pipeline hazards and other risk as assigned to the public regulation commission.

Appropriations:

(a) Personal services and employee benefits		619.7	630.0	1,249.7
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(b) Contractual services	77.7		77.7
(c) Other	124.3	120.0	244.3

(3) Program support:

The purpose of program support is to provide administrative support and direction to ensure consistency, compliance, financial integrity and fulfillment of the agency mission.

Appropriations:

(a) Personal services and employee benefits	1,106.5	489.9	1,596.4
(b) Contractual services	24.8		24.8
(c) Other	120.4		120.4
Subtotal			11,808.8

**OFFICE OF SUPERINTENDENT OF INSURANCE:**

(1) Insurance policy:

The purpose of the insurance policy program is to ensure easy public access to reliable insurance products that meet consumers' needs and are underwritten by dependable, reputable, financially sound companies that charge fair rates and are represented by trustworthy, qualified agents, while promoting a positive competitive business climate.

Appropriations:

(a) Personal services and employee benefits	1,787.8	6,814.7	8,602.5
(b) Contractual services	879.0	327.9	1,206.9
(c) Other	477.5	799.2	1,276.7
(d) Other financing uses	616.8		616.8

(2) Patient's compensation fund:

Appropriations:

(a) Personal services and employee benefits	171.9	171.9
(b) Contractual services	596.2	596.2
(c) Other	27,615.2	27,615.2
(d) Other financing uses	816.5	816.5

(3) Special revenues:

Appropriations:

(a) Other financing uses	6,640.8	6,640.8
Subtotal		47,543.5

**MEDICAL BOARD:**

(1) Licensing and certification:

The purpose of the licensing and certification program is to provide regulation and licensure to healthcare providers regulated by the New Mexico medical board and to ensure competent and ethical medical care to consumers.

Appropriations:

(a) Personal services and employee benefits	1,443.2	1,443.2
(b) Contractual services	477.0	477.0
(c) Other	409.5	409.5

Performance measures:

(a) Output:	Number of triennial physician licenses issued or renewed	4,100
(b) Output:	Number of biennial physician assistant licenses issued or renewed	500
(c) Explanatory:	Number of licensees contacted regarding high-risk prescribing and prescribing monitoring program compliance, based on the board of pharmacy prescription monitoring program reports	
Subtotal		2,329.7

### BOARD OF NURSING:

#### (1) Licensing and certification:

The purpose of the licensing and certification program is to provide regulations to nurses, hemodialysis technicians, medication aides and their education and training programs so they provide competent and professional healthcare services to consumers.

#### Appropriations:

(a) Personal services and employee benefits	1,805.4		1,805.4
(b) Contractual services	56.0		56.0
(c) Other	750.2	200.0	950.2
(d) Other financing uses	50.0		50.0

#### Performance measures:

(a) Explanatory:	Number of registered nurse licenses active on June 30	
(b) Output:	Number of advanced practice nurses contacted regarding high-risk prescribing and prescription monitoring program compliance, based on the pharmacy board's prescription monitoring program reports	300
Subtotal		2,861.6

## NEW MEXICO STATE FAIR:

The purpose of the state fair program is to promote the New Mexico state fair as a year-round operation with venues, events and facilities that provide for greater use of the assets of the agency.

### Appropriations:

(a) Personal services and employee benefits		6,201.5	6,201.5
(b) Contractual services	185.0	2,777.8	2,962.8
(c) Other	100.0	3,292.1	3,392.1

### Performance measures:

(a) Output:	Number of paid attendees at annual state fair event	430,000
Subtotal		12,556.4

## STATE BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND PROFESSIONAL SURVEYORS:

### (1) Regulation and licensing:

The purpose of the regulation and licensing program is to regulate the practices of engineering and surveying in the state as they relate to the welfare of the public in safeguarding life, health and property and to provide consumers with licensed professional engineers and licensed professional surveyors.

### Appropriations:

(a) Personal services and employee benefits		622.4	622.4
(b) Contractual services		239.4	239.4
(c) Other		278.8	278.8
Subtotal			1,140.6

## GAMING CONTROL BOARD:

### (1) Gaming control:

The purpose of the gaming control program is to provide strictly regulated gaming activities and to promote responsible gaming to the citizens of New Mexico so they can attain a strong level of confidence in the board's administration of gambling laws and assurance the state has competitive gaming free from criminal and corruptive elements and influences.

#### Appropriations:

(a) Personal services and employee benefits	3,569.7			3,569.7
(b) Contractual services	54.4			54.4
(c) Other	1,581.6			1,581.6
Subtotal				5,205.7

## STATE RACING COMMISSION:

### (1) Horse racing regulation:

The purpose of the horse racing regulation program is to provide regulation in an equitable manner to New Mexico's parimutuel horse racing industry and to protect the interest of wagering patrons and the state of New Mexico in a manner that promotes a climate of economic prosperity for horsemen, horse owners and racetrack management.

#### Appropriations:

(a) Personal services and employee benefits	1,605.0			1,605.0
(b) Contractual services	512.8	300.0	700.0	1,512.8

(c) Other	225.6	225.6
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Performance measures:

(a) Outcome:	Percent of equine samples testing positive for illegal substances	1%
(b) Output:	Amount collected from parimutuel revenues, in millions	\$1.2
(c) Explanatory:	Number of horse fatalities per one thousand starts	
Subtotal		3,343.4

**BOARD OF VETERINARY MEDICINE:**

(1) Veterinary licensing and regulatory:

The purpose of the veterinary licensing and regulatory program is to regulate the profession of veterinary medicine in accordance with the Veterinary Practice Act and to promote continuous improvement in veterinary practices and management to protect the public.

Appropriations:

(a) Personal services and employee benefits	238.5	238.5
(b) Contractual services	174.6	174.6
(c) Other	62.2	62.2
Subtotal		475.3

**CUMBRES AND TOLTEC SCENIC RAILROAD COMMISSION:**

The purpose of the Cumbres and Toltec scenic railroad commission is to provide railroad excursions through, into and over the scenic San Juan mountains.

Appropriations:

(a) Personal services and employee benefits	110.7		110.7
(b) Contractual services	118.5	5,967.0	6,085.5
(c) Other	9.5		9.5

Performance measures:

(a) Outcome:	Total number of passengers	45,300
Subtotal		6,205.7

**OFFICE OF MILITARY BASE PLANNING AND SUPPORT:**

The purpose of the office of military base planning and support is to provide advice to the governor and lieutenant governor on New Mexico's four military installations, to work with community support groups, to ensure state initiatives are complementary of community actions and to identify and address appropriate state-level issues that will contribute to the long-term viability of New Mexico military installations.

Appropriations:

(a) Personal services and employee benefits	135.0	135.0
(b) Contractual services	79.2	79.2
(c) Other	20.7	20.7
Subtotal		234.9

**SPACEPORT AUTHORITY:**

The purpose of the spaceport authority is to finance, design, develop, construct, equip and safely operate spaceport America and thereby generate significant high technology economic development throughout the state.

Appropriations:



(a) Personal services and employee benefits	1,824.5	1,290.0			3,114.5
(b) Contractual services	250.0	5,666.2			5,916.2
(c) Other		3,104.4			3,104.4

Performance measures:

(a) Output:	Number of aerospace customers and tenants				18
Subtotal					12,135.1
TOTAL COMMERCE AND INDUSTRY	64,296.7	88,402.0	20,884.4	780.0	174,363.1

**E. AGRICULTURE, ENERGY AND NATURAL RESOURCES**

**CULTURAL AFFAIRS DEPARTMENT:**

(1) Museums and historic sites:

The purpose of the museums and historic sites program is to develop and enhance the quality of state museums and monuments by providing the highest standards in exhibitions, performances and programs showcasing the arts, history and science of New Mexico and cultural traditions worldwide.

Appropriations:

(a) Personal services and employee benefits	18,674.3	2,462.3	25.0	96.9	21,258.5
(b) Contractual services	561.3	409.4			970.7
(c) Other	3,857.6	1,421.0			5,278.6

Performance measures:

(a) Outcome:	Number of people served through programs and services offered by museums and historic sites				1,375,000
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(2) Preservation:

The purpose of the preservation program is to identify, study and protect New Mexico's unique cultural resources, including its archaeological sites, architectural and engineering achievements, cultural landscapes and diverse heritage.

Appropriations:

(a) Personal services and employee benefits	720.3	859.2	206.1	795.0	2,580.6
(b) Contractual services		169.6		125.6	295.2
(c) Other	63.8	175.1		225.3	464.2

The other state funds appropriations to the preservation program of the cultural affairs department include one million dollars (\$1,000,000) from the department of transportation for archaeological studies as needed for highway projects.

(3) Library services:

The purpose of the library services program is to empower libraries to support the educational, economic and health goals of their communities and to deliver direct library and information services to those who need them.

Appropriations:

(a) Personal services and employee benefits	2,088.4			723.1	2,811.5
(b) Contractual services	74.1			5.9	80.0
(c) Other	1,575.1	43.0		706.3	2,324.4

(4) Arts:

The purpose of the arts program is to preserve, enhance and develop the arts in New Mexico through

partnerships, public awareness and education.

Appropriations:

(a) Personal services and employee benefits	688.1		166.7	854.8
(b) Contractual services	570.0		398.1	968.1
(c) Other	123.4		49.9	173.3

(5) Program support:

The purpose of program support is to deliver effective, efficient, high-quality services in concert with the core agenda of the governor.

Appropriations:

(a) Personal services and employee benefits	3,579.0			3,579.0
(b) Contractual services	313.0	35.9		348.9
(c) Other	269.2			269.2
Subtotal				42,257.0

**NEW MEXICO LIVESTOCK BOARD:**

(1) Livestock inspection:

The purpose of the livestock inspection program is to protect the livestock industry from loss of livestock by theft or straying and to help control the spread of dangerous livestock diseases.

Appropriations:

(a) Personal services and employee benefits	435.0	4,793.8		5,228.8
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(b) Contractual services	61.1	205.3	266.4
(c) Other	150.0	1,173.8	1,323.8
Subtotal			6,819.0

**DEPARTMENT OF GAME AND FISH:**

(1) Field operations:

The purpose of the field operations program is to promote and assist the implementation of law enforcement, habitat and public outreach programs throughout the state.

Appropriations:

(a) Personal services and employee benefits		7,277.4	312.4	7,589.8
(b) Contractual services		128.7		128.7
(c) Other		2,062.9		2,062.9

Performance measures:

(a) Output:	Number of conservation officer hours spent in the field checking for compliance	56,000
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(2) Conservation services:

The purpose of the conservation services program is to provide information and technical guidance to any person wishing to conserve and enhance wildlife habitat and recover indigenous species of threatened and endangered wildlife.

Appropriations:

(a) Personal services and employee benefits		4,551.6	6,912.7	11,464.3
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(b) Contractual services	1,669.0	1,959.3	3,628.3
(c) Other	2,632.0	5,392.5	8,024.5
(d) Other financing uses	182.3		182.3

The other state funds appropriation to the conservation services program of the department of game and fish in the other financing uses category includes one hundred thousand dollars (\$100,000) from the game protection fund for Ute dam operations and eighty-two thousand three hundred dollars (\$82,300) from the game protection fund for Eagle Nest dam operations for the interstate stream compact compliance and water development program of the state engineer. Any unexpended balances remaining at the end of fiscal year 2022 from these appropriations shall revert to the game protection fund.

Performance measures:

(a) Outcome:	Number of elk licenses offered on an annual basis in New Mexico	36,000
(b) Outcome:	Percent of public hunting licenses drawn by New Mexico resident hunters	84%
(c) Output:	Annual output of fish from the department's hatchery system, in pounds	660,000

(3) Wildlife depredation and nuisance abatement:

The purpose of the wildlife depredation and nuisance abatement program is to provide complaint administration and intervention processes to private landowners, leaseholders and other New Mexicans so they may be relieved of, and precluded from, property damage and annoyances or risks to public safety caused by protected wildlife.

Appropriations:

(a) Personal services and employee benefits	342.0	342.0
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(b) Contractual services	125.7	125.7
(c) Other	565.9	565.9

Performance measures:

(a) Outcome:	Percent of depredation complaints resolved within the mandated one-year timeframe	98%
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(4) Program support:

The purpose of program support is to provide an adequate and flexible system of direction, oversight, accountability and support to all divisions so they may successfully attain planned outcomes for all department programs.

Appropriations:

(a) Personal services and employee benefits	4,165.6	399.2	4,564.8
(b) Contractual services	318.0		318.0
(c) Other	2,947.2		2,947.2
Subtotal			41,944.4

**ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT:**

(1) Energy conservation and management:

The purpose of the energy conservation and management program is to develop and implement clean energy programs to decrease per capita energy consumption; use New Mexico's substantial renewable energy resources; minimize local, regional and global air emissions; lessen dependence on foreign oil and reduce in-state water demands associated with fossil-fueled electrical generation.

Appropriations:

(a) Personal services and employee benefits	1,068.5			763.1	1,831.6
(b) Contractual services	51.5	227.4		124.0	402.9
(c) Other	74.3			915.4	989.7

(2) Healthy forests:

The purpose of the healthy forests program is to promote the health of New Mexico's forest lands by managing wildfires, mitigating urban-interface fire threats and providing stewardship of private and state forest lands and associated watersheds.

Appropriations:

(a) Personal services and employee benefits	3,231.6	218.0		3,211.8	6,661.4
(b) Contractual services	26.2	47.0	1,500.0	770.0	2,343.2
(c) Other	613.0	305.3	500.0	5,718.6	7,136.9
(d) Other financing uses		50.6			50.6

Performance measures:

(a) Output:	Number of acres treated in New Mexico's forests and watersheds	14,500
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(3) State parks:

The purpose of the state parks program is to create the best recreational opportunities possible in state parks by preserving cultural and natural resources, continuously improving facilities and providing quality, fun activities and to do it all efficiently.

Appropriations:

(a) Personal services and employee benefits	8,460.7	2,480.5		767.9	11,709.1
(b) Contractual services	40.0	713.1			753.1
(c) Other	185.0	7,952.0	1,044.0	2,380.4	11,561.4
(d) Other financing uses		1,149.5			1,149.5

The general fund appropriations to the state parks program of the energy, minerals and natural resources department include seventy-five thousand dollars (\$75,000) to support Rio Grande trail commission efforts to define viable path routes, mitigate challenges and establish the Rio Grande trail to run the length of the state from Colorado to Texas.

Performance measures:

(a) Explanatory:	Number of visitors to state parks	
(b) Explanatory:	Amount of self-generated revenue per visitor, in dollars	
<del>[(c) Output:]</del>	<del>Number of newly designated Rio Grande trail miles</del>	<del>50]</del>

LINE ITEM VETO

(4) Mine reclamation:

The purpose of the mine reclamation program is to implement the state laws that regulate the operation and reclamation of hard rock and coal mining facilities and to reclaim abandoned mine sites.

Appropriations:

(a) Personal services and employee benefits	507.8	565.5	79.2	1,926.2	3,078.7
(b) Contractual services	1.9	28.8		4,676.3	4,707.0
(c) Other	17.2	121.8	17.9	290.0	446.9
(d) Other financing uses		37.0			37.0



(5) Oil and gas conservation:

The purpose of the oil and gas conservation program is to assure the conservation and responsible development of oil and gas resources through professional, dynamic regulation.

Appropriations:

(a) Personal services and employee benefits	5,746.7	153.3	233.0	6,133.0
(b) Contractual services	472.6	2,900.2	450.0	3,822.8
(c) Other	231.8	852.4	113.3	1,197.5
(d) Other financing uses		294.1		294.1

Performance measures:

(a) Output:	Number of inspections of oil and gas wells and associated facilities	35,000
(b) Output:	Number of abandoned wells properly plugged	50

(6) Program leadership and support:

The purpose of the program leadership and support program is to provide leadership, set policy and provide support for every division in achieving their goals.

Appropriations:

(a) Personal services and employee benefits	2,828.3	898.0	687.8	4,414.1
(b) Contractual services	111.8	25.6	7.0	144.4
(c) Other		188.6	156.6	345.2
Subtotal				69,210.1

## YOUTH CONSERVATION CORPS:

The purpose of the youth conservation corps is to provide funding for the employment of New Mexicans between the ages of fourteen and twenty-five to work on projects that will improve New Mexico's natural, cultural, historical and agricultural resources.

### Appropriations:

(a) Personal services and employee benefits	173.9	173.9
(b) Contractual services	4,800.8	4,800.8
(c) Other	90.7	90.7
(d) Other financing uses	125.0	125.0
Subtotal		5,190.4

## INTERTRIBAL CEREMONIAL OFFICE:

The purpose of the intertribal ceremonial office program is to aid in the planning, coordination and development of a successful intertribal ceremonial event in coordination with the Native American population.

### Appropriations:

(a) Personal services and employee benefits	75.0	75.0
(b) Contractual services	71.4	71.4
(c) Other	13.2	13.2

### Performance measures:

(a) Outcome:	Percent of operating revenue from sources other than the general fund	85%
Subtotal		159.6

## COMMISSIONER OF PUBLIC LANDS:

### (1) Land trust stewardship:

The purpose of the land trust stewardship program is to generate sustainable revenue from state trust lands to support public education and other beneficiary institutions and to build partnerships with all New Mexicans to conserve, protect and maintain the highest level of stewardship for these lands so that they may be a significant legacy for generations to come.

#### Appropriations:

(a) Personal services and employee benefits	15,001.5	15,001.5
(b) Contractual services	2,580.9	2,580.9
(c) Other	1,859.9	1,859.9

The commissioner of public lands is authorized to hold in suspense amounts eligible for tax credits, due to the sale of state royalty interests under Section 29 of the Internal Revenue Code above those amounts required by law to be transferred to the land grant permanent fund. The commissioner may expend as much of the money so held in suspense, as well as additional money held in escrow accounts resulting from the sales and money held in fund balances, as is necessary to repurchase the royalty interests pursuant to the agreements.

#### Performance measures:

(a) Outcome:	Dollars generated through oil, natural gas and mineral audit activities, in millions	\$2
(b) Output:	Average income per acre from oil, natural gas and mining activities, in dollars	\$375
(c) Output:	Number of acres restored to desired conditions for future sustainability	25,000

Subtotal

19,442.3

**STATE ENGINEER:**

(1) Water resource allocation:

The purpose of the water resource allocation program is to provide for efficient use of the available surface and underground waters of the state so any person can maintain their quality of life and to provide safety inspections of all nonfederal dams within the state so owners and operators of such dams can operate the dams safely.

Appropriations:

(a) Personal services and employee benefits	12,215.4	529.9	109.7	12,855.0
(b) Contractual services			624.7	624.7
(c) Other	30.9	117.6	1,362.1	1,510.6

The internal service funds/interagency transfers appropriations to the water resource allocation program of the state engineer include two million ninety-six thousand five hundred dollars (\$2,096,500) from the improvement of the Rio Grande income fund.

Performance measures:

(a) Output:	Average number of unprotested new and pending applications processed per month	40
(b) Outcome:	Number of transactions abstracted annually into the water administration technical engineering resource system database	20,000

(2) Interstate stream compact compliance and water development:

The purpose of the interstate stream compact compliance and water development program is to provide resolution of federal and interstate water issues and to develop water resources and stream systems for the people of New Mexico so they can have maximum sustained beneficial use of available water resources.

Appropriations:

(a) Personal services and employee benefits	1,732.9	78.2	2,841.5		4,652.6
(b) Contractual services		70.0	4,208.7	20.0	4,298.7
(c) Other		732.0	2,209.9	135.0	3,076.9

The internal service funds/interagency transfers appropriations to the interstate stream compact compliance and water development program of the state engineer include seven hundred five thousand seven hundred dollars (\$705,700) from the New Mexico unit fund.

The internal service funds/interagency transfers appropriations to the interstate stream compact compliance and water development program include five million nine hundred thirty-six thousand seven hundred dollars (\$5,936,700) from the New Mexico irrigation works construction fund, one million seven hundred sixty-seven thousand four hundred dollars (\$1,767,400) from the improvement of the Rio Grande income fund, one hundred thousand dollars (\$100,000) from the game protection fund for Ute dam operations and eighty-two thousand three hundred dollars (\$82,300) from the game protection fund for Eagle Nest dam operations. Any unexpended balances remaining at the end of fiscal year 2022 from these appropriations shall revert to the appropriate fund.

Revenue from the sale of water to United States government agencies by New Mexico for the emergency drought water agreement and from contractual reimbursements associated with the interstate stream compact compliance and water development program of the state engineer is appropriated to the interstate stream compact compliance and water development program to be used per the agreement with the United States bureau

of reclamation.

The interstate stream commission's authority to make loans for irrigation improvements includes five hundred thousand dollars (\$500,000) for loans to irrigation districts, conservancy districts and soil and water conservation districts for re-loan to farmers for implementation of water conservation improvements.

Performance measures:

- (a) Outcome: Cumulative state-line delivery credit per the Pecos river compact and amended decree at the end of the calendar year, in acre-feet >0
- (b) Outcome: Cumulative state-line delivery credit per the Rio Grande compact at the end of the calendar year, in acre-feet >0

(3) Litigation and adjudication:

The purpose of the litigation and adjudication program is to obtain a judicial determination and definition of water rights within each stream system and underground basin to effectively perform water rights administration and meet interstate stream obligations.

Appropriations:

(a) Personal services and employee benefits	2,240.0	1,825.4	1,014.8	5,080.2
(b) Contractual services			1,635.8	1,635.8
(c) Other			436.0	436.0
(d) Other financing uses		580.0		580.0

The internal service funds/interagency transfers appropriations to the litigation and adjudication program of the state engineer include three million eighty-six thousand six hundred dollars (\$3,086,600) from the improvement of the Rio Grande income fund.

The other state funds appropriations to the litigation and adjudication program of the state engineer include two million four hundred five thousand four hundred dollars (\$2,405,400) from the water project fund pursuant to Section 72-4A-9 NMSA 1978.

Performance measures:

(a) Outcome:	Number of offers to defendants in adjudications	325
(b) Outcome:	Percent of all water rights with judicial determinations	76%

(4) Program support:

The purpose of program support is to provide necessary administrative support to the agency programs so they may be successful in reaching their goals and objectives.

Appropriations:

(a) Personal services and employee benefits	3,428.2		3,428.2
(b) Contractual services	199.5	21.7	221.2
(c) Other	430.0	387.4	817.4

The internal service funds/interagency transfers appropriations to program support of the state engineer include four hundred nine thousand one hundred dollars (\$409,100) from the improvement of the Rio Grande income fund.

Subtotal				39,217.3
TOTAL AGRICULTURE, ENERGY AND NATURAL RESOURCES	77,909.1	85,379.0	19,336.7	41,615.3
				224,240.1

**F. HEALTH, HOSPITALS AND HUMAN SERVICES**

**OFFICE OF AFRICAN AMERICAN AFFAIRS:**

(1) Public awareness:

The purpose of the public awareness program is to provide information and advocacy services to all New Mexicans and to empower African Americans of New Mexico to improve their quality of life.

Appropriations:

(a) Personal services and employee benefits	590.0	590.0
(b) Contractual services	61.8	61.8
(c) Other	119.6	119.6
Subtotal		771.4

**COMMISSION FOR DEAF AND HARD-OF-HEARING PERSONS:**

(1) Deaf and hard-of-hearing:

The purpose of the deaf and hard-of-hearing program is to serve as a dynamic resource that will enhance the quality of life for deaf and hard-of-hearing citizens of New Mexico by being the recognized advocate on important issues impacting the deaf and hard-of-hearing community, the proactive provider of innovative programs and services and the statewide umbrella and information clearinghouse for interested individuals, organizations, agencies and institutions.

Appropriations:

(a) Personal services and employee benefits	1,063.7	1,063.7
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(b) Contractual services	690.8	639.5	1,330.3
(c) Other		282.1	282.1
(d) Other financing uses		116.5	116.5

The general fund appropriation to the deaf and hard-of-hearing program of the commission for deaf and hard-of-hearing persons includes four hundred fifty-six thousand four hundred dollars (\$456,400) for deaf and deaf-blind support service provider programs.

The internal service funds/interagency transfers appropriation to the deaf and hard-of-hearing program of the commission for deaf and hard-of-hearing persons in the other financing uses category includes ninety-one thousand five hundred dollars (\$91,500) to transfer to the rehabilitation services program of the division of vocational rehabilitation to match with federal funds to provide deaf and hard-of-hearing rehabilitation services and twenty-five thousand dollars (\$25,000) to transfer to the signed language interpreting practices board of the regulation and licensing department for interpreter licensure services.

Performance measures:

(a) Output:	Number of accessible technology equipment distributions	1,200
Subtotal		2,792.6

**MARTIN LUTHER KING, JR. COMMISSION:**

The purpose of the Martin Luther King, Jr. commission is to promote Martin Luther King, Jr.'s nonviolent principles and philosophy to the people of New Mexico through remembrance, celebration and action so that everyone gets involved in making a difference toward the improvement of interracial cooperation and reduction of youth violence in our communities.

Appropriations:

(a) Personal services and employee benefits	180.8				180.8
(b) Contractual services	27.8				27.8
(c) Other	116.9				116.9
Subtotal					325.5

**COMMISSION FOR THE BLIND:**

(1) Blind services:

The purpose of the blind services program is to assist blind or visually impaired citizens of New Mexico to achieve economic and social equality so they can have independence based on their personal interests and abilities.

Appropriations:

(a) Personal services and employee benefits	1,642.6	216.3	269.0	3,118.7	5,246.6
(b) Contractual services	42.3			117.0	159.3
(c) Other	471.9	5,331.5	80.0	1,870.9	7,754.3
(d) Other financing uses	107.1				107.1

The general fund appropriation to the blind services program of the commission for the blind in the other financing uses category includes one hundred seven thousand one hundred dollars (\$107,100) to transfer to the division of vocational rehabilitation to match with federal funds to provide rehabilitation services for the disabled.

The internal service funds/interagency transfers appropriations to the blind services program of the commission for the blind include two hundred thousand dollars (\$200,000) from the division of vocational rehabilitation to provide services to the blind or visually impaired citizens of New Mexico.

Any unexpended balances in the commission for the blind remaining at the end of fiscal year 2022 from appropriations made from the general fund shall not revert.

Performance measures:

(a) Outcome:	Average hourly wage for the blind or visually impaired person	\$16
(b) Outcome:	Number of people who avoided or delayed moving into a nursing home or assisted living facility as a result of receiving independent living services	175
Subtotal		13,267.3

**INDIAN AFFAIRS DEPARTMENT:**

(1) Indian affairs:

The purpose of the Indian affairs program is to coordinate intergovernmental and interagency programs concerning tribal governments and the state.

Appropriations:

(a) Personal services and employee benefits	1,426.6		1,426.6
(b) Contractual services	330.1		330.1
(c) Other	733.5	171.0	904.5

The internal service funds/interagency transfers appropriation to the Indian affairs program of the Indian affairs department includes one hundred seventy-one thousand dollars (\$171,000) from the tobacco settlement program fund for tobacco cessation and prevention programs for Native American communities throughout the state.

Subtotal			2,661.2
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## EARLY CHILDHOOD EDUCATION AND CARE DEPARTMENT:

(1) Support and intervention:

Appropriations:

(a) Personal services and employee benefits	949.8	1,023.1	500.5	767.8	3,241.2
(b) Contractual services	12,720.8	58.9	5,356.9	5,685.8	23,822.4
(c) Other	21,463.4	1,275.4	4,243.1	72.4	27,054.3
(d) Other financing uses	10,901.6				10,901.6

The internal service funds/interagency transfers appropriations to the support and intervention program of the early childhood education and care department includes five million dollars (\$5,000,000) from the federal temporary assistance for needy families block grant for home-visiting services.

Performance measures:

(a) Outcome:	Percent of parents participating in the New Mexico home-visiting program for at least eight months who demonstrate progress in practicing positive parent-child interactions as demonstrated by the state-approved, evidence-based screening tool	65%
(b) Outcome:	Percent of women enrolled in families first and home visiting who are eligible for medicaid who access prenatal care in their first trimester	74%

(2) Early childhood education and care:

Appropriations:

(a) Personal services and employee benefits	630.9			7,876.3	8,507.2
(b) Contractual services	30,660.7	3,684.8	21,865.4	491.1	56,702.0

(c) Other	53,321.9	1,100.0	31,527.5	113,778.4	199,727.8
(d) Other financing uses				1,600.0	1,600.0

The internal service funds/interagency transfers appropriations to the early childhood education and care program of the early childhood education and care department include forty-five million six hundred twenty-seven thousand five hundred dollars (\$45,627,500) from the federal temporary assistance for needy families block grant: thirty-one million five hundred twenty-seven thousand five hundred dollars (\$31,527,500) for childcare, and fourteen million one hundred thousand dollars (\$14,100,000) for prekindergarten.

Performance measures:

(a) Outcome:	Percent of licensed childcare providers participating in the focus tiered quality rating and improvement system at the four- and five-star level	45%
(b) Outcome:	Percent of children who were enrolled for at least six months in the state-funded New Mexico prekindergarten program who score at first step for k or higher on the fall observation kindergarten observation tool	85%
(c) Outcome:	Percent of infants and toddlers participating in the childcare assistance program enrolled in childcare programs with four or five stars	40%
(d) Outcome:	Percent of children participating in the public and private state-funded New Mexico prekindergarten program for at least six months showing measurable progress on the school readiness spring preschool assessment tool	40%

(3) Public pre-kindergarten:

Appropriations:

(a) Other financing uses	43,521.9	6,334.6	49,856.5
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The internal service funds/interagency transfers appropriation to the public pre-kindergarten program of the early childhood education and care department includes three million five hundred thousand dollars (\$3,500,000) from the federal temporary assistance for needy families block grant for pre-kindergarten.

The public pre-kindergarten program of the early childhood education and care department shall prioritize awards of pre-kindergarten programs at school districts and charter schools that provide K-5 plus programs approved by the public education department.

(4) Program support:

Appropriations:

(a) Personal services and employee benefits	4,130.0			2,332.9	6,462.9
(b) Contractual services	11,426.8	144.0	4,800.0	4,876.9	21,247.7
(c) Other	1,860.4	58.5		347.4	2,266.3
Subtotal					411,389.9

**AGING AND LONG-TERM SERVICES DEPARTMENT:**

(1) Consumer and elder rights:

The purpose of the consumer and elder rights program is to provide current information, assistance, counseling, education and support to older individuals and people with disabilities, residents of long-term care facilities and their families and caregivers that allow them to protect their rights and make informed choices about quality services.

Appropriations:

(a) Personal services and employee benefits	1,427.2	1,300.0	1,030.7	3,757.9
(b) Contractual services	99.8		398.0	497.8
(c) Other	154.9		530.1	685.0

Performance measures:

(a) Quality:	Percent of calls to the aging and disability resource center answered by a live operator	90%
(b) Outcome:	Percent of residents who remained in the community six months following a nursing home care transition	90%

(2) Aging network:

The purpose of the aging network program is to provide supportive social and nutrition services for older individuals and people with disabilities so they can remain independent and involved in their communities and to provide training, education and work experience to older individuals so they can enter or re-enter the workforce and receive appropriate income and benefits.

Appropriations:

(a) Personal services and employee benefits	795.0	34.5	555.3	1,384.8
(b) Contractual services	1,235.1	10.0		1,245.1
(c) Other	29,570.5	71.3	11,142.5	40,784.3

The general fund appropriation to the aging network program of the aging and long-term services department in the other category shall allow for an additional twelve and one-half percent distribution from the department of finance and administration for initial payments to aging network providers at the beginning of the fiscal year.

Any unexpended balances remaining in the aging network from the conference on aging at the end of

fiscal year 2022 from appropriations made from other state funds for the conference on aging shall not revert to the general fund.

Any unexpended balances remaining from the tax refund contribution senior fund, which provides for the provision of the supplemental senior services throughout the state, at the end of fiscal year 2022 shall not revert to the general fund.

Performance measures:

(a) Outcome:	Number of hours of caregiver support provided	444,000
(b) Output:	Number of hours of service provided by senior volunteers, statewide	1,638,000

(3) Adult protective services:

The purpose of the adult protective services program is to investigate allegations of abuse, neglect and exploitation of seniors and adults with disabilities and provide in-home support services to adults at high risk of repeat neglect.

Appropriations:

(a) Personal services and employee benefits	7,294.6	2,200.0	9,494.6
(b) Contractual services	1,242.3	2,176.3	3,418.6
(c) Other	721.4		721.4

Performance measures:

(a) Outcome:	Percent of emergency or priority one investigations in which a caseworker makes initial face-to-face	>99%
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contact with the alleged victim within prescribed timeframes

(4) Program support:

The purpose of program support is to provide clerical, record-keeping and administrative support in the areas of personnel, budget, procurement and contracting to agency staff, outside contractors and external control agencies to implement and manage programs.

Appropriations:

(a) Personal services and employee benefits	3,972.0	98.5	4,070.5
(b) Contractual services	190.2		190.2
(c) Other	1,656.9		1,656.9

The general fund appropriation to program support of the aging and long-term services department in the other category includes two hundred thousand dollars (\$200,000) to assist in providing burial services for deceased indigent persons. Any unexpended balances remaining at the end of fiscal year 2022 from this appropriation shall revert to the general fund.

Subtotal			67,907.1
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**HUMAN SERVICES DEPARTMENT:**

(1) Medical assistance:

The purpose of the medical assistance program is to provide the necessary resources and information to enable low-income individuals to obtain either free or low-cost healthcare.

Appropriations:

(a) Personal services and employee benefits	5,197.1			8,339.5	13,536.6
(b) Contractual services	14,691.4	1,727.4	759.9	52,147.9	69,326.6
(c) Other	871,299.5	65,437.0	308,041.4	4,879,298.5	6,124,076.4

The appropriations to the medical assistance program of the human services department assume the state will receive an enhanced federal medical assistance percentage rate for those enrolled in the expansion adult category through fiscal year 2022 as provided for in the federal Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act of 2010. Should the federal government reduce or rescind the federal medical assistance percentage rates established by the federal Patient Protection and Affordable Care Act, the human services department shall reduce or rescind eligibility for the new adult category.

The internal service funds/interagency transfers appropriation to the medical assistance program of the human services department in the other category includes eight hundred sixty thousand eight hundred dollars (\$860,800) from the tobacco settlement program fund for the breast and cervical cancer treatment program and four million five hundred thousand eight hundred dollars (\$4,500,800) from the tobacco settlement program fund for medicaid programs.

The internal service funds/interagency transfers appropriations to the medical assistance program of the human services department include thirty-one million seven hundred fifty-nine thousand dollars (\$31,759,000) from the county-supported medicaid fund.

Performance measures:

(a) Outcome:	Percent of children ages two to twenty years enrolled in medicaid managed care who had at least one dental visit during the measurement year	72%
(b) Explanatory:	Percent of infants and children in medicaid managed care who had six or more well-child visits in the first thirty months of life	
(c) Outcome:	Percent of children and adolescents in medicaid managed care ages three to twenty-one years who had one or more well-care visits during the measurement year	88%
(d) Outcome:	Percent of adults in medicaid managed care age eighteen and over readmitted to a hospital within thirty days of discharge	<8%
(e) Outcome:	Percent of member birth deliveries who received a prenatal care visit in the first trimester or within forty-two days of eligibility	83%
(f) Outcome:	Percent of non-emergent utilization of all emergency department utilization	50%

(2) Medicaid behavioral health:

The purpose of the medicaid behavioral health program is to provide the necessary resources and information to enable low-income individuals to obtain either free or low-cost behavioral healthcare.

Appropriations:

(a) Other	140,420.0	537,785.0	678,205.0
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The general fund appropriation to the medicaid behavioral health program of the human services department includes fifty thousand dollars (\$50,000) to transfer to the administrative hearings office to support medicaid hearing officers.

Performance measures:

(a) Outcome:	Percent of readmissions to same level of care or higher for children or youth discharged from residential treatment centers and inpatient care	5%
(b) Output:	Number of individuals served annually in substance use or mental health programs administered through the behavioral health collaborative and medicaid programs	215,000
(c) Outcome:	Percent of adults with mental illness or substance use disorders receiving medicaid behavioral health services who have housing needs who receive assistance with their housing needs	60%

(3) Income support:

The purpose of the income support program is to provide cash assistance and supportive services to eligible low-income families so they can achieve self-sufficiency. Eligibility requirements are established by state law within broad federal statutory guidelines.

Appropriations:

(a) Personal services and employee benefits	19,444.5		38,225.2	57,669.7
(b) Contractual services	9,328.3		38,714.6	48,042.9
(c) Other	19,937.8	60.8	951,037.2	971,035.8

The federal funds appropriations to the income support program of the human services department include eleven million five hundred seven thousand seven hundred dollars (\$11,507,700) from the federal temporary assistance for needy families block grant for administration of the New Mexico Works Act.

The appropriations to the income support program of the human services department include eighty-seven thousand one hundred dollars (\$87,100) from the general fund and forty-seven million six hundred eighteen thousand seven hundred dollars (\$47,618,700) from the federal temporary assistance for needy families block

grant to provide cash assistance grants to participants as defined in the New Mexico Works Act, including wage subsidies for participants, two clothing allowances per year, diversion payments and state-funded payments to aliens.

The federal funds appropriations to the income support program of the human services department include eighteen million sixty-five thousand two hundred dollars (\$18,065,200) from the federal temporary assistance for needy families block grant for job training and placement and job-related transportation services, employment-related costs and a transitional employment program. The funds for the transitional employment program and the wage subsidy program may be used interchangeably.

The federal funds appropriations to the income support program of the human services department include thirty-one million five hundred twenty-seven thousand five hundred dollars (\$31,527,500) from the federal temporary assistance for needy families block grant for transfer to the early childhood education and care department for childcare programs, five million dollars (\$5,000,000) for home-visiting programs and seventeen million six hundred thousand dollars (\$17,600,000) for prekindergarten.

The federal funds appropriations to the income support program of the human services department include nine hundred thousand dollars (\$900,000) from the federal temporary assistance for needy families block grant for transfer to the children, youth and families department for a supportive housing project.

The federal funds appropriations to the income support program of the human services department include two hundred thousand dollars (\$200,000) from the federal temporary assistance for needy families block grant for transfer to the public education department for the graduation, reality and dual-role skills program.

The appropriations to the income support program of the human services department include seven million two hundred twenty thousand dollars (\$7,220,000) from the general fund and three million eighty thousand three hundred dollars (\$3,080,300) from federal funds for general assistance.

Any unexpended balances remaining at the end of fiscal year 2022 from the other state funds appropriations derived from reimbursements received from the social security administration for the general assistance program shall not revert.

Performance measures:

(a) Outcome:	Percent of all parent participants who meet temporary assistance for needy families federal work participation requirements	37%
(b) Outcome:	Percent of temporary assistance for needy families two-parent recipients meeting federal work participation requirements	52%

(4) Behavioral health services:

The purpose of the behavioral health services program is to lead and oversee the provision of an integrated and comprehensive behavioral health prevention and treatment system so the program fosters recovery and supports the health and resilience of all New Mexicans.

Appropriations:

(a) Personal services and employee benefits	3,814.5	544.0	4,358.5
(b) Contractual services	43,649.9	18,282.5	61,932.4
(c) Other	889.6	1,033.9	1,923.5

Performance measures:

(a) Outcome:	Percent of individuals discharged from inpatient facilities who receive follow-up services at thirty days	70%
(b) Outcome:	Percent of people with a diagnosis of alcohol or drug dependency who initiated treatment and received two or more additional services within thirty days of the initial visit	35%
(c) Outcome:	Percent of adults diagnosed with major depression who remained on an antidepressant medication for at least one hundred eighty days	36%
(d) Outcome:	Percent of medicaid members released from inpatient psychiatric hospitalization stays of four or more days who receive seven-day follow-up visits into community-based behavioral health	51%
(e) Outcome:	Percent reduction in number of incidents from the first to last day of the school year in classrooms participating in the pax good behavior games, as measured by the spleem instrument	60%

(5) Child support enforcement:

The purpose of the child support enforcement program is to provide location, establishment and collection services for custodial parents and their children; to ensure that all court orders for support payments are being met to maximize child support collections; and to reduce public assistance rolls.

Appropriations:

(a) Personal services and employee benefits	5,245.1	1,829.9	13,079.0	20,154.0
(b) Contractual services	1,651.5	680.5	4,297.4	6,629.4
(c) Other	1,194.6	506.0	3,063.7	4,764.3

Performance measures:

(a) Outcome:	Amount of child support collected, in millions	\$145
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(b) Outcome:	Percent of current support owed that is collected	60%
(c) Outcome:	Percent of cases with support orders	85%
(d) Outcome:	Percent of noncustodial parents paying support to total cases with support orders	65%

(6) Program support:

The purpose of program support is to provide overall leadership, direction and administrative support to each agency program and to assist it in achieving its programmatic goals.

Appropriations:

(a) Personal services and employee benefits	3,674.1	975.3	12,593.6	17,243.0
(b) Contractual services	9,170.3	42.8	18,446.0	27,659.1
(c) Other	4,896.5	193.3	10,774.8	15,864.6
Subtotal				8,122,421.8

**WORKFORCE SOLUTIONS DEPARTMENT:**

(1) Unemployment insurance:

The purpose of the unemployment insurance program is to administer an array of demand-driven workforce development services to prepare New Mexicans to meet the needs of business.

Appropriations:

(a) Personal services and employee benefits	1,183.4	892.2	5,702.6	7,778.2
(b) Contractual services		21.4	333.6	355.0
(c) Other		55.1	1,740.5	1,795.6

The internal service funds/interagency transfers appropriations to the unemployment insurance program of



the workforce solutions department include one hundred fifty thousand five hundred dollars (\$150,500) from the workers' compensation administration fund of the workers' compensation administration.

Performance measures:

(a) Output:	Average wait time to speak to a customer service agent in the unemployment insurance operation center to file a new unemployment insurance claim, in minutes	18
(b) Output:	Average wait time to speak to a customer service agent in the unemployment insurance operation center to file a weekly certification, in minutes	15

(2) Labor relations:

The purpose of the labor relations program is to provide employment rights information and other work-site-based assistance to employers and employees.

Appropriations:

(a) Personal services and employee benefits	2,031.4	116.3	163.2	2,310.9
(b) Contractual services		20.7	56.0	76.7
(c) Other		262.5	164.9	427.4

Performance measures:

(a) Output:	Percent of discrimination claims investigated and issued a determination within two hundred days	75%
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(3) Workforce technology:

The purpose of the workforce technology program is to provide and maintain customer-focused, effective and innovative information technology services for the department and its service providers.

Appropriations:

(a) Personal services and employee benefits	664.6	67.0	3,447.1	4,178.7
(b) Contractual services	3,284.8	1,505.0	3,063.6	7,853.4
(c) Other	1,412.4	665.5	2,676.1	4,754.0

Performance measures:

(a) Outcome:	Percent of time the unemployment framework for automated claims and tax services are available during scheduled uptime	99%
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(4) Employment services:

The purpose of the employment services program is to provide standardized business solution strategies and labor market information through the New Mexico public workforce system that is responsive to the needs of New Mexico businesses.

Appropriations:

(a) Personal services and employee benefits	606.8	373.8	6,995.0	7,975.6
(b) Contractual services	9.1		1,558.3	1,567.4
(c) Other	57.5	1,690.8	5,597.4	7,345.7

The internal service funds/interagency transfers appropriations to the employment services program of the workforce solutions department include eight hundred forty-nine thousand five hundred dollars (\$849,500)

from the workers' compensation administration fund of the workers' compensation administration.

Performance measures:

(a) Outcome:	Percent of unemployed individuals employed after receiving employment services in a connections office	60%
(b) Outcome:	Average six-month earnings of individuals entering employment after receiving employment services in a connections office	\$13,000
(c) Output:	Percent of audited apprenticeship programs deemed compliant	75%

(5) Program support:

The purpose of program support is to provide overall leadership, direction and administrative support to each agency program to achieve organizational goals and objectives.

Appropriations:

(a) Personal services and employee benefits	135.4	10.3	6,939.2	7,084.9
(b) Contractual services		91.4	935.7	1,027.1
(c) Other		210.4	31,191.4	31,401.8
Subtotal				85,932.4

**WORKERS' COMPENSATION ADMINISTRATION:**

(1) Workers' compensation administration:

The purpose of the workers' compensation administration program is to assure the quick and efficient delivery of indemnity and medical benefits to injured and disabled workers at a reasonable cost to

employers.

Appropriations:

(a) Personal services and employee benefits	8,345.7	8,345.7
(b) Contractual services	357.4	357.4
(c) Other	1,348.0	1,348.0
(d) Other financing uses	1,000.0	1,000.0

The other state funds appropriation to the workers' compensation administration program of the workers' compensation administration in the other financing uses category includes one hundred fifty thousand five hundred dollars (\$150,500) from the workers' compensation administration fund for the unemployment insurance program of the workforce solutions department and eight hundred forty-nine thousand five hundred dollars (\$849,500) from the workers' compensation administration fund for the employment services program of the workforce solutions department.

Performance measures:

(a) Outcome:	Rate of serious injuries and illnesses caused by workplace conditions per one hundred workers	≤0.5%
(b) Outcome:	Percent of employers determined to be in compliance with insurance requirements of the Workers' Compensation Act after initial investigations	≥98%

(2) Uninsured employers' fund:

Appropriations:

(a) Personal services and employee benefits	338.2	338.2
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(b) Contractual services	100.2	100.2
(c) Other	444.4	444.4
Subtotal		11,933.9

**DIVISION OF VOCATIONAL REHABILITATION:**

(1) Rehabilitation services:

The purpose of the rehabilitation services program is to promote opportunities for people with disabilities to become more independent and productive by empowering individuals with disabilities so they may maximize their employment, economic self-sufficiency, independence and inclusion and integration into society.

Appropriations:

(a) Personal services and employee benefits			10,652.3	10,652.3
(b) Contractual services			3,300.0	3,300.0
(c) Other	5,731.6	191.5	6,980.3	12,903.4
(d) Other financing uses			200.0	200.0

The general fund appropriation to the rehabilitation services program of the division of vocational rehabilitation in the other category includes five hundred thousand dollars (\$500,000) to provide adult vocational rehabilitation services.

The internal service funds/interagency transfers appropriation to the rehabilitation services program of the division of vocational rehabilitation in the other category includes one hundred thousand dollars (\$100,000) from the commission for the blind to match with federal funds to provide rehabilitation services to blind or visually impaired New Mexicans.

The internal service funds/interagency transfers appropriation to the rehabilitation services program

of the division of vocational rehabilitation in the other category includes ninety-one thousand five hundred dollars (\$91,500) to match with federal funds to support and enhance deaf and hard-of-hearing rehabilitation services.

The federal funds appropriation to the rehabilitation services program of the division of vocational rehabilitation in the other financing uses category includes two hundred thousand dollars (\$200,000) for the independent living program of the commission for the blind to provide services to blind or visually impaired New Mexicans.

Performance measures:

- (a) Outcome: Number of clients achieving suitable employment for a minimum of ninety days 700
- (b) Outcome: Percent of clients achieving suitable employment outcomes of all cases closed after receiving planned services 45%

(2) Independent living services:

The purpose of the independent living services program is to increase access for individuals with disabilities to technologies and services needed for various applications in learning, working and home management.

Appropriations:

(a) Contractual services			51.5	51.5
(b) Other	642.2	7.1	777.7	1,427.0
(c) Other financing uses			63.5	63.5

The internal service funds/interagency transfers appropriation to the independent living services program

of the division of vocational rehabilitation in the other category includes seven thousand one hundred dollars (\$7,100) from the commission for the blind to match with federal funds to provide independent living services to blind or visually impaired New Mexicans.

The federal funds appropriation to the independent living services program of the division of vocational rehabilitation in the other financing uses category includes sixty-three thousand five hundred dollars (\$63,500) for the independent living program of the commission for the blind to provide services to blind or visually impaired New Mexicans.

Performance measures:

(a) Output:	Number of independent living plans developed	750
(b) Output:	Number of individuals served for independent living	800

(3) Disability determination:

The purpose of the disability determination program is to produce accurate and timely eligibility determinations to social security disability applicants so they may receive benefits.

Appropriations:

(a) Personal services and employee benefits	7,731.7	7,731.7
(b) Contractual services	4,057.0	4,057.0
(c) Other	4,990.8	4,990.8

Performance measures:

(a) Efficiency: Average number of days for completing an initial disability claim 100

(4) Administrative services:

The purpose of the administration services program is to provide leadership, policy development, financial analysis, budgetary control, information technology services, administrative support and legal services to the division of vocational rehabilitation. The administration services program function is to ensure the division of vocational rehabilitation achieves a high level of accountability and excellence in services provided to the people of New Mexico.

Appropriations:

(a) Personal services and employee benefits	3,753.7	3,753.7
(b) Contractual services	404.0	404.0
(c) Other	788.1	788.1

Any unexpended balances in the division of vocational rehabilitation remaining at the end of fiscal year 2022 from appropriations made from the general fund shall not revert and may be expended in fiscal year 2023.

Subtotal 50,323.0

**GOVERNOR'S COMMISSION ON DISABILITY:**

(1) Governor's commission on disability:

The purpose of the governor's commission on disability program is to promote policies and programs that focus on common issues faced by New Mexicans with disabilities, regardless of type of disability, age or



other factors. The commission educates state administrators, legislators and the general public on the issues facing New Mexicans with disabilities, especially as they relate to federal Americans with Disabilities Act directives, building codes, disability technologies and disability culture so they can improve the quality of life of New Mexicans with disabilities.

Appropriations:

(a) Personal services and employee benefits	676.4		274.4	950.8
(b) Contractual services	50.0		158.9	208.9
(c) Other	378.2	78.7	105.9	562.8

Performance measures:

(a) Outcome:	Percent of requested architectural plan reviews and site inspections completed	98%
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(2) Brain injury advisory council:

The purpose of the brain injury advisory council program is to provide guidance on the use and implementation of programs provided through the human services department's brain injury services fund so the department may align service delivery with needs identified by the brain injury community.

Appropriations:

(a) Personal services and employee benefits	74.0		74.0
(b) Contractual services	42.3		42.3
(c) Other	68.9		68.9
Subtotal			1,907.7

## DEVELOPMENTAL DISABILITIES PLANNING COUNCIL:

(1) Developmental disabilities planning council:

The purpose of the developmental disabilities planning council program is to provide and produce opportunities for persons with disabilities so they may realize their dreams and potential and become integrated members of society.

### Appropriations:

(a) Personal services and employee benefits	401.5		252.0	653.5
(b) Contractual services	63.8		245.3	309.1
(c) Other	278.5	75.0		353.5

(2) Office of guardianship:

The purpose of the office of guardianship program is to enter into, monitor and enforce guardianship contracts for income-eligible persons and to help file, investigate and resolve complaints about guardianship services provided by contractors to maintain the dignity, safety and security of the indigent and incapacitated adults of the state.

### Appropriations:

(a) Personal services and employee benefits	1,063.9			1,063.9
(b) Contractual services	4,551.0	550.0		5,101.0
(c) Other	125.1			125.1

The general fund appropriation to the office of guardianship of the developmental disabilities planning

council [~~in the personal services and employee benefits category~~] includes three hundred thousand dollars (\$300,000) to strengthen guardianship oversight, contingent on enactment of House Bill 234 or similar legislation in the first session of the fifty-fifth legislature. *LINE ITEM VETO*

Performance measures:

(a) Outcome:	Average amount of time spent on wait list	6 months
(b) Outcome:	Number of guardianship investigations completed	20
Subtotal		7,606.1

**MINERS' HOSPITAL OF NEW MEXICO:**

(1) Healthcare:

The purpose of the healthcare program is to provide quality acute care, long-term care and related health services to the beneficiaries of the miners' trust fund of New Mexico and the people of the region so they can maintain optimal health and quality of life.

Appropriations:

(a) Personal services and employee benefits	8,830.6	5,031.6	7,050.1	20,912.3
(b) Contractual services	3,275.2	1,866.1	2,614.8	7,756.1
(c) Other	2,987.6	1,702.3	2,385.1	7,075.0

The internal service funds/interagency transfers appropriations to the healthcare program of miners' hospital of New Mexico include eight million six hundred thousand dollars (\$8,600,000) from the miners' trust fund.

Performance measures:

(a) Outcome:	Percent of occupancy at nursing home based on licensed beds	60%
(b) Quality:	Percent of patients readmitted to the hospital within thirty days with the same or similar diagnosis	<1%
Subtotal		35,743.4

### DEPARTMENT OF HEALTH:

(1) Public health:

The purpose of the public health program is to provide a coordinated system of community-based public health services focusing on disease prevention and health promotion to improve health status, reduce disparities and ensure timely access to quality, culturally competent healthcare.

Appropriations:

(a) Personal services and employee benefits	21,380.2	3,461.2	2,472.5	26,345.2	53,659.1
(b) Contractual services	20,522.7	3,781.2	12,777.6	12,220.0	49,301.5
(c) Other	12,227.5	33,384.6	323.8	31,313.6	77,249.5
(d) Other financing uses	462.3				462.3

The internal service funds/interagency transfers appropriations to the public health program of the department of health include three million seven hundred twenty-seven thousand three hundred dollars (\$3,727,300) from the tobacco settlement program fund for smoking cessation and prevention programs, four hundred ninety thousand six hundred dollars (\$490,600) from the tobacco settlement fund for diabetes prevention and control services, two hundred thousand nine hundred dollars (\$200,900) for human immunodeficiency virus/acquired immune deficiency syndrome prevention services and medicine, eighty-eight thousand two hundred dollars (\$88,200) from the tobacco settlement program fund for breast and cervical cancer screening and one million dollars (\$1,000,000) from the consumer settlement fund at the office of

the attorney general for teen suicide prevention. Any unexpended balances at the end of fiscal 2022 from the consumer settlement fund shall revert to the consumer settlement fund at the office of the attorney general.

Performance measures:

(a) Quality:	Percent of female New Mexico department of health's public health office family planning clients, ages fifteen to nineteen, who were provided most or moderately effective contraceptives	≥62.5%
(b) Quality:	Percent of school-based health centers funded by the department of health that demonstrate improvement in their primary care or behavioral healthcare focus area	≥95%
(c) Outcome:	Percent of preschoolers ages nineteen to thirty-five months indicated as being fully immunized	≥65%

(2) Epidemiology and response:

The purpose of the epidemiology and response program is to monitor health, provide health information, prevent disease and injury, promote health and healthy behaviors, respond to public health events, prepare for health emergencies and provide emergency medical and vital registration services to New Mexicans.

Appropriations:

(a) Personal services and employee benefits	4,786.1	127.2	361.2	15,906.6	21,181.1
(b) Contractual services	1,235.1	335.6	96.3	21,119.7	22,786.7
(c) Other	4,575.7	64.7	30.7	5,265.4	9,936.5

Performance measures:

- (a) Explanatory: Drug overdose death rate per one hundred thousand population
- (b) Explanatory: Alcohol-related death rate per one hundred thousand population
- (c) Outcome: Percent of retail pharmacies that dispense naloxone 90%
- (d) Outcome: Percent of opioid patients also prescribed benzodiazepines ≤5%

(3) Laboratory services:

The purpose of the laboratory services program is to provide laboratory analysis and scientific expertise for policy development for tax-supported public health, environment and toxicology programs in the state of New Mexico and to provide timely identification of threats to the health of New Mexicans.

Appropriations:

(a) Personal services and employee benefits	5,268.6	1,247.8	119.1	2,487.4	9,122.9
(b) Contractual services	115.0	30.0	33.5	58.7	237.2
(c) Other	2,380.9	397.2	624.4	1,997.3	5,399.8

(4) Facilities management:

The purpose of the facilities management program is to provide oversight for department of health facilities that provide health and behavioral healthcare services, including mental health, substance abuse, nursing home and rehabilitation programs in both facility- and community-based settings, and serve as the safety net for the citizens of New Mexico.

Appropriations:

(a) Personal services and employee benefits	49,990.4	58,916.9	2,738.6	8,360.2	120,006.1
(b) Contractual services	3,796.6	8,137.0	1,016.8	1,471.7	14,422.1
(c) Other	9,294.2	12,956.3	3,521.2	2,499.9	28,271.6

The internal service funds/interagency transfers appropriations to the facilities management program of the department of health includes two million dollars (\$2,000,000) from the consumer settlement fund at the office of the attorney general. Any unexpended balances at the end of fiscal year 2022 shall revert to the consumer settlement fund at the office of the attorney general.

Performance measures:

(a) Efficiency:	Percent of eligible third-party revenue collected at all agency facilities	≥93%
(b) Quality:	Percent of long-term care residents experiencing one or more major falls with injury	≤3.5%
(c) Quality:	Number of significant medication errors per one hundred patients	≤2

(5) Developmental disabilities support:

The purpose of the developmental disabilities support program is to administer a statewide system of community-based services and support to improve the quality of life and increase the independence and interdependence of individuals with developmental disabilities and children with or at risk for developmental delay or disability and their families.

Appropriations:

(a) Personal services and employee benefits	7,457.7		6,427.7	13,885.4
(b) Contractual services	9,900.8	25.0	1,451.3	11,377.1

(c) Other	8,742.6	180.0	1,670.9	10,593.5
(d) Other financing uses	138,958.4			138,958.4

Performance measures:

(a) Explanatory:	Number of individuals receiving developmental disabilities waiver services
(b) Explanatory:	Number of individuals on the developmental disabilities waiver waiting list

(6) Health certification, licensing and oversight:

The purpose of the health certification, licensing and oversight program is to provide health facility licensing and certification surveys, community-based oversight and contract compliance surveys and a statewide incident management system so that people in New Mexico have access to quality healthcare and that vulnerable populations are safe from abuse, neglect and exploitation.

Appropriations:

(a) Personal services and employee benefits	4,869.0	1,782.7	3,924.6	2,288.1	12,864.4
(b) Contractual services	683.5	43.7	186.5	84.8	998.5
(c) Other	403.7	110.6	853.4	222.8	1,590.5

Performance measures:

(a) Explanatory:	Abuse rate for developmental disability waiver and mi via waiver clients	
(b) Explanatory:	Re-abuse rate for developmental disabilities waiver and mi via waiver clients	
(c) Quality:	Percent of abuse, neglect and exploitation investigations completed according to established timelines	86%



(7) Medical cannabis:

The purpose of the medical cannabis program is to provide qualified patients with the means to legally and beneficially consume medical cannabis in a regulated system for alleviating symptoms caused by debilitating medical conditions and their medical treatments and to regulate a system of production and distribution of medical cannabis to ensure an adequate supply.

Appropriations:

(a) Personal services and employee benefits	2,147.2	2,147.2
(b) Contractual services	1,207.0	1,207.0
(c) Other	845.5	845.5

(8) Administration:

The purpose of the administration program is to provide leadership, policy development, information technology, administrative and legal support to the department of health so it achieves a high level of accountability and excellence in services provided to the people of New Mexico.

Appropriations:

(a) Personal services and employee benefits	5,514.1	700.0	5,547.3	11,761.4
(b) Contractual services	134.3	1,154.2	811.6	2,100.1
(c) Other	398.7	104.6	1,086.6	1,589.9
Subtotal				621,955.3

**DEPARTMENT OF ENVIRONMENT:**

(1) Resource protection:

The purpose of the resource protection program is to monitor and provide regulatory oversight of the generation, storage, transportation and disposal of wastes in New Mexico. The program also oversees the investigation and cleanup of environmental contamination covered by the Resource Conservation and Recovery Act.

Appropriations:

(a) Personal services and employee benefits	1,744.2		6,870.1	2,718.9	11,333.2
(b) Contractual services	6.8		636.5	1,674.5	2,317.8
(c) Other	414.9		849.1	799.4	2,063.4

Performance measures:

(a) Outcome:	Percent of solid and infectious waste management facilities in compliance	85%
(b) Outcome:	Percent of solid and infectious waste management facilities in violation	15%

(2) Water protection:

The purpose of the water protection program is to protect and preserve the ground, surface and drinking water resources of the state for present and future generations. The program also helps New Mexico communities develop sustainable and secure water, wastewater and solid waste infrastructure through funding, technical assistance and project oversight.

Appropriations:

(a) Personal services and employee benefits	3,107.1	100.0	4,790.7	7,074.0	15,071.8
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(b) Contractual services	400.9		3,479.8	4,158.5	8,039.2
(c) Other	125.5		1,287.5	2,735.9	4,148.9

The internal service funds/interagency transfers appropriations to the water protection program of the department of environment in the contractual services category include one million four hundred thousand dollars (\$1,400,000) from revenues collected pursuant to Section 74-1-13 NMSA 1978, contingent on enactment of House Bill 92 or similar legislation in the first session of the fifty-fifth legislature to raise fees.

Performance measures:

(a) Output:	Number of nonpoint source impaired waterbodies restored by the department relative to the number of impaired water bodies	1:377
(b) Outcome:	Percent of groundwater permittees in violation	15%

(3) Environmental protection:

The purpose of the environmental protection program is to ensure New Mexicans breathe healthy air, to protect public health and the environment through specific programs that provide regulatory oversight of food service and food processing facilities, on-site treatment and disposal of liquid wastes, public swimming pools and baths and medical radiation and radiological technologists certification and to ensure every employee has safe and healthful working conditions.

Appropriations:

(a) Personal services and employee benefits	5,015.0	99.4	13,008.0	2,320.4	20,442.8
(b) Contractual services	0.9		1,044.1	594.6	1,639.6
(c) Other	1,711.9	0.5	1,644.4	1,779.0	5,135.8

Performance measures:

(a) Outcome:	Percent of the population breathing air meeting federal health standards	95%
(b) Outcome:	Number of employers that did not meet occupational health and safety requirements for at least one standard compared with the total number of employers	55%

(4) Resource management:

The purpose of the resource management program is to provide overall leadership, administrative, legal and information management support to all programs within the department. This support allows the department to operate in the most responsible, efficient and effective manner so the public can receive the information it needs to hold the department accountable.

Appropriations:

(a) Personal services and employee benefits	2,254.5	160.1	2,488.6	1,878.5	6,781.7
(b) Contractual services	177.3	10.2	124.4	153.5	465.4
(c) Other	437.2	29.7	451.2	378.2	1,296.3

(5) Special revenue funds:

Appropriations:

(a) Contractual services	4,990.0	4,990.0
(b) Other	10,450.0	10,450.0
(c) Other financing uses	35,971.5	35,971.5

The other state funds appropriation to the special revenue funds program of the department of environment

in the other financing uses category includes one million four hundred thousand dollars (\$1,400,000) from revenues collected pursuant to Section 74-1-13 NMSA 1978, contingent on enactment of House Bill 92 or similar legislation in the first session of the fifty-fifth legislature to raise fees

Subtotal 130,147.4

**OFFICE OF THE NATURAL RESOURCES TRUSTEE:**

(1) Natural resource damage assessment and restoration:

The purpose of the natural resources trustee program is to restore or replace natural resources injured or lost due to releases of hazardous substances or oil into the environment.

Appropriations:

(a) Personal services and employee benefits	424.0	49.6	473.6
(b) Contractual services		4,846.1	4,846.1
(c) Other		31.6	31.6
Subtotal			5,351.3

**VETERANS' SERVICES DEPARTMENT:**

(1) Veterans' services:

The purpose of the veterans' services program is to carry out the mandates of the New Mexico legislature and the governor to provide information and assistance to veterans and their eligible dependents to obtain the benefits to which they are entitled to improve their quality of life.

Appropriations:

(a) Personal services and employee benefits	4,189.0		408.4	4,597.4
(b) Contractual services	158.1	100.0	138.5	396.6
(c) Other	818.5	100.0	48.1	966.6

Performance measures:

(a) Quality:	Percent of veterans surveyed who rate the services provided by the agency as satisfactory or above	98%
(b) Outcome:	Percent of eligible deceased veterans and family members interred in a regional state veterans' cemetery	10%
Subtotal		5,960.6

**CHILDREN, YOUTH AND FAMILIES DEPARTMENT:**

(1) Juvenile justice facilities:

The purpose of the juvenile justice facilities program is to provide rehabilitative services to youth committed to the department, including medical, educational, mental health and other services that will support their rehabilitation.

Appropriations:

(a) Personal services and employee benefits	50,737.3	1,820.4		52,557.7
(b) Contractual services	8,046.7	3,885.8	423.9	12,764.0
(c) Other	5,770.3	38.0	52.4	5,860.7

Performance measures:

(a) Outcome:	Percent of clients who successfully complete formal probation	88%
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(b) Outcome:	Percent of youth discharged from active field supervision who did not recidivate in the following two-year time period	80%
(c) Outcome:	Percent of youth discharged from a secure facility who did not recidivate in the following two year time period	50%
(d) Output:	Number of physical assaults in juvenile justice facilities	<285

(2) Protective services:

The purpose of the protective services program is to receive and investigate referrals of child abuse and neglect and provide family preservation and treatment and legal services to vulnerable children and their families to ensure their safety and well-being.

Appropriations:

(a) Personal services and employee benefits	53,955.4		1,151.6	14,031.6	69,138.6
(b) Contractual services	15,432.7	167.2	900.0	11,507.8	28,007.7
(c) Other	27,677.8	1,643.2	237.8	44,171.5	73,730.3

The internal service funds/interagency transfers appropriations to the protective services program of the children, youth and families department include nine hundred thousand dollars (\$900,000) from the federal temporary assistance for needy families block grant to New Mexico for supportive housing.

The general fund appropriation to the protective services program of the children, youth and families department in the contractual services category includes three million seven hundred thirteen thousand seven hundred dollars (\$3,713,700) for evidence-based child maltreatment prevention and early intervention services.

Performance measures:

(a) Output:	Turnover rate for protective service workers	25%
(b) Outcome:	Percent of children in foster care for more than eight days who achieve permanency within twelve months of entry into foster care	30%
(c) Outcome:	Percent of children in foster care for twenty-four months at the start of a twelve-month period who achieve permanency within that twelve months	35%
(d) Outcome:	Percent of children in foster care for twelve to twenty-three months at the start of a twelve-month period who achieve permanency within that twelve months	42%
(e) Outcome:	Percent of children who were victims of a substantiated maltreatment report during a twelve-month period who were victims of another substantiated maltreatment allegation within twelve months of their initial report	<9.1%

(3) Behavioral health services:

The purpose of the behavioral health services program is to provide coordination and management of behavioral health policy, programs and services for children.

Appropriations:

(a) Personal services and employee benefits	7,311.1		724.7	1,292.3	9,328.1
(b) Contractual services	28,308.5	500.0	31.7	5,523.7	34,363.9
(c) Other	374.5			127.9	502.4

Performance measures:

(a) Outcome:	Percent of infants served by infant mental health teams with a team recommendation for reunification	95%
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(b) Output: who have not had additional substantiated referrals to protective services  
 Percent of department-involved youth in the estimated target population who are receiving services from community behavioral health clinicians 75%

(4) Program support:

The purpose of program support is to provide the direct services divisions with functional and administrative support so they may provide client services consistent with the department's mission and also support the development and professionalism of employees.

Appropriations:

(a) Personal services and employee benefits	9,321.7			3,994.9	13,316.6
(b) Contractual services	1,298.4		71.5	673.9	2,043.8
(c) Other	2,690.5			1,216.5	3,907.0
Subtotal					305,520.8
TOTAL HEALTH, HOSPITALS AND HUMAN SERVICES	1,969,536.2	305,742.0	487,937.9	7,120,702.6	9,883,918.7

**G. PUBLIC SAFETY**

**DEPARTMENT OF MILITARY AFFAIRS:**

(1) National guard support:

The purpose of the national guard support program is to provide administrative, fiscal, personnel, facility construction and maintenance support to the New Mexico national guard in maintaining a high degree of readiness to respond to state and federal missions and to supply an experienced force to protect the

public, provide direction for youth and improve the quality of life for New Mexicans.

Appropriations:

(a) Personal services and employee benefits	3,640.1			6,883.9	10,524.0
(b) Contractual services	392.2	10.9	146.9	2,563.1	3,113.1
(c) Other	2,916.4	110.4		10,036.2	13,063.0

Performance measures:

(a) Outcome:	Percent strength of the New Mexico national guard	98%
(b) Outcome:	Percent of New Mexico national guard youth challenge academy graduates who earn a high school equivalency credential	72%
(c) Output:	Number of federal active duty operations conducted	1
(d) Output:	Number of state active duty operations conducted	4
(e) Output:	Number of search and rescue operations conducted	8
Subtotal		26,700.1

**PAROLE BOARD:**

(1) Adult parole:

The purpose of the adult parole program is to provide and establish parole conditions and guidelines for inmates and parolees so they may reintegrate back into the community as law-abiding citizens.

Appropriations:

(a) Personal services and employee benefits	435.3	435.3
(b) Contractual services	9.0	9.0
(c) Other	119.2	119.2

Performance measures:

(a) Efficiency:	Percent of revocation hearings held within thirty days of a parolee's return to the corrections department	98%
Subtotal		563.5

### **JUVENILE PUBLIC SAFETY ADVISORY BOARD:**

The purpose of the juvenile public safety advisory board is to monitor each youth's rehabilitative process through therapy and support services to assure a low risk for reoffending or revictimizing the community.

Appropriations:

(a) Other	7.6	7.6
Subtotal		7.6

### **CORRECTIONS DEPARTMENT:**

(1) Inmate management and control:

The purpose of the inmate management and control program is to incarcerate in a humane, professionally sound manner offenders sentenced to prison and to provide safe and secure prison operations. This includes quality hiring and in-service training of correctional officers, protecting the public from escape risks and protecting prison staff, contractors and inmates from violence exposure to the extent possible within budgetary resources.

Appropriations:

(a) Personal services and employee benefits	112,876.1	1,523.6	17,210.1	150.2	131,760.0
(b) Contractual services	63,270.1				63,270.1
(c) Other	101,078.9	297.1		109.0	101,485.0

The general fund appropriation to the inmate management and control program of the corrections department in the personal services and employee benefits category includes three million nine hundred sixty-one thousand three hundred dollars (\$3,961,300) to increase compensation [~~for public correctional officers~~].

*LINE ITEM VETO*

The general fund appropriation to the inmate management and control program in the contractual services category includes sufficient funding to reimburse a vendor for providing medical care to inmates based on average medicaid managed care organization per member per month rates for inmates who are in the custody of the corrections department but does not include funding to reimburse a vendor for providing medical care to inmates based on average medicaid managed care organization per member per month rates for inmates who are not in the custody of the corrections department.

The general fund appropriation to the inmate management and control program of the corrections department in the other category includes one million nine hundred thirteen thousand eight hundred dollars (\$1,913,800) [~~to increase per diem rates for private prisons~~]. *LINE ITEM VETO*

The general fund appropriations to the inmate management and control program of the corrections department include [~~an additional~~] one million three hundred forty-nine thousand one hundred dollars (\$1,349,100) for the recidivism reduction division and [~~an additional~~] seven hundred thousand dollars (\$700,000) to implement [~~highest-rated,~~] evidence-based inmate programming. *LINE ITEM VETO*

Performance measures:

(a) Outcome:	Vacancy rate of correctional officers in public facilities	20%
(b) Outcome:	Vacancy rate of correctional officers in private facilities	20%
(c) Output:	Number of inmate-on-inmate assaults resulting in injury requiring off-site medical treatment	15
(d) Output:	Number of inmate-on-staff assaults resulting in injury requiring off-site medical treatment	0
(e) Output:	Percent of eligible inmates who earn a high school equivalency credential	80%
(f) Explanatory:	Percent of participating inmates who have completed adult basic education	
(g) Outcome:	Percent of prisoners reincarcerated within thirty-six months due to new charges or pending charges	15%
(h) Explanatory:	Percent of residential drug abuse program graduates reincarcerated within thirty-six months of release	
(i) Outcome:	Percent of sex offenders reincarcerated on a new sex offense conviction within thirty-six months of release on the previous sex offense conviction	3%
(j) Outcome:	Percent of release-eligible female inmates still incarcerated past their scheduled release date	6%
(k) Outcome:	Percent of release-eligible male inmates still incarcerated past their scheduled release date	6%
(l) Outcome:	Percent of prisoners reincarcerated within thirty-six months	42%
(m) Outcome:	Percent of eligible inmates enrolled in educational, cognitive, vocational and college programs	68%
(n) Output:	Number of inmates who earn a high school equivalency credential	150

(2) Corrections industries:

The purpose of the corrections industries program is to provide training and work experience opportunities for inmates to instill a quality work ethic and to prepare them to perform effectively in an employment position and to reduce idle time of inmates while in prison.

Appropriations:

(a) Personal services and employee benefits	2,191.0	2,191.0
(b) Contractual services	51.4	51.4
(c) Other	8,725.4	8,725.4

Performance measures:

(a) Output:	Percent of inmates receiving vocational or educational training assigned to corrections industries	25%
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(3) Community offender management:

The purpose of the community offender management program is to provide programming and supervision to offenders on probation and parole, with emphasis on high-risk offenders, to better ensure the probability of them becoming law-abiding citizens, to protect the public from undue risk and to provide intermediate sanctions and post-incarceration support services as a cost-effective alternative to incarceration.

Appropriations:

(a) Personal services and employee benefits	22,245.1	22,245.1	
(b) Contractual services	12,119.7	1,220.0	13,339.7
(c) Other	3,730.9	1,976.4	5,707.3

The general fund appropriation to the community offender management program of the corrections department in the personal services and employee benefits category includes one million dollars (\$1,000,000) to administer [biannual] risk-needs assessments to all offenders under supervision. *LINE ITEM VETO*

The general fund appropriation to the community offender management program of the corrections department in the contractual services category includes seven million nine hundred ninety-three thousand six hundred dollars (\$7,993,600) for community corrections programming for offenders under supervision and three million one hundred fifty-seven thousand two hundred dollars (\$3,157,200) to implement [~~highest-rated,~~] evidence-based programming through community corrections. *LINE ITEM VETO*

Performance measures:

(a) Outcome:	Percent of prisoners reincarcerated within thirty-six months due to technical parole violations	15%
(b) Outcome:	Percent of contacts per month made with high-risk offenders in the community	97%
(c) Quality:	Average standard caseload per probation and parole officer	100
(d) Output:	Percent of graduates from the men's recovery center who are reincarcerated within thirty-six months	23%
(e) Output:	Percent of graduates from the women's recovery center who are reincarcerated within thirty-six months	20%
(f) Outcome:	Vacancy rate of probation and parole officers	20%

(4) Program support:

The purpose of program support is to provide quality administrative support and oversight to the department operating units to ensure a clean audit, effective budget, personnel management and cost-effective management information system services.

Appropriations:

(a) Personal services and employee benefits	10,279.2	10,279.2
(b) Contractual services	316.2	316.2

(c) Other	1,980.9	154.8	2,135.7
Subtotal			361,506.1

**CRIME VICTIMS REPARATION COMMISSION:**

(1) Victim compensation:

The purpose of the victim compensation program is to provide financial assistance and information to victims of violent crime in New Mexico so they can receive services to restore their lives.

Appropriations:

(a) Personal services and employee benefits	1,141.6		1,141.6
(b) Contractual services	4,638.9		4,638.9
(c) Other	877.0	1,565.1	2,442.1

The general fund appropriation to the victim compensation program of the crime victims reparation commission [~~in the other category~~] includes four hundred forty-three thousand five hundred dollars (\$443,500) [~~for care and support~~]. *LINE ITEM VETO*

The other state funds appropriation to the victim compensation program of the crime victims reparation commission in the other category includes one million five hundred sixty-five thousand one hundred dollars (\$1,565,100) for care and support.

Performance measures:

(a) Explanatory:	Number of sexual assault service provider programs receiving state funding statewide
(b) Explanatory:	Average compensation paid to individual victims using state funding



(2) Federal grant administration:

The purpose of the federal grant administration program is to provide funding and training to nonprofit providers and public agencies so they can provide services to victims of crime.

Appropriations:

(a) Personal services and employee benefits	743.3	743.3
(b) Contractual services	46.9	46.9
(c) Other	15,529.0	15,529.0

Performance measures:

(a) Efficiency:	Percent of federally funded subgrantees receiving compliance monitoring via desk audit	100%
(b) Efficiency:	Percent of federally funded subgrantees receiving site visits	40%
(c) Explanatory:	Average compensation paid to individual victims using federal funding	
Subtotal		24,541.8

**DEPARTMENT OF PUBLIC SAFETY:**

(1) Law enforcement:

The purpose of the law enforcement program is to provide the highest quality of law enforcement services to the public and ensure a safer state.

Appropriations:

(a) Personal services and employee benefits	89,224.1	995.0	3,747.4	6,487.0	100,453.5
(b) Contractual services	1,195.2	110.2		1,290.5	2,595.9
(c) Other	21,636.3	1,429.8	2,154.9	1,597.7	26,818.7

The internal service funds/interagency transfers appropriations to the law enforcement program of the department of public safety include ninety-four thousand five hundred dollars (\$94,500) from the weight distance tax identification permit fund. Any unexpended balances in the motor transportation bureau of the law enforcement program of the department of public safety remaining at the end of fiscal year 2022 from appropriations made from the weight distance tax identification permit fund shall revert to the weight distance tax identification permit fund.

Performance measures:

(a) Output:	Number of commercial motor vehicle safety inspections conducted	90,000
(b) Explanatory:	Number of New Mexico state police misdemeanor and felony arrests	
(c) Explanatory:	Number of driving-while-intoxicated arrests	
(d) Explanatory:	Number of governor-ordered special deployment operations conducted	
(e) Explanatory:	Vacancy rate of commissioned state police officers	
(f) Explanatory:	Turnover rate of commissioned state police officers	
(g) Explanatory:	Graduation rate of the New Mexico state police recruit school	

(2) Statewide law enforcement support program:

The purpose of the statewide law enforcement support program is to promote a safe and secure environment for the state of New Mexico through intelligently led policing practices, vital scientific and technical support, current and relevant training and innovative leadership for the law enforcement community.

Appropriations:

(a) Personal services and employee benefits	8,728.8	2,289.0	236.0	747.1	12,000.9
(b) Contractual services	868.7	937.0	70.0	814.3	2,690.0
(c) Other	3,081.1	2,996.0	331.0	674.0	7,082.1

The general fund appropriations to the statewide law enforcement support program of the department of public safety include three hundred fifty thousand dollars (\$350,000) for costs related to the operation and activities of the law enforcement academy board.

Performance measures:

(a) Outcome:	Percent of forensic firearm and toolmark cases completed	100%
(b) Outcome:	Percent of forensic latent fingerprint cases completed	100%
(c) Outcome:	Percent of forensic chemistry cases completed	100%
(d) Outcome:	Percent of forensic biology and DNA cases completed	100%
(e) Outcome:	Number of sexual assault examination kits not completed within one hundred eighty days of receipt of the kits by the forensic laboratory	0

(3) Program support:

The purpose of program support is to manage the agency's financial resources, assist in attracting and retaining a quality workforce and provide sound legal advice and a clean, pleasant working environment.

Appropriations:

(a) Personal services and employee benefits	3,526.1	20.0	524.4	4,070.5
(b) Contractual services	139.9	5.0	150.0	294.9

(c) Other	350.3		5.0	2,853.6	3,208.9
Subtotal					159,215.4

**HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT:**

(1) Homeland security and emergency management program:

The purpose of the homeland security and emergency management program is to provide for and coordinate an integrated, statewide, comprehensive emergency management system for New Mexico, including all agencies, branches and levels of government for the citizens of New Mexico.

Appropriations:

(a) Personal services and employee benefits	2,426.0	9.3	100.0	3,140.7	5,676.0
(b) Contractual services	299.3			1,262.9	1,562.2
(c) Other	554.3	40.7	95.9	15,595.4	16,286.3

Performance measures:

(a) Outcome:	Number of recommendations from federal grant monitoring visits older than six months unresolved at the close of the fiscal year	5
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(2) State fire marshal's office:

The purpose of the state fire marshal's office program is to provide services and resources to the appropriate entities to enhance their ability to protect the public from fire hazards.

Appropriations:

(a) Personal services and employee benefits	3,207.9	3,207.9
(b) Contractual services	505.1	505.1
(c) Other	71,162.0	71,162.0

The other state funds appropriations to the state fire marshal's office program of the homeland security and emergency management department include five million one hundred twenty-five thousand dollars (\$5,125,000) from the fire protection fund. Any unexpended balances from the fire protection fund in the state fire marshal's office program of the homeland security and emergency management department at the end of fiscal year 2022 shall revert to the fire protection fund.

Performance measures:

(a) Outcome:	Percent of local government recipients that receive their fire protection fund distributions on schedule	90%
(b) Outcome:	Percent of requested annual inspections for state certifications completed	70%
Subtotal		98,399.5
TOTAL PUBLIC SAFETY	474,104.5      101,508.1      24,122.2      71,199.2	670,934.0

**H. TRANSPORTATION**

**DEPARTMENT OF TRANSPORTATION:**

(1) Project design and construction:

The purpose of the project design and construction program is to provide improvements and additions to the state's highway infrastructure to serve the interest of the general public. These improvements include those activities directly related to highway planning, design and construction necessary for a complete system of highways in the state.

Appropriations:

(a) Personal services and employee benefits	24,523.8	1,881.0	26,404.8
(b) Contractual services	106,827.9	237,721.6	344,549.5
(c) Other	116,353.2	126,530.4	242,883.6

Performance measures:

(a) Outcome:	Percent of projects in production let to bid as scheduled	>70%
(b) Quality:	Percent of final cost-over-bid amount, less gross receipts tax, on highway construction projects	<1%
(c) Outcome:	Percent of projects completed according to schedule	>75%

(2) Highway operations:

The purpose of the highway operations program is to maintain and provide improvements to the state's highway infrastructure to serve the interest of the general public. These improvements include those activities directly related to preserving roadway integrity and maintaining open highway access throughout the state system.

Appropriations:

(a) Personal services and employee benefits	106,263.0	3,000.0	109,263.0
(b) Contractual services	74,724.4		74,724.4
(c) Other	93,895.2		93,895.2

Performance measures:

(a) Output:	Number of statewide pavement lane miles preserved	>3,000
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(b) Outcome:	Number of combined systemwide lane miles in poor condition	<5,000
(c) Outcome:	Percent of bridges in fair, or better, condition based on deck area	>95%

(3) Program support:

The purpose of program support is to provide management and administration of financial and human resources, custody and maintenance of information and property and the management of construction and maintenance projects.

Appropriations:

(a) Personal services and employee benefits	25,698.5	25,698.5
(b) Contractual services	4,625.4	4,625.4
(c) Other	13,532.8	13,532.8

Performance measures:

(a) Explanatory:	Vacancy rate of all programs
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(4) Modal:

The purpose of the modal program is to provide federal grants management and oversight of programs with dedicated revenues, including transit and rail, traffic safety and aviation.

Appropriations:

(a) Personal services and employee benefits	2,893.3	3,371.9	1,369.1	7,634.3
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(b) Contractual services	20,179.5	2,600.0	11,527.3	34,306.8
(c) Other	7,490.0	6,328.1	22,116.0	35,934.1

The internal service funds/interagency transfer appropriations to the modal program of the department of transportation include twelve million dollars (\$12,000,000) from the weight distance tax identification permit fund.

Performance measures:

(a) Outcome:	Number of traffic fatalities	<350
(b) Outcome:	Number of alcohol-related traffic fatalities	<125
Subtotal		1,013,452.4
TOTAL TRANSPORTATION	597,007.0 12,300.0	404,145.4 1,013,452.4

## I. OTHER EDUCATION

### PUBLIC EDUCATION DEPARTMENT:

The purpose of the public education department is to provide a public education to all students. The secretary of public education is responsible to the governor for the operation of the department. It is the secretary's duty to manage all operations of the department and to administer and enforce the laws with which the secretary or the department is charged. To do this, the department focuses on leadership and support, productivity, building capacity, accountability, communication and fiscal responsibility.

Appropriations:

(a) Personal services and employee benefits	12,486.2	3,056.6	45.0	7,475.9	23,063.7
(b) Contractual services	890.3	720.4		19,631.9	21,242.6



(c) Other	988.0	372.0		3,572.1	4,932.1
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Performance measures:

(a) Outcome:	Number of local education agencies and charter schools audited for funding formula components and program compliance annually				30
(b) Explanatory:	Number of eligible children served in state-funded prekindergarten				
(c) Explanatory:	Number of eligible children served in K-5 plus				
(d) Outcome:	Percent of students in K-5 plus meeting benchmark on early reading skills				75%
Subtotal					49,238.4

**REGIONAL EDUCATION COOPERATIVES:**

Appropriations:

(a) Northwest	103.4	5,196.0	17.9	284.0	5,601.3
(b) Northeast	103.4	475.0		831.8	1,410.2
(c) Lea county	103.4	1,649.3	347.4	5,019.0	7,119.1
(d) Pecos valley	103.4	2,780.9	107.5		2,991.8
(e) Southwest	103.4	975.0	38.0	800.0	1,916.4
(f) Central	103.4	5,089.7	40.3	1,071.0	6,304.4
(g) High plains	103.4	4,444.5		1,398.7	5,946.6
(h) Clovis	103.4	904.0		2,500.0	3,507.4
(i) Ruidoso	103.4	5,441.1		2,219.0	7,763.5
(j) Four corners	103.4				103.4
Subtotal					42,664.1

**PUBLIC EDUCATION DEPARTMENT SPECIAL APPROPRIATIONS:**

Appropriations:

(a) Early literacy and reading support	1,661.0				1,661.0
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(b) Indigenous, multilingual, multicultural and special education	5,067.8		5,067.8
(c) Principals professional development	2,491.5		2,491.5
(d) Teachers professional development	2,869.5		2,869.5
(e) Graduation, reality and dual-role skills	415.3	200.0	615.3
(f) National board certification assistance		500.0	500.0
(g) Advanced placement test assistance			1,000.0
(h) Student nutrition and wellness	2,342.0		2,342.0
(i) Science, technology, engineering, arts and math initiative			3,025.9

The public education department shall prioritize special appropriation awards to school districts or charter schools that implement K-5 plus programs or extended learning time programs for all eligible students.

A school district or charter school may submit an application to the public education department for an allocation from the teachers professional development appropriation to support mentorship and professional development for teachers. The public education department shall prioritize awards to school districts or charter schools that budget the portion of the state equalization guarantee distribution attributable to meeting requirements of Section 22-10A-9 NMSA 1978 and providing targeted and ongoing professional development for purposes of new teacher mentorship, case management, tutoring, data-guided instruction, coaching or other evidence-based practices that improve student outcomes. The public education department shall not make an award to a school district or charter school that does not submit an approved educational plan pursuant to Section 22-8-6 NMSA 1978 or an approved teacher mentorship program pursuant to

Section 22-10A-9 NMSA 1978.

The internal service funds/interagency transfers appropriation to the graduation, reality and dual-role skills program of the public education department special appropriations is from the federal temporary assistance for needy families block grant to New Mexico.

The general fund appropriation to the public education department for student nutrition and wellness shall be used for grants to school districts and charter schools for nutrition and wellness programs, including grants pursuant to Sections 22-13-13.2 and 22-13C-8 NMSA 1978.

The other state funds appropriation to the public education department for national board certification assistance is from the national board certification scholarship fund.

Any unexpended balances in special appropriations to the public education department remaining at the end of fiscal year 2022 from appropriations made from the general fund shall revert to the general fund.

Subtotal

19,573.0

### **PUBLIC SCHOOL FACILITIES AUTHORITY:**

The purpose of the public school facilities oversight program is to oversee public school facilities in all eighty-nine school districts ensuring correct and prudent planning, building and maintenance using state funds and ensuring adequacy of all facilities in accordance with public education department approved educational programs.

Appropriations:

(a) Personal services and employee benefits	4,394.0	4,394.0
(b) Contractual services	110.9	110.9
(c) Other	1,226.0	1,226.0

Performance measures:

(a) Explanatory:	Statewide public school facility condition index measured on December 31 of prior calendar year				
(b) Explanatory:	Statewide public school facility maintenance assessment report score measured on December 31 of prior calendar year				
Subtotal				5,730.9	
TOTAL OTHER EDUCATION	34,271.5	37,335.4	796.1	44,803.4	117,206.4

## J. HIGHER EDUCATION

On approval of the higher education department, the state budget division of the department of finance and administration may approve increases in budgets of agencies in this subsection whose other state funds exceed amounts specified, with the exception of the policy development and institutional financial oversight program of the higher education department. In approving budget increases, the director of the state budget division shall advise the legislature through its officers and appropriate committees, in writing, of the justification for the approval.

On approval of the higher education department [~~and in consultation with the legislative finance committee~~], the state budget division of the department of finance and administration may reduce general fund appropriations, up to three percent, to institutions whose lower level common courses are not completely transferrable or accepted among public colleges and universities in New Mexico. *LINE ITEM VETO*

The secretary of higher education shall work with institutions, whose enrollment has declined by more than fifty percent within the past five academic years, on a plan to improve enrollment, collaborate or

merge with other institutions, reduce expenditures accordingly and submit an annual report [~~to the legislative finance committee~~]. *LINE ITEM VETO*

The department of finance and administration shall, as directed by the secretary of higher education, withhold from an educational institution or program that the higher education department places under an enhanced fiscal oversight program a portion, up to ten percent, of the institution's or program's general fund allotments. On written notice by the secretary of higher education that the institution or program has made sufficient progress toward satisfying the requirements imposed by the higher education department under the enhanced fiscal oversight program, the department of finance and administration shall release the withheld allotments. Money withheld in accordance with this provision and not released at the end of fiscal year 2022 shall revert to the general fund. The secretary of the department of finance and administration shall advise the legislature through its officers and appropriate committees, in writing, of the status of all withheld allotments.

Except as otherwise provided, any unexpended balances remaining at the end of fiscal year 2022 shall not revert to the general fund.

### **HIGHER EDUCATION DEPARTMENT:**

(1) Policy development and institutional financial oversight:

The purpose of the policy development and institutional financial oversight program is to provide a continuous process of statewide planning and oversight within the department's statutory authority for the state higher education system and to ensure both the efficient use of state resources and progress in implementing a statewide agenda.

Appropriations:

(a) Personal services and employee benefits	2,994.4	312.3	43.3	1,367.4	4,717.4
(b) Contractual services	880.4	95.0		639.6	1,615.0
(c) Other	8,881.6	115.0	292.4	8,493.0	17,782.0

The general fund appropriation to the policy development and institutional financial oversight program of the higher education department in the other category includes six million five hundred thousand dollars (\$6,500,000) to provide adults with education services and materials and access to high school equivalency tests, one hundred twenty-six thousand one hundred dollars (\$126,100) for workforce development programs at community colleges that primarily educate and retrain recently displaced workers, four hundred sixty-one thousand one hundred dollars (\$461,100) for the high skills program, eighty-four thousand five hundred dollars (\$84,500) for English-learner teacher preparation and two hundred sixty-three thousand nine hundred dollars (\$263,900) to the tribal college dual-credit program fund.

The general fund appropriation to the policy development and institutional financial oversight program of the higher education department in the other category includes two hundred fifty thousand dollars (\$250,000) for the administration of an external diploma program with public schools.

The general fund appropriation to the policy development and institutional financial oversight program of the higher education department in the contractual services category includes six hundred eighty thousand four hundred dollars (\$680,400) for an adult literacy program.

Any unexpended balances in the policy development and institutional financial oversight program of the higher education department remaining at the end of fiscal year 2022 from appropriations made from the general fund shall revert to the general fund.

(2) Student financial aid:

The purpose of the student financial aid program is to provide access, affordability and opportunities for success in higher education to students and their families so all New Mexicans may benefit from postsecondary education and training beyond high school.

Appropriations:

(a) Contractual services	20.0				20.0
(b) Other	20,609.5	7,000.0	44,230.0	300.0	72,139.5

The other state funds appropriation to the student financial aid program of the higher education department in the other category includes five million dollars (\$5,000,000) from the teacher preparation affordability scholarship fund and two million dollars (\$2,000,000) from the teacher loan repayment fund.

(3) The opportunity scholarship:

Appropriations:

(a) Other	7,000.0				7,000.0
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The general fund appropriation to the opportunity scholarship program of the higher education department in the other category includes seven million dollars (\$7,000,000) for an opportunity scholarship program in fiscal year 2022 for students attending a public postsecondary educational institution or tribal college. The scholarship may be used by eligible students to pay tuition or ~~[general student] fees [and shall not be used to pay differential tuition or individual course-specific fees]~~. The opportunity scholarship program shall prioritize financial aid based on need to undergraduate, degree-seeking students ~~[who have left higher education but have earned seventy-five percent of credits toward an associates or bachelor's~~

~~degree], who have completed the free application for financial student aid or another form of income verification, who are adults or eligible for a lottery tuition scholarship and who are enrolled full-time. The higher education department shall provide a written report summarizing the opportunity scholarship's finances, student participation and sustainability to the department of finance and administration [~~and the legislative finance committee~~] by November 1, 2021. [~~Any unexpended balances remaining at the end of fiscal year 2022 from appropriations made from the general fund shall revert to the general fund.~~] *LINE ITEM VETO*~~

Subtotal 103,273.9

**UNIVERSITY OF NEW MEXICO:**

(1) Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a) Other		143,300.0	138,300.0	281,600.0
(b) Instruction and general purposes	192,166.3	177,100.0	3,800.0	373,066.3
(c) Athletics	4,163.6	27,400.0		31,563.6
(d) Educational television	1,015.6	4,800.0	2,500.0	8,315.6

Performance measures:

(a) Output:	Number of students enrolled, by headcount	26,000
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(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school by headcount	2,420
(c) Output:	Number of credit hours delivered	543,000
(d) Output:	Number of unduplicated degree awards in the most recent academic year	5,400
(e) Outcome:	Percent of a cohort of first-time, full-time, degree-seeking freshmen who complete a baccalaureate program within one hundred fifty percent of standard graduation time	60%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	77%

(2) Gallup branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Other		1,502.0	824.0	2,326.0
(b) Instruction and general purposes	8,643.1	5,663.2	410.0	14,716.3

Performance measures:

(a) Output:	Number of students enrolled, by headcount	2,793
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	165
(c) Output:	Number of credit hours delivered	35,542
(d) Output:	Number of unduplicated awards conferred in the most recent academic year	217

(e) Outcome:	Percent of a cohort of first-time, full-time, degree-seeking freshmen who complete an associate's program within one hundred fifty percent of standard graduation time	35%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	42.8%

(3) Los Alamos branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Other		381.0	856.0	1,237.0
(b) Instruction and general purposes	1,875.0	2,717.0	481.0	5,073.0

Performance measures:

(a) Output:	Number of students enrolled, by headcount	1,000
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	182
(c) Output:	Number of credit hours delivered	12,850
(d) Output:	Number of unduplicated awards conferred in the most recent academic year	100
(e) Outcome:	Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time	35%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	58%

(4) Valencia branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Other		614.7	2,227.5	2,842.2
(b) Instruction and general purposes	5,711.0	4,908.8	61.6	10,681.4

Performance measures:

(a) Output:	Number of students enrolled, by headcount	3,251
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	254
(c) Output:	Number of credit hours delivered	24,089
(d) Output:	Number of unduplicated awards conferred in the most recent academic year	189
(e) Outcome:	Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time	35%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	60%

(5) Taos branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to

be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Other		1,382.0	2,546.0	3,928.0
(b) Instruction and general purposes	3,768.9	3,513.0	838.0	8,119.9

Performance measures:

(a) Output:	Number of students enrolled, by headcount	1,811
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	64
(c) Output:	Number of credit hours delivered	14,992
(d) Output:	Number of unduplicated awards conferred in the most recent academic year	138
(e) Outcome:	Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time	35%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	50%

(6) Research and public service projects:

Appropriations:

(a) Chicano and chicana studies	91.2	91.2
(b) Career soft skills and technical education	455.9	455.9
(c) Veterans student services	228.0	228.0

(d) African American student services	45.6	45.6
(e) Native American studies	182.4	182.4
(f) Judicial selection	47.5	47.5
(g) Judicial education center	364.7	364.7
(h) Southwest research center	729.4	729.4
(i) Substance abuse program	65.4	65.4
(j) Resource geographic information system	58.5	58.5
(k) Southwest Indian law clinic	182.8	182.8
(l) Geospatial and population studies/bureau of business and economic research	341.3	341.3
(m) New Mexico historical review	41.5	41.5
(n) Ibero-American education	78.0	78.0
(o) Manufacturing engineering program	489.6	489.6
(p) Wildlife law education	84.8	84.8
(q) Morrissey hall programs	177.1	177.1
(r) Africana studies	273.5	273.5
(s) Disabled student services	160.6	160.6
(t) Minority student services	644.3	644.3
(u) Community-based education	497.3	497.3
(v) Corrine Wolfe children's law center	150.4	150.4
(w) Mock trial program and high school forensics	114.0	114.0
(x) Utton transboundary resources center	392.8	392.8
(y) Student mentoring program	255.8	255.8
(z) Land grant studies	113.9	113.9

(aa) Gallup branch - nurse expansion	180.6		180.6
(bb) Valencia branch - nurse expansion	146.5		146.5
(cc) Taos branch - nurse expansion	210.4		210.4
(dd) Gallup branch - workforce development programs	182.4		182.4
(ee) University of New Mexico press	136.8		136.8

(7) Health sciences center:

The purpose of the institution and general program of the university of New Mexico health sciences center is to provide educational, clinical and research support for the advancement of the health of all New Mexicans.

Appropriations:

(a) Other		416,600.0	94,900.0	511,500.0
(b) Instruction and general purposes	61,826.7	62,551.9	4,000.0	128,378.6

The other state funds appropriation to the health sciences center of the university of New Mexico in the instruction and general purposes category includes three hundred ninety-eight thousand seven hundred dollars (\$398,700) from the tobacco settlement program fund.

(8) Health sciences center research and public service projects:

Appropriations:

(a) ENLACE	812.2			812.2
(b) New Mexico bioscience authority	285.4	62.0		347.4
(c) Financial aid for medical school	182.4			182.4
(d) Graduate medical education/residencies	1,971.2			1,971.2
(e) Office of medical investigator	5,456.9	5,450.2	25.0	10,932.1
(f) Native American suicide prevention	87.0			87.0
(g) Minority student services	166.8			166.8
(h) Children's psychiatric hospital	7,195.6	12,900.0		20,095.6
(i) Carrie Tingley hospital	5,527.3	16,501.4		22,028.7
(j) Newborn intensive care	2,982.2	50.0	190.3	3,222.5
(k) Pediatric oncology	1,160.1	171.3		1,331.4
(l) Poison and drug information center	1,477.7	600.0	350.0	2,427.7
(m) Medical residents		37,850.0	6,969.7	44,819.7
(n) Cancer center	5,846.0	5,900.0	13,900.0	25,646.0
(o) Genomics, biocomputing and environmental health research		1,300.0	6,000.0	7,300.0
(p) Trauma specialty education		171.3		171.3
(q) Pediatrics specialty education		171.3		171.3
(r) Native American health center	238.3			238.3
(s) Nurse expansion	951.6			951.6
(t) Graduate nurse education	1,653.1			1,653.1
(u) Child abuse evaluation center	136.8			136.8
(v) Hepatitis community health outcomes	2,512.9			2,512.9
(w) Comprehensive movement disorders clinic	273.5			273.5
(x) New Mexico nursing education consortium	235.0			235.0

(y) OMI grief services	200.6	150.0	350.6
(z) Physician assistant program and nurse practitioners	340.8		340.8

The other state funds appropriations to the health sciences center research and public service projects program of the university of New Mexico include one million five hundred sixty-one thousand seven hundred dollars (\$1,561,700) from the tobacco settlement program fund.

Subtotal			1,538,876.8
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### NEW MEXICO STATE UNIVERSITY:

(1) Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a) Other		62,700.0	77,600.0	140,300.0
(b) Instruction and general purposes	117,941.5	120,000.0	4,000.0	241,941.5
(c) Athletics	4,100.8	13,300.0	100.0	17,500.8
(d) Educational television	961.3	1,000.0		1,961.3

Performance measures:

(a) Output:	Number of students enrolled, by headcount	16,250
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(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	1,760
(c) Output:	Number of credit hours delivered	350,000
(d) Output:	Number of unduplicated degree awards in the most recent academic year	3,300
(e) Outcome:	Percent of a cohort of first-time, full-time, degree-seeking freshmen who complete a baccalaureate program within one hundred fifty percent of standard graduation time	60%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	76%

(2) Alamogordo branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Other		700.0	1,574.0	2,274.0
(b) Instruction and general purposes	7,112.4	3,600.0	400.0	11,112.4

Performance measures:

(a) Output:	Number of students enrolled reported, by headcount	2,000
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	99
(c) Output:	Number of credit hours delivered	14,300
(d) Output:	Number of unduplicated awards conferred in the most recent academic year	110

(e) Outcome:	Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time	35%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	55%

(3) Carlsbad branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Other		600.0	1,500.0	2,100.0
(b) Instruction and general purposes	4,247.4	14,000.0	2,000.0	20,247.4

Performance measures:

(a) Output:	Number of students enrolled, by headcount	3,272
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	197
(c) Output:	Number of credit hours delivered	26,332
(d) Output:	Number of awards conferred within the most recent academic year	135
(e) Outcome:	Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time	35%

(f) Outcome: Percent of first-time, full-time freshmen retained to the third semester 55%

(4) Dona Ana branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Other		3,400.0	13,000.0	16,400.0
(b) Instruction and general purposes	23,332.2	18,700.0	3,000.0	45,032.2

Performance measures:

(a) Output:	Number of students enrolled, by headcount	9,600
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	1,595
(c) Output:	Number of credit hours delivered	130,000
(d) Output:	Number of unduplicated awards conferred in the most recent academic year	1,160
(e) Outcome:	Percent of a cohort of first-time, part-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time	35%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	62%

(5) Grants branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Other		400.0	1,700.0	2,100.0
(b) Instruction and general purposes	3,473.3	1,700.0	1,200.0	6,373.3

Performance measures:

(a) Output:	Number of students enrolled, by headcount	1,275
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	110
(c) Output:	Number of credit hours delivered	8,390
(d) Output:	Number of unduplicated awards conferred in the most recent academic year	60
(e) Outcome:	Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time.	35%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	53%

(6) Department of agriculture:

Appropriations:

(a) Department of agriculture	12,092.0	6,000.0	2,900.0	20,992.0
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(7) Agricultural experiment station:

Appropriations:

(a) Agricultural experiment station	14,542.6	6,700.0	14,250.0	35,492.6
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(8) Cooperative extension service:

Appropriations:

(a) Cooperative extension service	13,185.0	4,900.0	9,100.0	27,185.0
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(9) Research and public service projects:

Appropriations:

(a) Autism program	559.8			559.8
(b) Sunspot solar observatory consortium	248.9		700.0	948.9
(c) STEM alliance for minority participation	290.0		1,500.0	1,790.0
(d) Mental health nurse practitioner	940.0			940.0
(e) Water resource research institute	1,032.1	100.0	1,300.0	2,432.1
(f) Indian resources development	253.4	1,700.0		1,953.4
(g) Manufacturing sector development program	615.1			615.1
(h) Arrowhead center for business development	313.6		1,300.0	1,613.6
(i) Nurse expansion	846.2			846.2

(j) Alliance teaching and learning advancement	142.1		142.1
(k) College assistance migrant program	187.6	600.0	787.6
(l) Veterans center	45.6		45.6
(m) Carlsbad branch - manufacturing sector development program	212.4		212.4
(n) Carlsbad branch - nurse expansion	102.4		102.4
(o) Dona Ana branch - dental hygiene program	279.0		279.0
(p) Dona Ana branch - nurse expansion	275.9		275.9
(q) Sustainable agriculture center of excellence	232.8		232.8
(r) Anna age eight institute	796.9		796.9
Subtotal			605,586.3

### NEW MEXICO HIGHLANDS UNIVERSITY:

(1) Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a) Other		13,500.0	9,500.0	23,000.0
(b) Instruction and general purposes	28,403.2	12,216.7	172.5	40,792.4
(c) Athletics	2,167.3	500.0		2,667.3

Performance measures:

(a) Output:	Number of students enrolled, by headcount	4,100
(b) Output:	Number of first-time freshmen enrolled, who graduated from a New Mexico high school, by headcount	253
(c) Output:	Number of credit hours delivered	60,000
(d) Output:	Number of unduplicated degree awards in the most recent academic year, reported by baccalaureate, masters and doctorate degrees	800
(e) Output:	Percent of a cohort of first-time, full-time, degree-seeking freshmen who complete a baccalaureate program within one hundred fifty percent of standard graduation time	40%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	55%

(2) Research and public service projects:

Appropriations:

(a) Native American social work institute	159.6	159.6
(b) Advanced placement test assistance	197.8	197.8
(c) Minority student services	483.8	483.8
(d) Forest and watershed institute	277.7	277.7
(e) Nurse expansion	199.8	199.8
(f) Acequia and land grant education	45.6	45.6
(g) Doctor of nurse practitioner expansion	155.0	155.0
(h) Center for professional development and career readiness	159.6	159.6
Subtotal		68,138.6

## WESTERN NEW MEXICO UNIVERSITY:

### (1) Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

#### Appropriations:

(a) Other		5,800.0	6,300.0	12,100.0
(b) Instruction and general purposes	18,693.5	13,100.0	200.0	31,993.5
(c) Athletics	2,109.8	1,100.0		3,209.8

#### Performance measures:

(a) Output:	Number of students enrolled, by headcount	4,000
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	330
(c) Output:	Number of credit hours delivered	43,000
(d) Output:	Number of certificates and associate degree awarded within the most recent academic year	175
(e) Output:	Percent of a cohort of first-time, full-time, degree-seeking freshmen who complete a baccalaureate program within one hundred fifty percent of standard graduation time	40%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	58%

### (2) Research and public service projects:

#### Appropriations:



(a) Instructional television	66.0	66.0
(b) Truth or Consequences and Deming nurse expansion	282.0	282.0
(c) Pharmacy and phlebotomy programs	91.2	91.2
(d) Web-based teacher licensure	117.8	117.8
(e) Child development center	278.3	278.3
(f) Nurse expansion	900.3	900.3
Subtotal		49,038.9

### EASTERN NEW MEXICO UNIVERSITY:

(1) Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a) Other		13,000.0	27,000.0	40,000.0
(b) Instruction and general purposes	29,958.9	21,500.0	2,500.0	53,958.9
(c) Athletics	2,144.6	2,200.0	15.0	4,359.6
(d) Educational television	977.2	1,350.0	10.0	2,337.2

Performance measures:

(a) Output:	Number of students enrolled, by headcount	7,200
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	385
(c) Output:	Number of credit hours delivered	102,000

(d) Output:	Number of unduplicated degree awards in the most recent academic year, reported by baccalaureate, masters and doctorate degrees	1,050
(e) Output:	Percent of a cohort of first-time, full-time, degree-seeking freshmen who complete a baccalaureate program within one hundred fifty percent of standard graduation time	40%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	64%

(2) Roswell branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Other		1,642.6	4,414.7	6,057.3
(b) Instruction and general purposes	11,743.7	3,240.5	1,710.0	16,694.2

Performance measures:

(a) Output:	Number of students enrolled, by headcount	2,250
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	248
(c) Output:	Number of credit hours delivered	32,000
(d) Output:	Total number of unduplicated awards conferred in the most recent academic year	500
(e) Outcome:	Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within	35%

	one hundred fifty percent of standard graduation time		
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	49.5%	

(3) Ruidoso branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Other		300.0	2,300.0	2,600.0
(b) Instruction and general purposes	2,077.6	2,000.0	300.0	4,377.6

Performance measures:

(a) Output:	Number of students enrolled, by headcount	901
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	83
(c) Output:	Number of credit hours delivered	8,361
(d) Output:	Number of certificates and associate degrees awarded within the most recent academic year	75
(e) Outcome:	Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time	35%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	41%

(4) Research and public service projects:

Appropriations:

(a) Blackwater draw site and museum	84.7	40.0	124.7
(b) Student success programs	380.2		380.2
(c) Nurse expansion	308.3		308.3
(d) At-risk student tutoring	204.8		204.8
(e) Allied health	129.8		129.8
(f) Roswell branch - nurse expansion	253.8		253.8
(g) Roswell branch - airframe mechanics	68.5		68.5
(h) Roswell branch - special services program	108.1		108.1
(i) Teacher education preparation program	182.4		182.4
(j) Greyhound promise	91.2		91.2
(k) Youth challenge	91.2		91.2
(l) Nursing program	178.6		178.6
Subtotal			132,506.4

**NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY:**

(1) Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a) Other		18,000.0	21,095.0	39,095.0
(b) Instruction and general purposes	28,027.1	23,126.0		51,153.1

Performance measures:

(a) Output:	Number of students enrolled, by headcount	1,900
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	330
(c) Output:	Number of credit hours delivered	45,000
(d) Output:	Number of unduplicated awards conferred in the most recent academic year	335
(e) Output:	Percent of a cohort of first-time, full-time, degree-seeking freshmen who complete a baccalaureate program within one hundred fifty percent of standard graduation time	60%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	80%

(2) Bureau of mine safety:

Appropriations:

(a) Bureau of mine safety	301.8	300.0	601.8
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(3) Bureau of geology and mineral resources:

Appropriations:

(a) Bureau of geology and mineral resources	4,140.2	1,035.0	528.0	5,703.2
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The general fund appropriation to the bureau of geology and mineral resources program of the New Mexico institute of mining and technology includes one hundred thousand dollars (\$100,000) from federal Mineral Leasing Act receipts.

(4) Petroleum recovery research center:

Appropriations:

(a) Petroleum recovery research center	1,743.4	636.0	4,600.0	6,979.4
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(5) Geophysical research center:

Appropriations:

(a) Geophysical research center	1,025.8	1,100.0	1,900.0	4,025.8
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(6) Research and public service projects:

Appropriations:

(a) Mathematics, engineering, science achievement program	1,052.2			1,052.2
(b) Cybersecurity education and research center	136.8			136.8
(c) Energetic materials research center	739.9	4,403.0	28,500.0	33,642.9
(d) Science and engineering fair	189.2			189.2
(e) Institute for complex additive systems analysis	911.8	2,000.0	1,000.0	3,911.8
(f) Cave and karst research	333.4	62.0		395.4
(g) Homeland security center	484.5		3,313.0	3,797.5
(h) Cybersecurity center of excellence	228.0	131.1	346.0	705.1
(i) Rural economic development	22.8			22.8

(j) Chemical engineering	79.3	79.3
student asistanceships		
Subtotal		151,491.3

**NORTHERN NEW MEXICO COLLEGE:**

(1) Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a) Other		5,300.0	5,800.0	11,100.0
(b) Instruction and general purposes	10,156.9	5,000.0	4,200.0	19,356.9
(c) Athletics	520.4	200.0		720.4

Performance measures:

(a) Output:	Number of students enrolled, by headcount	1,400
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	231
(c) Output:	Number of credit hours delivered	23,700
(d) Output:	Number of unduplicated degree awards in the most recent academic year, reported by baccalaureate, masters and doctorate degrees	80
(e) Output:	Percent of a cohort of first-time, full-time, degree-seeking freshmen who complete a baccalaureate program within one hundred fifty percent of standard graduation time	40%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	55%

(2) Research and public service projects:

Appropriations:

(a) Nurse expansion	376.0		376.0
(b) Science, technology, engineering, arts and math initiative	125.2		125.2
(c) Veterans center	116.3		116.3
(d) Academic program evaluation	45.6		45.6
Subtotal			31,840.4

**SANTA FE COMMUNITY COLLEGE:**

(1) Main campus:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Other		1,374.0	15,477.0	16,851.0
(b) Instruction and general purposes	10,360.2	26,473.0	3,300.0	40,133.2

Performance measures:

(a) Output:	Number of students enrolled, by headcount	5,381
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	186



(c) Output:	Number of credit hours delivered	46,985
(d) Output:	Total number of certificates and associate degrees awarded within the most recent academic year	574
(e) Outcome:	Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time	42.5%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	50%

(2) Research and public service projects:

Appropriations:

(a) First vorn, home visiting and technical assistance	136.8		136.8
(b) Teacher education expansion	136.8		136.8
(c) Small business development centers	3,794.3	1,646.0	5,440.3
(d) Nurse expansion	332.7		332.7
(e) EMS mental health resiliency pilot	91.2		91.2
Subtotal			63,122.0

**CENTRAL NEW MEXICO COMMUNITY COLLEGE:**

(1) Main campus:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Other		5,700.0	22,900.0	28,600.0
(b) Instruction and general purposes	60,070.4	87,700.0	3,900.0	151,670.4

Performance measures:

(a) Output:	Number of students enrolled, by headcount	32,500
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	2,283
(c) Output:	Number of credit hours delivered	355,215
(d) Output:	Number of certificates and associate degrees awarded within the most recent academic year	8,000
(e) Outcome:	Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time	42.5%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	65%

(2) Research and public service projects:

Appropriations:

(a) Nurse expansion	168.8	168.8
Subtotal		180,439.2

**LUNA COMMUNITY COLLEGE:**

(1) Main campus:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit

and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Other		1,808.3	58.3	1,866.6
(b) Instruction and general purposes	6,801.3	87.1	182.1	7,070.5
(c) Athletics	453.2			453.2

Performance measures:

(a) Output:	Number of students enrolled, by headcount	1,536
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	165
(c) Output:	Number of credit hours delivered	18,122
(d) Output:	Number of certificates and associate degrees awarded within the most recent academic year	154
(e) Outcome:	Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time	42.5%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	50%

(2) Research and public service projects:

Appropriations:

(a) Nurse expansion	251.0	251.0
(b) Student retention and completion	483.8	483.8
Subtotal		10,125.1

## MESALANDS COMMUNITY COLLEGE:

(1) Main campus:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

### Appropriations:

(a) Other		242.2	842.9	1,085.1
(b) Instruction and general purposes	4,100.3	116.4	87.9	4,304.6
(c) Athletics	209.5			209.5

### Performance measures:

(a) Output:	Number of students enrolled, by headcount	1,000
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	50
(c) Output:	Number of credit hours delivered	6,500
(d) Output:	Number of certificates and associate degrees awarded within the most recent academic year	150
(e) Outcome:	Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time	42.5%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	60%

(2) Research and public service projects:

Appropriations:

(a) Wind training center	103.4		103.4
Subtotal			5,702.6

**NEW MEXICO JUNIOR COLLEGE:**

(1) Main campus:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Other		3,600.0	2,000.0	5,600.0
(b) Instruction and general purposes	5,663.9	15,000.0	450.0	21,113.9
(c) Athletics	519.5			519.5

Performance measures:

(a) Output:	Number of students enrolled, by headcount	3,250
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	440
(c) Output:	Number of credit hours delivered	45,000
(d) Output:	Number of certificates and associate degrees awarded within the most recent academic year	350
(e) Outcome:	Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time	42.5%

(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	60%
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(2) Research and public service projects:

Appropriations:

(a) Oil and gas management program	156.2	156.2
(b) Nurse expansion	281.9	281.9
(c) Lea county distance education consortium	26.6	26.6
Subtotal		27,698.1

**SAN JUAN COLLEGE:**

(1) Main campus:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Other		14,000.0	22,000.0	36,000.0
(b) Instruction and general purposes	24,129.6	34,000.0	6,000.0	64,129.6

Performance measures:

(a) Output:	Number of students enrolled, by headcount	8,100
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(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	431
(c) Output:	Number of credit hours delivered	103,800
(d) Output:	Number of certificates and associate degrees awarded within the most recent academic year	970
(e) Outcome:	Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time	42.5%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	61%

(2) Research and public service projects:

Appropriations:

(a) Dental hygiene program	159.6	159.6
(b) Nurse expansion	235.0	235.0
(c) Renewable energy center of excellence	228.0	228.0
Subtotal		100,752.2

**CLOVIS COMMUNITY COLLEGE:**

(1) Main campus:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Other		500.0	5,900.0	6,400.0
(b) Instruction and general purposes	9,714.9	5,500.0	1,200.0	16,414.9

Performance measures:

(a) Output:	Number of students enrolled, by headcount	4,200
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	253
(c) Output:	Number of credit hours delivered	39,460
(d) Output:	Number of certificates and associate degrees awarded within the most recent academic year	475
(e) Outcome:	Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time	42.5%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	63%

(2) Research and public service projects:

Appropriations:

(a) Nurse expansion	256.5	256.5
Subtotal		23,071.4

**NEW MEXICO MILITARY INSTITUTE:**

(1) Main campus:

The purpose of the New Mexico military institute program is to provide college-preparatory instruction for students in a residential, military environment culminating in a high school diploma or associates degree.



Appropriations:

(a) Other		7,487.0	1,348.0	8,835.0
(b) Instruction and general purposes	1,318.7	27,847.0	233.0	29,398.7
(c) Athletics	322.0	456.0		778.0

(2) Research and public service projects:

Appropriations:

(a) Knowles legislative scholarship program	1,353.7			1,353.7
Subtotal				40,365.4

**NEW MEXICO SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED:**

(1) Main campus:

The purpose of the New Mexico school for the blind and visually impaired program is to provide the training, support and resources necessary to prepare blind and visually impaired children of New Mexico to participate fully in their families, communities and workforce and to lead independent, productive lives.

Appropriations:

(a) Instruction and general purposes	1,029.5	16,229.5	269.0	17,528.0
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(2) Research and public service projects:

Appropriations:

(a) Early childhood center	340.2			340.2
(b) Low vision clinic programs	104.4			104.4
Subtotal				17,972.6

### NEW MEXICO SCHOOL FOR THE DEAF:

(1) Main campus:

The purpose of the New Mexico school for the deaf program is to provide a school-based comprehensive, fully accessible and language-rich learning environment for its students who are deaf and hard-of-hearing and to work collaboratively with families, agencies and communities throughout the state to meet the unique communication, language and learning needs of children and youth who are deaf and hard-of-hearing.

Appropriations:

(a) Instruction and general purposes	3,985.7	12,100.0		300.0	16,385.7
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(2) Research and public service projects:

Appropriations:

(a) Statewide outreach services	215.7				215.7
Subtotal					16,601.4
TOTAL HIGHER EDUCATION	866,798.6	1,613,436.8	44,565.7	641,801.5	3,166,602.6

### K. PUBLIC SCHOOL SUPPORT

Except as otherwise provided, unexpended balances of appropriations made in this subsection shall not revert at the end of fiscal year 2022.

## PUBLIC SCHOOL SUPPORT:

(1) State equalization guarantee distribution:

The purpose of public school support is to carry out the mandate to establish and maintain a uniform system of free public schools sufficient for the education of, and open to, all the children of school age in the state.

Appropriations:	3,231,470.7	57,052.5	3,288,523.2
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The rate of distribution of the state equalization guarantee distribution shall be based on a program unit value determined by the secretary of public education. The secretary of public education shall establish a preliminary unit value to establish budgets for the 2021-2022 school year and then, on verification of the number of units statewide for fiscal year 2022 but no later than January 31, 2022, the secretary of public education may adjust the program unit value. In setting the preliminary unit value and the final unit value in January, the public education department shall consult with the department of finance and administration[, ~~legislative finance committee and legislative education study committee~~]. *LINE ITEM VETO*

For fiscal year 2022, the public education department, in consultation with the department of finance and administration, [~~legislative finance committee and legislative education study committee,~~] shall issue budget instructions for school districts and charter schools on budgeting enrollment growth program units in preliminary budgets no later than April 15, 2021. The budget instructions shall allow school districts and charter schools to budget enrollment growth program units based on students expected to enroll in the 2021-2022 school year and consider changes in enrollment from prior years. If, after budgeting for enrollment growth program units, a school district's or charter school's fiscal year 2022 state equalization guarantee distribution continues to be less than its budgeted fiscal year 2021 state

equalization guarantee distribution as of January 1, 2021, the public education department shall provide an allocation [~~from the federal elementary and secondary school emergency relief fund that is allocated to the public education department for administrative costs and emergency needs~~] equal to the school district's or charter school's budgeted fiscal year 2021 state equalization guarantee distribution as of January 1, 2021, minus its final fiscal year 2022 state equalization guarantee distribution. *LINE ITEM VETO*

The public education department shall not approve the operating budget of any school district or charter school that does not offer their employees working in a school, office or other in-person setting the same paid sick leave or expanded family and medical leave for qualified reasons related to coronavirus disease 2019 as was required of private employers with under five hundred employees under the Families First Coronavirus Response Act. A school district or charter school may use available federal funding for this purpose.

The secretary of public education shall ensure that during fiscal year 2022 no full-time level one teacher receives a base salary less than forty-one thousand dollars (\$41,000).

The state equalization guarantee distribution includes one hundred ten million one hundred sixty-eight thousand dollars (\$110,168,000) from the general fund and fifty million fifty-two thousand five hundred dollars (\$50,052,500) from the public education reform fund for in-person extended learning time programs pursuant to Section 22-8-23.10 NMSA 1978. The secretary of public education shall consider those extended learning time programs eligible for state financial support and the amount of state funding available for extended learning time programs and determine, in consultation with the department of finance and administration[~~, legislative finance committee and legislative education study committee,~~] the programs and consequent numbers of students in extended learning time programs that will be used to calculate the number of additional program units for extended learning time programs. Any amount of the one hundred ten million

one hundred sixty-eight thousand dollar (\$110,168,000) general fund appropriation or the fifty million fifty-two thousand five hundred dollar (\$50,052,500) appropriation from the public education reform fund that is not distributed through the extended learning time program factor, calculated by multiplying the final program unit value set for the 2021-2022 school year by the total extended learning time program units and subtracting that product from one hundred sixty million two hundred twenty thousand five hundred dollars (\$160,220,500), shall revert to the public education reform fund. *LINE ITEM VETO*

The state equalization guarantee distribution includes one hundred nineteen million eight hundred ninety-five thousand nine hundred dollars (\$119,895,900) from the general fund for in-person K-5 plus programs pursuant to the K-5 Plus Act. The secretary of public education shall consider those K-5 plus programs eligible for state financial support and the amount of state funding available for K-5 plus programs and determine, in consultation with the department of finance and administration, [~~legislative finance committee and legislative education study committee,~~] the programs and consequent numbers of students in K-5 plus programs that will be used to calculate the number of additional program units for K-5 plus programs. Any amount of the one hundred nineteen million eight hundred ninety-five thousand nine hundred dollar (\$119,895,900) general fund appropriation that is not distributed through the K-5 plus program factor, calculated by multiplying the final program unit value set for the 2021-2022 school year by the total K-5 plus program units and subtracting that product from one hundred nineteen million eight hundred ninety-five thousand nine hundred dollars (\$119,895,900), shall revert to the public education reform fund. *LINE ITEM VETO*

For fiscal year 2022, if the general fund and other state funds appropriations to the state equalization guarantee distribution for extended learning time programs are insufficient to meet the level of state support required for department-approved extended learning time programs and the secretary of public education certifies to the department of finance and administration[, ~~legislative finance committee~~

~~and legislative education study committee]~~ that sufficient funds are available for department-approved K-5 plus programs, up to ten million dollars (\$10,000,000) of the general fund appropriation to the state equalization guarantee distribution for K-5 plus programs may be used for extended learning time programs.

*LINE ITEM VETO*

A school district or charter school that provides a department-approved K-5 plus program as defined in Section 22-13D-2 NMSA 1978 that enrolls all students in an elementary school for K-5 plus in fiscal year 2022 shall be eligible to generate K-5 plus program units using the greater of the average of the number of students enrolled in each approved elementary school on the second and third reporting dates of the 2020-2021 school year or the number of students enrolled in each approved elementary school on the first reporting date of the 2021-2022 school year.

For the 2021-2022 school year, an elementary school with a department-approved K-5 plus program as defined in Section 22-13D-2 NMSA 1978 that enrolls all students in the elementary school for K-5 plus in fiscal year 2022 may add the required additional instructional days prior to the start of the regular school year or at any time during the regular school year and may transfer students into another classroom, provided the transfer is in the best interest of the student.

A school district or charter school that provides a department-approved extended learning time program as defined in Section 22-8-23.10 NMSA 1978 that enrolls all students in a public school for an extended learning time program in fiscal year 2022 shall be eligible to generate extended learning time program units for that school using the greater of the average of the number of students enrolled on the second and third reporting dates of the 2020-2021 school year or the number of students enrolled on the first reporting date of the 2021-2022 school year.

A school district or charter school that chooses not to participate in a K-5 plus program or extended learning time program during the 2021-2022 school year shall provide written notification to the public education department, legislative education study committee and legislative finance committee of its intent not to participate and additional documentation detailing how the school district or charter school will recover instructional time that was lost to students due to the public health emergency in its educational plan pursuant to Section 22-8-6 NMSA 1978.

For fiscal year 2022, if the program cost made available is insufficient to meet the level of state support required by the special education maintenance of effort requirements of Part B of the federal Individuals with Disabilities Education Act, the public education department shall reduce the program cost and state equalization guarantee distribution appropriation in an amount sufficient to cover the projected shortfall and distribute that amount to school districts and charter schools in proportion to each school district's and charter school's share of the total statewide program cost to meet the level of support required by Part B of the federal Individuals with Disabilities Education Act for fiscal year 2022. The public education department shall reset the final unit value and recalculate each school district's and charter school's program cost for fiscal year 2022.

After considering those elementary physical education programs eligible for state financial support and the amount of state funding available for elementary physical education, the secretary of public education shall annually determine the programs and the consequent numbers of students in elementary physical education that will be used to calculate the number of elementary physical education program units [~~provided that no school district or charter school shall generate elementary physical education program units in fiscal year 2022 in excess of the total average number of elementary school students enrolled on the second and third reporting dates of the 2020-2021 school year multiplied by the cost differential factor of six one-hundredths as established in Section 22-8-23.7 NMSA 1978~~]. *LINE ITEM VETO*

The public education department shall monitor and evaluate the ways in which school districts and individual schools use funding distributed for at-risk program units, bilingual and multicultural education program units, extended learning time program units, K-5 plus program units, special education program units, instructional materials, new teacher mentorship and classroom instruction in fiscal year 2022 and report its findings and recommendations to the governor[, ~~legislative education study committee and legislative finance committee~~] on or before November 1, 2021. *LINE ITEM VETO*

The general fund appropriation to the state equalization guarantee distribution includes thirty-five million dollars (\$35,000,000) for school districts and charter schools to purchase culturally and linguistically appropriate instructional materials for eligible students, including dual-credit instructional materials. A school district or charter school that does not use its full proportional allocation for instructional materials shall provide the public education department a description of how the allocation was used [~~and demonstrate that budgeted spending levels for instructional materials are sufficient to provide a free and appropriate public education to all students~~]. *LINE ITEM VETO*

The public education department shall monitor and evaluate the extent to which schools purchase and use instructional materials relevant to the cultures, languages, history and experiences of culturally and linguistically diverse students and report its findings and recommendations to the governor[, ~~legislative education study committee and legislative finance committee~~] on or before November 1, 2021. *LINE ITEM VETO*

The general fund appropriation to the state equalization guarantee distribution includes eleven million dollars (\$11,000,000) for school districts and charter schools to meet requirements of Section 22-10A-9 NMSA 1978, create an educational plan pursuant to Section 22-8-6 NMSA 1978 and provide targeted and ongoing professional development focused on case management, tutoring, data-guided instruction, coaching or other evidence-based practices that improve student outcomes. The public education department shall monitor



and evaluate the ways in which school districts and individual schools use funding for mentorship and professional development and report its findings and recommendations to the governor[, ~~legislative education study committee and legislative finance committee~~] on or before November 1, 2021. *LINE ITEM VETO*

The general fund appropriation to the state equalization guarantee distribution includes eight million dollars (\$8,000,000) for school districts and charter schools to provide evidence-based structured literacy interventions and develop literacy collaborative models that lead to improved reading and writing achievement of students in kindergarten through second grade. The public education department shall monitor and evaluate the ways in which school districts and charter schools use funding distributed for early literacy interventions and collaborative models and report its findings and recommendations to the governor[, ~~legislative education study committee and legislative finance committee~~] on or before November 1, 2021. *LINE ITEM VETO*

~~[The public education department shall not approve the operating budget of any school district or charter school to operate a four-day school week during the 2021-2022 school year that did not provide a four-day school week during the 2020-2021 school year.]~~ *LINE ITEM VETO*

The public education department shall monitor and review the operating budgets of school districts and charter schools to ensure the school district or charter school is prioritizing available funds to those functions most likely to improve student outcomes. If a school district or charter school submits a fiscal year 2022 operating budget that, in the opinion of the secretary of public education, fails to prioritize funds as described in this paragraph, the secretary of public education shall, prior to approving the school district's or charter school's fiscal year 2022 budget, direct the school district or charter school to revise its submitted budget or shall make such revisions as required to meet the requirements of this paragraph.

The general fund appropriation to the public school fund shall be reduced by the amounts transferred to the public school fund from the current school fund and from federal Mineral Leasing Act receipts otherwise unappropriated.

The general fund appropriation to the state equalization guarantee distribution includes eighty-two million six hundred sixty-seven thousand five hundred dollars (\$82,667,500) contingent on enactment of House Bill 6, Senate Bill 41 or similar legislation in the first session of the fifty-fifth legislature amending the Public School Finance Act to remove local and federal revenue credits from the public school funding formula.

The other state funds appropriation to the state equalization guarantee distribution includes seven million dollars (\$7,000,000) from balances received by the public education department pursuant to Section 66-5-44 NMSA 1978.

Any unexpended balances in the authorized distributions remaining at the end of fiscal year 2022 from appropriations made from the general fund shall revert to the general fund.

Performance measures:

(a) Outcome:	Percent of fourth-grade students who achieve proficiency or above on the standards-based assessment in reading	34%
(b) Outcome:	Percent of fourth-grade students who achieve proficiency or above on the standards-based assessment in mathematics	34%
(c) Outcome:	Percent of eighth-grade students who achieve proficiency or above on the standards-based assessment in reading	34%

(d) Outcome:	Percent of eighth-grade students who achieve proficiency or above on the standards-based assessment in mathematics	34%
(e) Quality:	Current four-year cohort graduation rate using shared accountability	75%
(f) Explanatory:	Percent of dollars budgeted by districts with fewer than 750 members for instructional support, budget categories 1000, 2100 and 2200	
(g) Explanatory:	Percent of dollars budgeted by districts with 750 members or greater for instructional support, budget categories 1000, 2100 and 2200	
(h) Explanatory:	Percent of dollars budgeted by charter schools for instructional support, budget categories 1000, 2100 and 2200	
(i) Outcome:	Percent of economically disadvantaged eighth-grade students who achieve proficiency or above on the standards-based assessment in mathematics	34%
(j) Outcome:	Percent of economically disadvantaged eighth-grade students who achieve proficiency or above on the standards-based assessment in reading	34%
(k) Outcome:	Percent of economically disadvantaged fourth-grade students who achieve proficiency or above on the standards-based assessment in reading	34%
(l) Outcome:	Percent of economically disadvantaged fourth-grade students who achieve proficiency or above on the standards-based assessment in mathematics	34%
(m) Explanatory:	Percent of funds generated by the at-risk index associated with at-risk services	
(n) Outcome:	Chronic absenteeism rate among students in middle school	<10%
(o) Outcome:	Chronic absenteeism rate among students in high school	<10%
(p) Outcome:	Chronic absenteeism rate among students in elementary school	<10%

(2) Transportation distribution:

Appropriations:	106,452.4	5,300.6	111,753.0
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The transportation distribution includes two million four hundred nine thousand seven hundred dollars (\$2,409,700) from the general fund and two million two hundred sixty-five thousand nine hundred dollars (\$2,265,900) from the public education reform fund for transportation of students to extended learning time programs. If a school district or state-chartered charter school does not transport students to extended learning time programs, the school district's or state-chartered charter school's proportionate share of the four million six hundred seventy-five thousand six hundred dollar (\$4,675,600) general fund and public education reform fund appropriation to the transportation distribution for extended learning time programs shall revert to the public education reform fund.

The transportation distribution includes eight hundred ninety-nine thousand two hundred dollars (\$899,200) from the general fund and three million thirty-four thousand seven hundred dollars (\$3,034,700) from the public education reform fund for transportation of students to K-5 plus programs. If a school district or state-chartered charter school does not transport students to K-5 plus programs, the school district's or state-chartered charter school's proportionate share of the three million nine hundred thirty-three thousand nine hundred dollar (\$3,933,900) general fund and public education reform fund appropriation to the transportation distribution for K-5 plus programs shall revert to the public education reform fund.

A state-chartered charter school that receives a transportation allocation that exceeds the amount required to provide to-and-from transportation, three- and four-year-old developmentally disabled transportation and vocational education transportation during fiscal year 2022 shall deposit one hundred percent of the remaining balances in the transportation emergency fund at the end of fiscal year 2022.

(3) Supplemental distribution:

Appropriations:

(a) Out-of-state tuition	315.0	315.0
(b) Emergency supplemental	3,000.0	3,000.0

The secretary of public education shall not distribute any emergency supplemental funds to a school district or charter school that is not in compliance with the Audit Act or that has cash and invested reserves, or other resources or any combination thereof equaling five percent or more of their operating budget.

Any unexpended balances in the supplemental distribution of the public education department remaining at the end of fiscal year 2022 from appropriations made from the general fund shall revert to the general fund.

Subtotal		3,403,591.2
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**FEDERAL FLOW THROUGH:**

Appropriations:		486,300.0	486,300.0
Subtotal			486,300.0

**INDIAN EDUCATION FUND:**

Appropriations:	5,250.0	5,250.0
Subtotal		5,250.0

**STANDARDS-BASED ASSESSMENTS:**

Appropriations:	7,236.0	7,236.0
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Any unexpended balances in the standards-based assessments appropriation remaining at the end of fiscal

year 2022 from appropriations made from the general fund shall revert to the general fund.

Subtotal					7,236.0
TOTAL PUBLIC SCHOOL SUPPORT	3,353,724.1	62,353.1		486,300.0	3,902,377.2
GRAND TOTAL FISCAL YEAR 2022					
APPROPRIATIONS	7,324,938.2	4,477,759.2	730,380.4	8,843,543.2	21,376,621.0

### Chapter 137 Section 5 Laws 2021

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter- Agency Trnsf	Federal Funds	Total/Target
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SECTION 5. SPECIAL APPROPRIATIONS.--The following amounts are appropriated from the general fund or other funds as indicated for the purposes specified. Unless otherwise indicated, the appropriation may be expended in fiscal years 2021 and 2022. Unless otherwise indicated, any unexpended balances of the appropriations remaining at the end of fiscal year 2022 shall revert to the appropriate fund.

(1) LEGISLATURE

The one hundred fifty thousand dollars (\$150,000) appropriated from legislative cash balances for a rural infrastructure study in Section 4 of Chapter 1 of Laws 2021 may be expended in fiscal years 2021 and 2022.

(2)	ADMINISTRATIVE OFFICE OF THE COURTS	250.0		250.0
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For a subscription service for a data-sharing platform to enable justice partners to share case management and jail management data.

(3) ADMINISTRATIVE OFFICE OF THE  
COURTS

The period of time for expending the eighty thousand dollars (\$80,000) appropriated from the general fund in Subsection 11 of Section 5 of Chapter 83 of Laws 2020 for temporary relocation and renovation costs for the magistrate court in Grant county is extended through fiscal year 2022.

(4) ADMINISTRATIVE OFFICE OF THE  
COURTS

The period of time for expending the five hundred sixty-four thousand dollars (\$564,000) appropriated from the general fund and nine hundred thirty-four thousand dollars (\$934,000) appropriated from other state funds in Subsection 13 of Section 5 of Chapter 83 of Laws of 2020 for moving and related costs is extended through fiscal year 2022. The other state funds appropriation is from the consumer settlement fund at the office of the attorney general.

(5) ADMINISTRATIVE OFFICE OF THE  
COURTS

The period of time for expending the five hundred thousand dollars (\$500,000) appropriated from the general fund in Subsection 4 of Section 5 of Chapter 83 of Laws 2020 to upgrade information technology systems at district courts is extended through fiscal year 2022.

(6) ADMINISTRATIVE OFFICE OF THE  
COURTS

The period of time for expending the four hundred thousand dollars (\$400,000) appropriated from the general fund in Subsection 10 of Section 5 of Chapter 83 of Laws 2020 to implement a statewide information management system for problem-solving courts is extended through fiscal year 2022.

(7) ADMINISTRATIVE OFFICE OF THE  
COURTS

The period of time for expending the one hundred thousand dollars (\$100,000) appropriated from the general fund in Subsection 7 of Section 5 of Chapter 83 of Laws 2020 for a pro tem judge in McKinley county to clear driving-while-intoxicated case backlog is extended through fiscal year 2022.

(8) ADMINISTRATIVE OFFICE OF THE  
COURTS

The period of time for expending the one million dollars (\$1,000,000) appropriated from the developmental disabilities planning council in Subsection 5 of Section 5 of Chapter 73 of Laws 2018 for reforming the New Mexico guardianship system is extended through fiscal year 2022.

(9) ADMINISTRATIVE OFFICE OF THE  
COURTS

The period of time for expending the one million dollars (\$1,000,000) appropriated from the general fund in Subsection 8 of Section 5 of Chapter 83 of Laws 2020 to purchase and install furniture and equipment and convert permanent and long-term retention case files to digitization at magistrate courts, later reduced to five hundred thousand dollars (\$500,000) in Paragraph (2) of Subsection A of Section 7 of Chapter 5 of Laws 2020 (1st S.S.) is extended through fiscal year 2022.

(10) ADMINISTRATIVE OFFICE OF THE  
COURTS

The period of time for expending the one million dollars (\$1,000,000) appropriated from the general fund in Subsection 9 of Section 5 of Chapter 83 of Laws 2020 for a unified appropriation for magistrate court security personnel, later reduced to eight hundred thousand dollars (\$800,000) in Paragraph (1) of Subsection A of Section 7 of Chapter 5 of Laws 2020 (1st S.S.) is extended through fiscal year 2022.



(11) ADMINISTRATIVE OFFICE OF THE  
COURTS

The period of time for expending the one million eight hundred thousand dollars (\$1,800,000) appropriated from other state funds in Subsection 8 of Section 5 of Chapter 271 of Laws 2019 to redact personally identifiable information from historical court case filings is extended through fiscal year 2022. The other state funds appropriation is from the electronic services fund.

(12) ADMINISTRATIVE OFFICE OF THE  
COURTS

The period of time for expending the two hundred thousand dollars (\$200,000) appropriated from the general fund in Subsection 5 of Section 5 of Chapter 83 of Laws 2020 for a unified appropriation to the administrative office of the courts for equipment and vehicles at the district courts is extended through fiscal year 2022.

(13) ADMINISTRATIVE OFFICE OF THE 585.0 585.0  
COURTS

To distribute to district courts to provide justices, judges and magistrates a salary increase of two percent in fiscal year 2022. The salary increases shall be effective the first full pay period after July 1, 2021.

(14) ADMINISTRATIVE OFFICE OF THE 270.0 270.0  
COURTS

To replace cameras in detention centers and the judicial information division.

(15) ADMINISTRATIVE OFFICE OF THE  
COURTS

Up to five hundred thousand dollars (\$500,000) in unexpended balances in the special court services program in the court-appointed attorneys category remaining at the end of the fiscal year 2021 from appropriations made from the general fund or indirect federal funds authorized by Title IV-E of the Social Security Act shall not revert and may be expended in fiscal year 2022 to support legal representation in child welfare cases.

(16) FIRST JUDICIAL DISTRICT  
COURT

The period of time for expending the one hundred thousand dollars (\$100,000) appropriated from the general fund in Subsection 15 of Section 5 of Chapter 83 of Laws 2020 to purchase and install network switches is extended through fiscal year 2022.

(17) SECOND JUDICIAL DISTRICT  
ATTORNEY

The period of time for expending the six hundred thousand dollars (\$600,000) appropriated from the general fund and five hundred thousand dollars (\$500,000) appropriated from the ignition interlock fund in Subsection 13 of Section 5 of Chapter 73 of Laws 2018 for a data-driven prosecution pilot program, the six hundred thousand dollars (\$600,000) appropriated from the general fund in Subsection 14 of Section 5 of Chapter 73 of Laws 2018 for case prosecution and the eight hundred thousand dollars (\$800,000) appropriated from the general fund in Subsection 15 of Section 5 of Chapter 73 of Laws 2018 to address case backlog is extended through fiscal year 2022 and the appropriations may be used for other purposes.

(18) ADMINISTRATIVE OFFICE OF THE  
DISTRICT ATTORNEYS

Any unexpended balances remaining at the end of fiscal year 2021 from revenues received in fiscal year 2021

and prior years by a district attorney from any Native American tribe, pueblo or political subdivision pursuant to a contract, memorandum of understanding, joint powers agreement or grant shall not revert and shall remain with the recipient district attorney's office for expenditure in fiscal year 2022. Prior to November 1, 2021, the administrative office of the district attorneys shall provide the department of finance and administration [~~and the legislative finance committee~~] a detailed report documenting the amount of all funds received from Native American tribes, pueblos and political subdivisions pursuant to a contract, memorandum of understanding, joint powers agreement or grant that do not revert at the end of fiscal year 2021 for each of the district attorneys and the administrative office of the district attorneys. *LINE ITEM VETO*

(19) ADMINISTRATIVE OFFICE OF THE  
DISTRICT ATTORNEYS

Any unexpended balances remaining at the end of fiscal year 2021 from revenues received in fiscal year 2021 and prior years by a district attorney or the administrative office of the district attorneys from the United States department of justice pursuant to the southwest border prosecution initiative shall not revert and shall remain with the recipient district attorney's office for expenditure in fiscal year 2022. Prior to November 1, 2021, the administrative office of the district attorneys shall provide to the department of finance and administration [~~and the legislative finance committee~~] a detailed report documenting the amount of all southwest border prosecution initiative funds that do not revert at the end of fiscal year 2021 for each of the district attorneys and the administrative office of the district attorneys. *LINE ITEM VETO*

(20) PUBLIC DEFENDER DEPARTMENT 550.0 550.0

For litigation related to personnel matters.

(21) ATTORNEY GENERAL 1,000.0 1,000.0

For extraordinary litigation expenses including officer misconduct cases, crimes against families and children and public corruption. The other state funds appropriation is from the consumer settlement fund at the office of the attorney general.

(22) ATTORNEY GENERAL 250.0 250.0

For extraordinary litigation expenses related to consumer protection in context of the coronavirus disease 2019 public health emergency, including civil and criminal enforcement of public health orders and instances of price gouging. The other state funds appropriation is from the consumer settlement fund at the office of the attorney general.

(23) ATTORNEY GENERAL 6,400.0 6,400.0

For interstate water litigation costs. The other state funds appropriation is from the consumer settlement fund at the office of the attorney general.

(24) ATTORNEY GENERAL 500.0 500.0

For tobacco enforcement pursuant to the tobacco master settlement agreement.

(25) ATTORNEY GENERAL

The period of time for expending the four hundred fifty thousand dollars (\$450,000) appropriated from internal service funds/interagency transfers in Subsection 25 of Section 5 of Chapter 83 of Laws 2020 for a warrant round up initiative is extended through fiscal year 2022. The internal service funds/interagency transfers appropriation is from the consumer settlement fund at the office of the attorney general.

(26) TAXATION AND REVENUE  
DEPARTMENT

The state board of finance may approve a transfer from the appropriation contingency fund to the taxation and revenue department up to two million dollars (\$2,000,000) in fiscal years 2021 and 2022 contingent on the enactment of House Bill 12 or similar legislation in the first session of the fifty-fifth legislature, and additionally up to two million dollars (\$2,000,000) in fiscal years 2021 and 2022 contingent on certification by the secretary of the department of finance and administration that other enacted legislation in the first session of the fifty-fifth legislature resulted in significant changes to the tax code and that no other funding is available to implement the changes.

(27) DEPARTMENT OF FINANCE AND 200.0 200.0  
ADMINISTRATION

For a grants administration division contingent on enactment of House Bill 14 or similar legislation during the first session of the fifty-fifth legislature.

(28) DEPARTMENT OF FINANCE AND 2,000.0 2,000.0  
ADMINISTRATION

For disbursement to the New Mexico mortgage finance authority for expenditure pursuant to the New Mexico Housing Trust Fund Act. The other state funds appropriation is from the mortgage regulatory fund.

(29) DEPARTMENT OF FINANCE AND 100.0 100.0  
ADMINISTRATION

For disbursement to the renewable energy transmission authority for operating costs in fiscal year 2022. The renewable energy transmission authority shall report to the interim New Mexico finance authority oversight committee on the status of the authority's operating budget.

(30) DEPARTMENT OF FINANCE AND 6,000.0 6,000.0  
ADMINISTRATION

For economic recovery efforts for communities impacted by mineral and energy development, in coordination with any future federal stimulus funding, to be coordinated by the local government division of the department of finance and administration and distributed by the community development council, under existing provisions of the New Mexico community assistance act. The appropriation may be expended in fiscal years 2021 through 2025. Any unexpended balances shall revert at the end of fiscal year 2025.

(31) DEPARTMENT OF FINANCE AND 2,000.0 2,000.0  
ADMINISTRATION

For financial assistance to local governments in [~~northwest~~] New Mexico that experience extraordinary costs associated with the coronavirus disease 2019 public health emergency. *LINE ITEM VETO*

(32) DEPARTMENT OF FINANCE AND 300.0 300.0  
ADMINISTRATION

For information technology infrastructure upgrades.

(33) DEPARTMENT OF FINANCE AND  
ADMINISTRATION

The period of time for expending the seven hundred fifty million dollars (\$750,000,000) transferred to the appropriation account of the general fund in Subsection E of Section 14 of Chapter 5 of Laws 2020 (1st S.S.) for expenditures reasonably necessary for the operation of government is extended through December 31, 2021.

(34) RETIREE HEALTH CARE 100.0 100.0  
AUTHORITY

For a web portal. The internal service funds/interagency transfers appropriation is from the retiree health care fund.

(35) GENERAL SERVICES DEPARTMENT 7,600.0 7,600.0

~~For a projected shortfall in the employee group health benefits fund [contingent on implementing a plan to raise matching funds from local governments and higher education institutions of three million three hundred thousand dollars (\$3,300,000) and on the general services department increasing health benefit premiums in fiscal year 2022]. LINE ITEM VETO~~

(36) GENERAL SERVICES DEPARTMENT 750.0 750.0

To purchase vehicles.

(37) EDUCATIONAL RETIREMENT BOARD

The period of time for expending the one million five hundred forty-five thousand nine hundred dollars (\$1,545,900) appropriated from other state funds in Subsection 44 of Section 5 of Chapter 271 of Laws 2019 for expenditures required to implement and conduct a data cleanse project is extended through fiscal year 2022. The other state funds appropriation is from the educational retirement fund.

(38) NEW MEXICO SENTENCING COMMISSION 500.0 500.0

To study and redraft the Criminal Code and other criminal statutes. The other state funds appropriation is from the consumer settlement fund at the office of the attorney general.

(39) NEW MEXICO SENTENCING COMMISSION 50.0 50.0

To update reports on pretrial detention in the second judicial district court.

(40)	SECRETARY OF STATE	3,046.8	3,046.8
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For the costs of conducting and administering a special election to fill a congressional district 1 vacancy and other costs.

(41)	BORDER AUTHORITY	25.0	25.0
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To host Mexican officials in the state for the New Mexico-Chihuahua and New Mexico-Sonora commissions.

(42)	TOURISM DEPARTMENT	7,000.0	7,000.0
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For a revitalization strategy to restart the tourism economy.

(43)	TOURISM DEPARTMENT	300.0	300.0
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For branded partnerships between New Mexico true and the special olympics.

(44)	TOURISM DEPARTMENT		
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The period of time for expending the six hundred thousand dollars (\$600,000) appropriated from the general fund in Subsection 51 of Section 5 of Chapter 271 of Laws 2019 and extended in Subsection 46 of Section 5 of Chapter 83 of Laws 2020 for the marketing and promotion of the inaugural Virgin Galactic flight in New Mexico is extended through fiscal year 2022 and may be used for other purposes.

(45)	TOURISM DEPARTMENT	100.0	100.0
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To promote the New Mexico Bowl.



(46) ECONOMIC DEVELOPMENT 200.0 200.0  
DEPARTMENT

For the local economic assistance and development support program.

(47) ECONOMIC DEVELOPMENT 500.0 500.0  
DEPARTMENT

For the outdoor equity grant fund to provide outdoor recreation opportunities to underserved low-income communities.

(48) ECONOMIC DEVELOPMENT 500.0 500.0  
DEPARTMENT

To fund the outdoor recreation division's investment in trails throughout New Mexico. The other state funds appropriation is from youth conservation corps fund balances.

(49) ECONOMIC DEVELOPMENT 7,000.0 7,000.0  
DEPARTMENT

To the development training fund for the job training incentive program.

(50) ECONOMIC DEVELOPMENT 17,500.0 17,500.0  
DEPARTMENT

To the local economic development act fund for projects statewide. Any unexpended balances remaining at the end of the fiscal year 2022 shall not revert and may be expended in future fiscal years.

(51) REGULATION AND LICENSING  
DEPARTMENT

The period of time for expending the two hundred sixty-five thousand four hundred dollars (\$265,400)

appropriated from the general fund in Subsection 53 of Section 5 of Chapter 83 of Laws 2020 for upgrades to the alcoholic beverage control licensing software contingent on the regulation and licensing department following the project certification process described in Section 7 of this act is extended through fiscal year 2022.

(52) PUBLIC REGULATION COMMISSION 145.1 145.1

For moving and related costs.

(53) PUBLIC REGULATION COMMISSION

On enactment of House Bill 106, House Bill 137, House Bill 206, Senate Bill 83, Senate Bill 84, or Senate Bill 156 in the first session of the fifty-fifth legislature, the board of finance may authorize a loan of up to five hundred thousand dollars (\$500,000) from the operating reserve to the public regulation commission to implement the legislation.

(54) NEW MEXICO LIVESTOCK BOARD 500.0 500.0

To implement a state-led meat inspection program.

(55) NEW MEXICO LIVESTOCK BOARD 360.0 360.0

To purchase vehicles and body cameras.

(56) ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT 300.0 300.0

For information technology hardware and infrastructure upgrades.

(57) ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT 3,000.0 2,000.0 5,000.0

For the continued remediation work of the Carlsbad brine well [~~contingent on a fifty percent local match of expenditures~~]. The other state funds appropriation is from the corrective action fund. *LINE ITEM VETO*

(58) STATE ENGINEER 1,000.0 1,000.0

For implementation of the Pecos river settlement agreement, including required augmentation pumping.

(59) STATE ENGINEER 2,500.0 2,875.0 5,375.0

For interstate water litigation costs. The other state funds appropriation is from the consumer settlement fund at the office of the attorney general.

(60) STATE ENGINEER 300.0 300.0

For upgrades and replacements for the water administration technical engineering resource imaging system.

(61) COMMISSION ON THE STATUS OF WOMEN

The period of time for expending the one hundred thousand dollars (\$100,000) appropriated from the general fund in Section 17 of Chapter 278 of Laws 2019 to fund the commission on the status of women pursuant to Section 28-3-2 NMSA 1978, the fifty thousand dollars (\$50,000) appropriated from the general fund in Section 58 of Chapter 278 of Laws 2019 for operational expenses, the fifty-five thousand dollars (\$55,000) appropriated from the general fund in Section 13 of Chapter 279 of Laws 2019 for operational expenses and the eighty thousand dollars (\$80,000) appropriated from the general fund in Section 48 of Chapter 279 of Laws 2019 for operational expenses and extended by Item 72 of Section 5 of Chapter 83 of Laws 2020 is

extended through fiscal year 2022.

(62)	EARLY CHILDHOOD EDUCATION AND CARE DEPARTMENT	5,000.0	5,000.0
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For endowed early childhood positions at New Mexico public and tribal institutions of higher education contingent on matching funds from the higher education institution through fiscal year 2023. The other state funds appropriation is from the public pre-kindergarten fund at the public education department.

Any unexpended balances remaining at the end of fiscal year 2023 from this appropriation shall revert to the early childhood education and care fund.

(63)	EARLY CHILDHOOD EDUCATION AND CARE DEPARTMENT	2,000.0	2,000.0
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For endowed early childhood positions, including those necessary for increasing the number of indigenous and bilingual early childhood educators, at New Mexico public and tribal institutions of higher education contingent on matching funds from the higher education institution through fiscal year 2023. The other state funds appropriation is from the early childhood education and care department's private pre-k account. Any unexpended balances remaining at the end of fiscal year 2023 from this appropriation shall revert to the early childhood education and care fund.

(64)	EARLY CHILDHOOD EDUCATION AND CARE DEPARTMENT	400.0	400.0
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For network and information technology infrastructure.

(65)	EARLY CHILDHOOD EDUCATION AND CARE DEPARTMENT	300.0	300.0
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To expand the upstart program strategy in [public] prekindergarten. The other state funds transfer is from the public pre-kindergarten fund at the public education department. *LINE ITEM VETO*

(66)	AGING AND LONG-TERM SERVICES DEPARTMENT	600.0	600.0
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For [emergency] advancements to aging network providers. *LINE ITEM VETO*

~~[(67) HUMAN SERVICES DEPARTMENT~~

~~Contingent on the transfer of federal coronavirus state fiscal recovery fund revenue authorized in the American Rescue Plan Act of 2021 into the appropriation contingency fund of the general fund, or certification by the board of finance that federal regulations prohibit the transfer of federal coronavirus state fiscal recovery fund revenue authorized in the American Rescue Plan Act of 2021 into the appropriation contingency fund of the general fund, fifty million dollars (\$50,000,000) is appropriated from the general fund to the medical assistance program of the human services department for medicaid in fiscal year 2022.] *LINE ITEM VETO*~~

(68)	HUMAN SERVICES DEPARTMENT	350.0	350.0
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For the graduate medical education expansion grants program.

(69)	HUMAN SERVICES DEPARTMENT	5,000.0	5,000.0
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To provide assistance to low-income state residents of up to seven hundred fifty dollars (\$750) per household, provided that the eligible recipient did not receive an economic impact payment pursuant to the federal Coronavirus Aid, Relief, and Economic Security Act, Consolidated Appropriations Act, 2021 or American Rescue Plan Act of 2021, and for reasonable technology and administrative costs necessary to

provide the assistance.

(70)	WORKFORCE SOLUTIONS DEPARTMENT	150.0	150.0
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For individual development accounts.

(71)	DEVELOPMENTAL DISABILITIES PLANNING COUNCIL	15.0	15.0
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To fund a task force to develop and recommend legislation around supported decision-making.

(72)	DEVELOPMENTAL DISABILITIES PLANNING COUNCIL	500.0	500.0
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To provide professional guardianship services to income-eligible adults.

(73)	DEPARTMENT OF HEALTH		
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The period of time for expending the ten million dollars (\$10,000,000) appropriated from the general fund in Section 3 of Chapter 1 of Laws 2020 (2nd S.S.) for expenditure in fiscal year 2021 to provide, and to contract for services for contact tracing, testing and vaccine implementation for the coronavirus disease 2019 public health emergency is extended through fiscal year 2022.

(74)	DEPARTMENT OF HEALTH		
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~~[Up to ten million dollars (\$10,000,000) of]~~ unexpended balances in the developmental disabilities support program of the department of health remaining at the end of the fiscal year 2021 from appropriations made from the general fund shall not revert and shall be expended in fiscal year 2022 to support the developmental disabilities waiver and support waiver. *LINE ITEM VETO*

(75) DEPARTMENT OF ENVIRONMENT 180.0 180.0

For a cost share for cleanup of the Pecos mine and El Molino operable units.

(76) DEPARTMENT OF ENVIRONMENT 500.0 500.0

For expenditures related to the coronavirus disease 2019 public health emergency.

(77) DEPARTMENT OF ENVIRONMENT 1,416.0 1,416.0

For federal match and cleanup of superfund hazardous waste sites. Any unexpended balances remaining at the end of fiscal year 2022 from this appropriation shall not revert.

(78) DEPARTMENT OF ENVIRONMENT 2,500.0 2,500.0

For protection and restoration of the environment. The other state funds appropriation is from Gold King mine settlement funds. Any unexpended balances remaining at the end of fiscal year 2022 from this appropriation shall not revert.

(79) DEPARTMENT OF ENVIRONMENT 600.0 600.0

For sample collection and analysis of drinking water quality at public water systems throughout New Mexico.

(80) DEPARTMENT OF ENVIRONMENT

The period of time for expending the one million dollars (\$1,000,000) appropriated from the general fund in Subsection 98 of Section 5 of Chapter 83 of Laws of 2020 for ongoing litigation and protection planning related to the release of per- and poly-fluorinated alkyl substances by the United States department of defense in New Mexico is extended through fiscal year 2022.

(81) DEPARTMENT OF ENVIRONMENT

The period of time for expending the seven hundred thousand dollars (\$700,000) appropriated from the general fund in Subsection 100 of Section 5 of Chapter 83 of Laws 2020 for personal services and employee benefits costs is extended through fiscal year 2022.

(82) DEPARTMENT OF ENVIRONMENT 2,500.0 2,500.0

To adopt clean fuel standard rules contingent on enactment of Senate Bill 11 or similar legislation during the first session of the fifty-fifth legislature. The other state funds appropriation is from the consumer settlement fund at the office of the attorney general.

(83) VETERANS' SERVICES 150.0 150.0  
DEPARTMENT

For laptops, docking stations and other information technology equipment.

(84) CHILDREN, YOUTH AND FAMILIES  
DEPARTMENT

The period of time for expending the one million dollars (\$1,000,000) appropriated in Subsection 102 of Section 5 of Chapter 83 of Laws 2020 for behavioral health programs for continuing the multi-systemic expansion project is extended through fiscal year 2022.

(85) CHILDREN, YOUTH AND FAMILIES  
DEPARTMENT

Up to one million dollars (\$1,000,000) of unexpended balances in the protective services program of the children, youth and families department remaining at the end of the fiscal year 2021 from appropriations made from the general fund shall not revert and shall be expended in fiscal year 2022.



(86) DEPARTMENT OF MILITARY AFFAIRS 45.7 45.7

For groundwater monitoring and site remediation at the Belen armory and operational maintenance shop.

(87) CORRECTIONS DEPARTMENT

The period of time for expending the three hundred thousand dollars (\$300,000) appropriated from the general fund in Subsection 106 of Section 5 of Chapter 83 of Laws 2020 to pilot re-entry programming, including employment counseling, housing assistance and case management, with a randomized control trial in at least two counties is extended through fiscal year 2022. The corrections department shall report to the ~~[legislative finance committee and the]~~ department of finance and administration by October 1, 2023 on the results of the impact of programming on one-year recidivism rates. *LINE ITEM VETO*

(88) CORRECTIONS DEPARTMENT

The period of time for expending the two hundred thousand dollars (\$200,000) appropriated from the penitentiary income fund in Subsection 103 of Section 5 of Chapter 83 of Laws 2020 for a recidivism-reduction programming plan and supplies for programs to reduce recidivism is extended through fiscal year 2022. The corrections department shall present the recidivism-reduction programming plan for fiscal years 2023 through 2025, including a current program inventory, and information on program capacity and enrollment, number of inmates whose risk-needs assessments indicate they should participate in each program but are not enrolled, incentives for participation, program cost and metrics of program effectiveness to the ~~[legislative finance committee and the]~~ department of finance and administration by September 1, 2022. *LINE ITEM VETO*

(89) DEPARTMENT OF PUBLIC SAFETY 1,400.0 1,400.0

For coronavirus disease 2019 hazard pay for eligible public health and safety personnel [~~contingent on a lack of federal funds available for the same purpose~~]. *LINE ITEM VETO*

(90) DEPARTMENT OF PUBLIC SAFETY 500.0 500.0

For the purchase of in-car cameras, body cameras, modems, patrol vehicle routers and cloud-based storage to house camera data.

(91) DEPARTMENT OF PUBLIC SAFETY

The period of time for expending the one hundred thousand dollars (\$100,000) appropriated from the general fund in Subsection 98 of Section 5 of Chapter 73 of Laws 2018 to maintain a flash roll for criminal investigations by the New Mexico state police is extended through fiscal year 2022.

(92) DEPARTMENT OF PUBLIC SAFETY

The period of time for expending the three hundred fifty thousand dollars (\$350,000) appropriated from the general fund in Subsection 111 of Section 5 of Chapter 83 of Laws 2020 for a data-sharing project with the administrative office of the courts is extended through fiscal year 2022.

(93) DEPARTMENT OF PUBLIC SAFETY

The period of time for expending the two hundred fifty thousand dollars (\$250,000) appropriated from the general fund in Subsection 110 of Section 5 of Chapter 83 of Laws 2020 for computer-aided dispatch information technology hardware is extended through fiscal year 2022.

(94) DEPARTMENT OF PUBLIC SAFETY 2,609.1 2,609.1

To pay for post-employment benefits. Of this amount, two million four hundred fourteen thousand four

hundred dollars (\$2,414,400) shall be allocated for the payment of retirement benefits and one hundred ninety-four thousand seven hundred dollars (\$194,700) shall be allocated for the payment of retiree health care costs contingent on enactment of legislation during the first session of the fifty-fifth legislature moving motor transit officers into an enhanced retirement plan.

(95) DEPARTMENT OF PUBLIC SAFETY 3,000.0 3,000.0

To purchase and equip law enforcement vehicles.

(96) HOMELAND SECURITY AND 500.0 500.0  
EMERGENCY MANAGEMENT

For emergency response efforts along the Mexico border [~~contingent on a lack of federal emergency funds available for the same purpose~~]. *LINE ITEM VETO*

(97) DEPARTMENT OF TRANSPORTATION

Any unexpended balances in the project design and construction program, the highway operations program and the modal program of the department of transportation at the end of fiscal year 2021 from appropriations made from other state funds shall not revert and may be expended in fiscal year 2022.

(98) PUBLIC EDUCATION DEPARTMENT 723.0 723.0

For a commercial off-the-shelf solution and professional services for managing education data. The other state funds appropriation is from the public education reform fund.

(99) PUBLIC EDUCATION DEPARTMENT 1,000.0 1,000.0

For an educator evaluation system. The other state funds appropriation is from the public education reform

fund.

(100) PUBLIC EDUCATION DEPARTMENT 1,500.0 1,500.0

For cybersecurity and data system upgrades. The other state funds appropriation is from the public education reform fund.

(101) PUBLIC EDUCATION DEPARTMENT 1,250.0 1,250.0

For legal fees related to defending the state in Martinez v. state of New Mexico No. D-101-CV-2014-00793 and Yazzie v. state of New Mexico No. D-101-CV-2014-02224.

(102) PUBLIC EDUCATION DEPARTMENT 1,000.0 1,000.0

For safety and statewide deployment of mobile panic buttons at public schools. The other state funds appropriation is from the public school capital outlay fund.

(103) PUBLIC EDUCATION DEPARTMENT 500.0 500.0

For science, technology, engineering, arts and math initiatives. The other state funds appropriation is from the public education reform fund.

(104) PUBLIC EDUCATION DEPARTMENT 3,000.0 3,000.0

For the career technical education fund. The other state funds appropriation is from the public education reform fund. Any unexpended balances remaining at the end of fiscal year 2022 from this appropriation shall revert to the career technical education fund.

(105) PUBLIC EDUCATION DEPARTMENT 500.0 500.0

For the commission on diversity, equity and excellence in education fund contingent on enactment of Senate Bill 148 or similar legislation during the first session of the fifty-fifth legislature creating a fund. The other state funds appropriation is from the public education reform fund.

(106) PUBLIC EDUCATION DEPARTMENT 5,000.0 5,000.0

For ~~the~~ community schools ~~fund~~ to expand community school initiatives pursuant to Section 22-32-4 NMSA 1978 ~~[contingent on a fifty percent local match of expenditures]~~. The other state funds appropriation is from the public education reform fund. Any unexpended balances remaining at the end of fiscal year 2022 from this appropriation shall revert to the community schools fund. *LINE ITEM VETO*

(107) PUBLIC EDUCATION DEPARTMENT 30,000.0 30,000.0

To be distributed through the family income index contingent on enactment of Senate Bill 17 or similar legislation in the first session of the fifty-fifth legislature that calculates an index of family income levels for students at each public school and provides for a distribution to the school districts and state-chartered charter schools with the highest family income index scores. No more than fifteen million dollars (\$15,000,000) from this appropriation may be expended in fiscal year 2022 and no more than fifteen million dollars (\$15,000,000) from this appropriation may be expended in fiscal year 2023. The other state funds appropriation is from the public education reform fund.

(108) PUBLIC EDUCATION DEPARTMENT 20,000.0 20,000.0

To pilot additional instructional time in high-poverty and low-performing elementary schools. The secretary of public education shall make grants to qualifying elementary schools to provide an additional one hundred forty instructional hours to all elementary school students in an elementary school that receives grant funding, provided that students in a pilot program receive no fewer than the minimum number of

instructional hours and minimum length of instructional day as provided in Section 22-2-8.1 NMSA 1978 or the number of instructional hours and instructional days provided in the 2018-2019 school year, whichever provides the greater number of total instructional hours for the school year, before the addition of the one hundred forty instructional hours. Programs shall be funded at no more than thirty percent of the preliminary unit value per qualified student, provided that the number of qualified students used to determine grant amounts for approved schools shall be calculated using the greater of the average of qualified students enrolled in each approved public school on the second and third reporting dates of the 2020-2021 school year or the qualified students enrolled in each approved public school on the first reporting date of the 2021-2022 school year if qualified students enrolled on the first reporting date of the 2021-2022 school year is greater~~[, and further provided that the public education department shall prioritize grants to qualifying elementary schools that provide at least one quarter of the required funding per student]~~. *LINE ITEM VETO*

The public education department shall monitor and evaluate the efficacy of equivalent instructional time pilot programs on improving student academic and non-academic outcomes and report preliminary findings and recommendations to the governor~~[, legislative education study committee and legislative finance committee]~~ on or before January 15, 2022 and final recommendations by June 30, 2022. *LINE ITEM VETO*

No more than ten million dollars (\$10,000,000) from this appropriation may be expended in fiscal year 2022 and no more than ten million dollars (\$10,000,000) from this appropriation may be expended in fiscal year 2023. The other state funds appropriation is from the public education reform fund.

(109)	PUBLIC EDUCATION DEPARTMENT	400.0	400.0
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To the public education department for the Black Education Act, contingent on enactment of House Bill 43 or similar legislation in the first session of the fifty-fifth legislature establishing an act to improve

public school education for Black students. The other state funds appropriation is from the public education reform fund.

(110) PUBLIC EDUCATION DEPARTMENT 1,000.0 1,000.0

To the teacher residency fund. The other state funds appropriation is from the public education reform fund.

(111) HIGHER EDUCATION DEPARTMENT 500.0 500.0

For scholarships for the grow your own teacher program. The other state funds appropriation is from the public education reform fund.

(112) HIGHER EDUCATION DEPARTMENT 11,000.0 11,000.0

For the opportunity scholarship program.

(113) HIGHER EDUCATION DEPARTMENT 100.0 100.0

To purchase national student clearinghouse data [~~related to high school to college articulation~~]. The other state funds appropriation is from the public education reform fund. *LINE ITEM VETO*

(114) HIGHER EDUCATION DEPARTMENT 1,000.0 1,000.0

To support mental health services for students in higher education institutions. The other state funds appropriation is from the consumer settlement fund at the office of the attorney general.

(115) HIGHER EDUCATION DEPARTMENT 10,500.0 10,500.0

To the lottery tuition fund.

(116) HIGHER EDUCATION DEPARTMENT 5,000.0 5,000.0

To the lottery tuition fund. The other state funds appropriation is from the consumer settlement fund at the office of the attorney general.

(117) NEW MEXICO STATE UNIVERSITY 500.0 500.0

For the agricultural experiment station for weather stations. The other state funds appropriation is from the mortgage regulatory fund.

(118) NEW MEXICO STATE UNIVERSITY 212.5 212.5

For the New Mexico department of agriculture to develop and administer a weather [modification] program.

LINE ITEM VETO

(119) NEW MEXICO STATE UNIVERSITY 150.0 150.0

For the New Mexico department of agriculture to support the development of a local meatpacking cooperative.

(120) COMPUTER SYSTEMS ENHANCEMENT FUND 17,637.4 17,637.4

For transfer to the computer systems enhancement fund for system replacements or enhancements.

TOTAL SPECIAL APPROPRIATIONS 121,597.6 99,548.0 100.0 221,245.6

### Chapter 137 Section 6 Laws 2021

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
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SECTION 6. SUPPLEMENTAL AND DEFICIENCY APPROPRIATIONS.--The following amounts are appropriated from the general fund or other funds as indicated for expenditure in fiscal year 2021 for the purposes specified. Disbursement of these amounts shall be subject to certification by the agency to the department of finance and administration and the legislative finance committee that no other funds are available in fiscal year 2021 for the purpose specified and approval by the department of finance and administration. Any unexpended balances remaining at the end of fiscal year 2021 shall revert to the appropriate fund.

(1)	COURT OF APPEALS	2.5	2.5
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To correct an over-reversion in fiscal year 2016.

(2)	FIRST JUDICIAL DISTRICT COURT	90.0	90.0
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To fund a new judgeship created in Paragraph (1) of Subsection B of Section 4 of Chapter 83 of Laws 2020 and to fund associated staff in the first judicial district court.

(3)	THIRD JUDICIAL DISTRICT COURT	30.0	30.0
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For shortfalls related to the magistrate court consolidation in Dona Ana county.

(4)	THIRD JUDICIAL DISTRICT COURT	90.0	90.0
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To fund a new judgeship created in Paragraph (3) of Subsection B of Section 4 of Chapter 83 of Laws 2020 and to fund associated staff in the third judicial district court.

(5)	EIGHTH JUDICIAL DISTRICT COURT	83.0	83.0
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For furniture and equipment related to the fiscal year 2021 capital appropriation for colocation of the eighth judicial district and magistrate court consolidation.

(6)	TENTH JUDICIAL DISTRICT COURT	20.0	20.0
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For shortfalls in the personal services and employee benefits category for the magistrate courts in De Baca, Quay and Harding counties.

(7)	TWELFTH JUDICIAL DISTRICT COURT	71.9	71.9
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To fund a new judgeship created in Paragraph (12) of Subsection B of Section 4 of Chapter 83 of Laws 2020 and to fund associated staff in the twelfth judicial district court.

(8)	THIRTEENTH JUDICIAL DISTRICT ATTORNEY	22.2	22.2
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To correct an over-reversion in fiscal year 2016.

(9)	TAXATION AND REVENUE DEPARTMENT	1,250.0	1,250.0
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For shortfalls in the personal services and employee benefits category in the tax administration act program.

(10)	REGULATION AND LICENSING DEPARTMENT	284.2	284.2
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For a deficiency in the boards and commissions program. The other state funds appropriation is from the mortgage regulatory fund.

(11)	NEW MEXICO STATE FAIR	4,000.0	4,000.0
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For current year operational shortfalls due to the coronavirus disease 2019 [~~shut down~~] contingent on a

lack of federal funds available for the same purpose. *LINE ITEM VETO*

(12)	NEW MEXICO STATE FAIR	200.0	200.0
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For prior year shortfalls in the personal services and employee benefits category due to the coronavirus disease 2019 [~~shut down~~]. *LINE ITEM VETO*

(13)	STATE RACING COMMISSION	125.0	125.0
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For prior year budget deficits.

(14)	DEVELOPMENTAL DISABILITIES PLANNING COUNCIL	250.0	250.0
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For projected shortfalls for professional contract guardians.

(15)	DEPARTMENT OF ENVIRONMENT	3,000.0	3,000.0
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To restore funds to the air quality title v fund.

(16)	PUBLIC EDUCATION DEPARTMENT	20,899.6	20,899.6
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To the state-support reserve fund. If, for fiscal year 2020, the secretary of public education determines that a final decision by the United States department of education prohibits the deduction of payments to school districts and charter schools commonly known as "impact aid funds" pursuant to 20 U.S.C. 7701 et. seq., and formerly known as "PL874 funds," required by Paragraph (2) of Subsection C of Section 22-8-25 NMSA 1978, the state board of finance shall approve a transfer from the state-support reserve fund to make payments to school districts and charter schools that receive impact aid and are affected by the decision. If the secretary of the United States department of education issues a final decision that reverses any

portion of the administrative law judge's January 2021 decision, and the U.S. department of education is able to consider application of a different disparity test calculation methodology than was used in fiscal year 2020, the state board of finance transfer is contingent on the public education department pursuing the use in fiscal year 2020 of the disparity test calculation methodology used in fiscal year 2021.

(17) PUBLIC SCHOOL SUPPORT

A school district or a state-chartered charter school that receives a transportation allocation that exceeds the amount required to provide to-and-from transportation, three- and four-year-old developmentally disabled transportation and vocational education transportation during fiscal year 2021 shall deposit one hundred percent of the remaining balances in the transportation emergency fund at the end of fiscal year 2021.

TOTAL SUPPLEMENTAL AND DEFICIENCY APPROPRIATIONS	30,134.2	284.2	30,418.4
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**Chapter 137 Section 7 Laws 2021**

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
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SECTION 7. INFORMATION TECHNOLOGY APPROPRIATIONS.--The following amounts are appropriated from the computer systems enhancement fund, or other funds as indicated, for the purposes specified. Unless otherwise indicated, the appropriation may be expended in fiscal years 2021, 2022 and 2023. Unless otherwise indicated, any unexpended balances remaining at the end of fiscal year 2023 shall revert to the computer systems enhancement fund or other funds as indicated. For each executive branch agency project, the state chief information officer shall certify compliance with the project certification process prior to the allocation of fifty-six million four hundred forty-eight thousand three hundred dollars (\$56,448,300) by the department of finance and administration from the funds for the purposes specified. The judicial information systems council shall certify compliance to the department of finance and administration for judicial branch projects. For executive branch agencies, all hardware and software

purchases funded through appropriations made in Sections 4, 5, 6 and 7 of this act shall be procured using consolidated purchasing led by the state chief information officer and state purchasing division to achieve economies of scale and to provide the state with the best unit price.

(1) PUBLIC DEFENDER DEPARTMENT 1,070.0 1,070.0

To implement an integrated document management system and a redundant storage system for digital archives.

(2) TAXATION AND REVENUE  
DEPARTMENT

The period of time for expending the two million dollars (\$2,000,000) appropriated from the delinquent property tax fund in Subsection 6 of Section 7 of Chapter 11 of Laws 2016 as extended in Subsection 7 of Section 7 of Chapter 73 of Laws 2018 as extended in Subsection 8 of Section 7 of Chapter 271 of Laws 2019 as extended in Subsection 6 of Section 7 of Chapter 83 of Laws 2020 to modernize the property tax business system is extended through fiscal year 2022.

(3) DEPARTMENT OF FINANCE AND  
ADMINISTRATION

The period of time for expending the five hundred thousand dollars (\$500,000) appropriated from the computer systems enhancement fund in Subsection 9 of Section 7 of Chapter 271 of Laws 2019 for the implementation of property tax module in the local government budget management system is extended through fiscal year 2022.

(4) DEPARTMENT OF FINANCE AND  
ADMINISTRATION

The period of time for expending the four million dollars (\$4,000,000) appropriated from the computer systems enhancement fund in Subsection 10 of Section 7 of Chapter 271 of Laws 2019 for the implementation

of an enterprise budget system is extended through fiscal year 2022.

(5) DEPARTMENT OF FINANCE AND  
ADMINISTRATION

The period of time for expending the one million two hundred fifty thousand dollars (\$1,250,000) appropriated from the computer systems enhancement fund in Subsection 8 of Section 7 of Chapter 73 of Laws 2018 for the implementation of an enterprise budget system is extended through fiscal year 2022.

(6) GENERAL SERVICES DEPARTMENT

The period of time for expending the one million ninety thousand one hundred dollars (\$1,090,100) appropriated from the public property reserve fund, the public liability fund and the workers' compensation retention fund in Subsection 12 of Section 7 of Chapter 271 of Laws 2019 to continue the risk management information system replacement with a commercial off-the-shelf solution is extended through fiscal year 2022.

(7)	REGULATION AND LICENSING DEPARTMENT	2,580.0	2,580.0
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To continue the modernization of the regulation and licensing permitting and inspection software. Two million dollars (\$2,000,000) of the other state funds appropriation is from fund balances. The appropriation is contingent on the regulation and licensing department's successful implementation of the pilot for manufactured housing division and the estimated completion date, estimated total costs and expected deliverables for phase two implementation of construction industries division and providing quarterly project status reports to the department of information technology[, ~~the department of finance and administration and the legislative finance committee~~]. *LINE ITEM VETO*

(8) MEDICAL BOARD 500.0 500.0

To modernize licensing software. The other state funds appropriation is from the New Mexico board of medical examiners fund.

(9) CULTURAL AFFAIRS DEPARTMENT

The period of time for expending the three hundred fifty thousand dollars (\$350,000) appropriated from the computer systems enhancement fund in Subsection 17 of Section 7 of Chapter 271 of Laws 2019 to upgrade hardware and software and implement an enterprise content management system for digital delivery to improve museum exhibition content is extended through fiscal year 2022.

(10) COMMISSIONER OF PUBLIC LANDS 548.0 548.0

For an accounts payable system. The other state funds appropriation is from the state lands maintenance fund.

(11) EARLY CHILDHOOD EDUCATION  
AND CARE DEPARTMENT

The period of time for expending the twenty-five thousand dollars (\$25,000) appropriated from the computer systems enhancement fund in Subsection 24 of Section 7 of Chapter 73 of Laws 2018 to integrate the families first medicaid eligibility system with the human services department's medicaid management information system replacement project is extended through fiscal year 2022.

(12) EARLY CHILDHOOD EDUCATION 49.5 445.5 495.0  
AND CARE DEPARTMENT

To integrate functionality between the enterprise provider information and constituent services system and

the medicaid management information system applications.

(13) HUMAN SERVICES DEPARTMENT

The period of time for expending the one million seven hundred eighty-three thousand six hundred dollars (\$1,783,600) appropriated from the computer systems enhancement fund in Subsection 21 of Section 7 of Chapter 271 of Laws 2019 to continue the implementation of the child support enforcement replacement project is extended through fiscal year 2022.

(14) HUMAN SERVICES DEPARTMENT

The period of time for expending the one million two hundred fifty-five thousand six hundred dollars (\$1,255,600) appropriated from the computer systems enhancement fund in Subsection 22 of Section 7 of Chapter 271 of Laws 2019 to continue the implementation of the medicaid management information system replacement project is extended through fiscal year 2022.

(15) HUMAN SERVICES DEPARTMENT

The period of time for expending the six million eight hundred one thousand nine hundred dollars (\$6,801,900) appropriated from the computer systems enhancement fund in Subsection 21 of Section 7 of Chapter 73 of Laws 2018 as extended in Subsection 26 of Section 7 of Chapter 83 of Laws 2020 to continue the implementation of the medicaid management information system replacement project is extended through fiscal year 2022.

(16) HUMAN SERVICES DEPARTMENT

The period of time for expending the three million four hundred thousand dollars (\$3,400,000) appropriated from other state funds in Subsection 19 of Section 7 of Chapter 101 of Laws 2015 as extended in Subsection



8 of Section 7 of Chapter 135 of Laws 2017 as extended in Subsection 20 of Section 7 of Chapter 271 of Laws 2019 as extended in Subsection 25 of Section 7 of Chapter 83 of Laws 2020 for the planning phase to enhance or replace the current child support enforcement system is extended through fiscal year 2022. The other state funds appropriation is from fund balances.

(17)	HUMAN SERVICES DEPARTMENT	1,208.9	10,812.8	12,021.7
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To continue the implementation phase of the medicaid management information system replacement project.

(18)	WORKERS' COMPENSATION ADMINISTRATION	2,000.0		2,000.0
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To modernize existing information technology systems and applications. The other state funds appropriation is from the worker's compensation fund.

(19)	DEPARTMENT OF HEALTH	500.0		500.0
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For an all payer claims database.

(20)	DEPARTMENT OF HEALTH			
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The period of time for expending the four hundred forty thousand dollars (\$440,000) appropriated from the computer systems enhancement fund in Subsection 26 of Section 7 of Chapter 271 of Laws 2019 to integrate toxicology instrumentation data into the department of health's laboratory information system is extended through fiscal year 2022.

(21)	DEPARTMENT OF HEALTH			
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The period of time for expending the four million dollars (\$4,000,000) appropriated from the computer

systems enhancement fund in Subsection 24 of Section 7 of Chapter 271 of Laws 2019 to purchase and implement an enterprise electronic healthcare records system for public health offices is extended through fiscal year 2022.

(22) DEPARTMENT OF HEALTH

The period of time for expending the nine hundred thousand dollars (\$900,000) appropriated from the computer systems enhancement fund in Subsection 23 of Section 7 of Chapter 271 of Laws 2019 for the initiation and planning phase to implement a database for healthcare cost data is extended through fiscal year 2022.

(23) DEPARTMENT OF HEALTH

The period of time for expending the three hundred fifty thousand dollars (\$350,000) appropriated in Subsection 23 of Section 7 of Chapter 73 of Laws 2018 as extended in Subsection 31 of Section 7 of Chapter 83 of Laws 2020 to continue to purchase hardware and software to implement a facilities licensing system is extended through fiscal year 2022.

(24) DEPARTMENT OF HEALTH

The period of time for expending the two hundred thousand dollars (\$200,000) appropriated in Subsection 25 of Section 7 of Chapter 73 of Laws 2018 as extended in Subsection 29 of Section 7 of Chapter 83 of Laws 2020 to continue to purchase and implement a commercial off-the-shelf incident management system is extended through fiscal year 2022.

(25) DEPARTMENT OF HEALTH

The period of time for expending the two hundred thousand dollars (\$200,000) appropriated in Subsection 22

of Section 7 of Chapter 73 of Laws 2018 as extended in Subsection 30 of Section 7 of Chapter 83 of Laws 2020 to continue to upgrade the children's medical services medicaid provider enrollment system to integrate with the human services department's medicaid management information system replacement project is extended through fiscal year 2022.

(26) DEPARTMENT OF HEALTH

The period of time for expending the two million four hundred thousand dollars (\$2,400,000) appropriated from the computer systems enhancement fund in Subsection 10 of Section 7 of Chapter 135 of Laws 2017 as extended in Subsection 25 of Section 7 of Chapter 271 of Laws of 2019 as extended in Subsection 33 of Chapter 83 of Laws 2020 to continue the implementation of the developmental disabilities client management support system is extended through fiscal year 2022.

(27) DEPARTMENT OF HEALTH

The period of time for expending the two million one hundred thousand dollars (\$2,100,000) appropriated from the computer systems enhancement fund in Subsection 27 of Section 7 of Chapter 271 of Laws 2019 to continue the implementation of an integrated document management system and upgrade the vital records database is extended through fiscal year 2022.

(28) DEPARTMENT OF HEALTH

The period of time for expending the two million seven hundred fifty thousand dollars (\$2,750,000) appropriated from the computer systems enhancement fund Subsection 26 of Section 7 of Chapter 73 of Laws 2018 as extended in Subsection 34 of Section 7 of Chapter 83 of Laws 2020 to purchase and implement an integrated document management system and upgrade the vital records database is extended through fiscal year 2022.

(29) DEPARTMENT OF HEALTH 500.0 4,500.0 5,000.0

To continue the implementation of a comprehensive care management system for the developmental disabilities supports division within the medicaid management information system.

(30) DEPARTMENT OF HEALTH 442.0 442.0

To continue the implementation of a consolidated pharmacy system.

(31) DEPARTMENT OF HEALTH 3,750.0 3,750.0

To continue the implementation of an enterprise electronic health records system.

(32) DEPARTMENT OF ENVIRONMENT 1,580.6 1,580.6

To continue the implementation of an enterprise environmental information system for department of environment programs.

(33) CHILDREN, YOUTH AND FAMILIES 3,523.7 17,095.9 20,619.6  
DEPARTMENT

To continue the modernization of the comprehensive child welfare information system. [~~The appropriation is contingent on the children, youth and families department's successful implementation of the pilot and federal approval.~~] *LINE ITEM VETO*

(34) CORRECTIONS DEPARTMENT

The period of time for expending the four million one hundred five thousand two hundred dollars (\$4,105,200) appropriated from the computer systems enhancement fund in Subsection 29 of Section 7 of Chapter 271 of Laws 2019 to implement additional components of the commercial off-the-shelf offender

management system, including mobile functionality, a business intelligence tool and data standardization functionality is extended through fiscal year 2022. The other state funds appropriation includes one million fifty-two thousand six hundred dollars (\$1,052,600) from the penitentiary income fund.

(35) CORRECTIONS DEPARTMENT

The period of time for expending the two million two hundred ninety thousand dollars (\$2,290,000) appropriated from the computer systems enhancement fund in Subsection 29 of Section 7 of Chapter 73 of Laws 2018 as extended in Subsection 40 of Section 7 of Chapter 83 of Laws 2020 to continue the implementation of the commercial off-the-shelf offender management system is extended through fiscal year 2022.

(36) CORRECTIONS DEPARTMENT 500.0 500.0

To continue the implementation of an electronic health records system with a commercial off-the-shelf solution.

(37) DEPARTMENT OF PUBLIC SAFETY

The period of time for expending the one million five hundred thousand dollars (\$1,500,000) appropriated from other state funds in Subsection 32 of Section 7 of Chapter 73 of Laws 2018 as extended in Subsection 40 of Section 7 of Chapter 83 of Laws 2020 to implement a commercial off-the-shelf records management system is extended through fiscal year 2022.

(38) PUBLIC EDUCATION DEPARTMENT 1,215.4 1,215.4

For a business intelligence, integration and reporting system. Six hundred seven thousand seven hundred dollars (\$607,700) of the other state funds appropriation is from the public education reform fund.

(39) HIGHER EDUCATION DEPARTMENT 401.0 401.0

For a commercial off-the-shelf longitudinal data system. The appropriation includes two hundred one thousand dollars (\$201,000) from the public education reform fund.

(40) HIGHER EDUCATION DEPARTMENT 3,125.0 3,125.0

For a shared services enterprise resource planning system. The appropriation includes two hundred fifty thousand dollars (\$250,000) [~~for a predictive analytics software system~~] to report statewide performance metrics. *LINE ITEM VETO*

TOTAL INFORMATION TECHNOLOGY 23,494.1 32,854.2 56,348.3  
APPROPRIATIONS

## Chapter 137 Section 8 Laws 2021

### SECTION 8. COMPENSATION APPROPRIATIONS.--

A. Sixty-three million nine hundred thirty-nine thousand dollars (\$63,939,000) is appropriated from the general fund to the department of finance and administration for expenditure in fiscal year 2022 to provide salary increases to employees in budgeted positions who have completed their probationary period subject to satisfactory job performance. Police officers of the department of public safety shall be exempt from the requirement to complete their probationary period. The salary increases shall be effective the first full pay period after July 1, 2021 and distributed as follows:

(1) one hundred eighty-eight thousand seven hundred dollars (\$188,700) to provide permanent legislative employees, including permanent employees of the legislative council service, legislative finance committee, legislative education study committee, legislative building services, the house and senate, house and senate chief clerks' offices and house and senate leadership with an [~~average salary~~] increase of one and one-half percent; *LINE ITEM VETO*

(2) three million one hundred seventy-one thousand four hundred dollars (\$3,171,400) to provide all judicial permanent employees excluding judges, all district attorney permanent employees, all public defender department permanent employees, judicial child support hearing officers and judicial special commissioners with an [~~average salary~~] increase of one and one-half percent; *LINE ITEM VETO*

(3) four hundred thirty thousand three hundred dollars (\$430,300), in combination with appropriations in Section 5 of this act, to provide justices, judges and magistrates a salary increase of three and one-half percent;

(4) nine million four thousand six hundred dollars (\$9,004,600) to provide incumbents in agencies governed by the State Personnel Act, the New Mexico state police career pay system, attorney general employees, workers' compensation judges and executive exempt employees with an [~~average salary~~] increase of one and one-half percent; *LINE ITEM VETO*

(5) three million dollars (\$3,000,000) to provide salary increases in addition to the one and one-half percent for frontline health and social service employees employed by state agencies;

(6) twelve million four hundred twenty-one thousand two hundred dollars (\$12,421,200) to the higher education department to provide faculty and staff of two-year and four-year public postsecondary educational institutions, New Mexico military institute, New Mexico school for the blind and visually impaired and New Mexico school for the deaf with an [~~average salary~~] increase of one and one-half percent; *LINE ITEM VETO*

(7) thirty-five million one hundred nineteen thousand dollars (\$35,119,000) to the state equalization guarantee distribution to provide [~~an average~~] one and one-half percent salary increase for all public school personnel. The secretary of public education shall not approve the operating budget of a school district or charter school that does not provide [~~an average~~] one and one-half percent salary increase for all public school personnel; and *LINE ITEM VETO*

(8) six hundred three thousand eight hundred dollars (\$603,800) to the transportation distribution to provide [~~an average~~] one and one-half percent salary increase for all public school transportation personnel. The secretary of public education shall not approve the operating budget of a school district or charter school that does not provide [~~an average~~] one and one-half percent salary increase for all public school transportation personnel. *LINE ITEM VETO*

B. The department of finance and administration shall distribute a sufficient amount to each agency to provide the appropriate increases for those employees whose salaries are received as a result of the general fund appropriation in the General Appropriation Act of 2021. Any unexpended balances remaining at the end of fiscal year 2022 shall revert to the general fund.

C. For those state employees whose salaries are referenced in or received as a result of nongeneral fund appropriations in the General Appropriation Act of 2021, the department of finance and administration shall transfer from the appropriate fund to the appropriate agency the amount required for the salary increases equivalent to those provided for in this section. Such amounts are appropriated for expenditure

in fiscal year 2022. Any unexpended balances remaining at the end of fiscal year 2022 shall revert to the appropriate fund.

D. Thirty-four million dollars (\$34,000,000) is appropriated from the general fund to the department of finance and administration to provide incumbents in positions covered by a pension plan created under the Educational Retirement Act a one percent employer-paid pension contribution increase contingent on enactment of Senate Bill 42 or similar legislation in the first session of the fifty-fifth legislature increasing employer-paid pension contributions. Any unexpended balances remaining at the end of fiscal year 2022 shall revert to the general fund.

### Chapter 137 Section 9 Laws 2021

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
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SECTION 9. SPECIAL TRANSPORTATION APPROPRIATIONS.--The following amounts are appropriated from the general fund to the department of transportation for the purposes specified. Unless otherwise indicated, the appropriation may be expended in fiscal year 2021 and subsequent fiscal years. Unless otherwise indicated, any unexpended balances of the appropriations remaining at the end of a fiscal year shall not revert.

(1)	DEPARTMENT OF TRANSPORTATION	170,000.0		170,000.0
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For acquisition or rights of way, planning, design, construction, equipment, capital facility improvements and to match federal and other state funds for projects. Appropriations made in this Section may be used for projects including: six hundred thousand dollars (\$600,000) for improvements to highway maintenance patrol yards in transportation district one; two million four hundred thousand dollars (\$2,400,000) to widen U.S. highway 60 to Socorro soccer and rodeo complex in transportation district one; six million dollars (\$6,000,000) for improvement of the San Antonio exits off of interstate 25 in transportation district one; fourteen million dollars (\$14,000,000) for interstate 10 from mile post 25 to mile post 35 in transportation district one; fourteen million dollars (\$14,000,000) for U.S. highway 60 in Clovis from mile post 385.5 to mile post 388.7 in transportation district two; fourteen million dollars (\$14,000,000) for



U.S. highway 54 from mile post 151.6 to mile post 158.9 in transportation district two; fifteen million two hundred thousand dollars (\$15,200,000) for the Los Lunas corridor project from interstate 25 to New Mexico highway 47 in transportation district three; four million dollars (\$4,000,000) for interstate 40 from mile post 138 to mile post 141 in transportation district three; three million dollars (\$3,000,000) for interstate 25 from mile post 249 to mile post 251 in transportation district three; four million two hundred thousand dollars (\$4,200,000) for interstate 40 from mile post 182 to mile post 184 in transportation district three; two million two hundred thousand dollars (\$2,200,000) for New Mexico highway 14 from mile post 5.8 to mile post 14.2 in transportation district three; sixteen million dollars (\$16,000,000) for exit 451 interchange off of interstate 25 in transportation district four; five hundred sixty thousand dollars (\$560,000) for improvements to highway maintenance patrol yards in transportation district four; nine hundred fifty thousand dollars (\$950,000) for New Mexico highway 120 from mile post 64 to mile post 74.8 in transportation district four; two million two hundred thousand dollars (\$2,200,000) for interstate 25 from mile post 348.5 to mile post 356 in transportation district four; one million six hundred fifty thousand dollars (\$1,650,000) for New Mexico highway 39 from mile post 49 to mile post 67.8 in transportation district four; one million two hundred thousand dollars (\$1,200,000) for interstate 40 from mile post 242.8 to mile post 248.3 in transportation district four; one million three hundred fifty thousand dollars (\$1,350,000) for interstate 40 from mile post 284.7 to mile post 291 in transportation district four; one million seven hundred fifty thousand dollars (\$1,750,000) for interstate 25 from mile post 448 to mile post 452 in transportation district four; two million five hundred forty thousand dollars (\$2,540,000) for U.S. highway 64 from mile post 276 to mile post 295 in transportation district four; three million four hundred thousand dollars (\$3,400,000) for New Mexico highway 170 from mile post 8.2 to the Colorado state line in transportation district five; six hundred forty thousand dollars (\$640,000) for New Mexico highway 170 from mile post 0 to mile post 2 in transportation district five; two million dollars (\$2,000,000) for U.S. highway 64 from mile post 252.3 to mile post 257.9 in transportation district five;

three million five hundred thousand dollars (\$3,500,000) for U.S. highway 64 from mile post 25.8 to mile post 31.4 in transportation district five; one million dollars (\$1,000,000) for U.S. highway 84 from mile post 215.5 to mile post 217.4 in transportation district five; one million one hundred thousand dollars (\$1,100,000) for New Mexico highway 522 from mile post 20 to mile post 24.2 in transportation district five; ten million dollars (\$10,000,000) for U.S. highway 64 from the Arizona state line to Shiprock high school in transportation district five; six million five hundred thousand dollars (\$6,500,000) for New Mexico highway 14 from Saint Michael's drive to the Santa Fe Indian school in transportation district five; two million four hundred thousand dollars (\$2,400,000) for New Mexico highway 53 from mile post 41 to mile post 46.4 in transportation district six; twelve million dollars (\$12,000,000) for New Mexico highway 264 from mile post 0 to mile post 16.1 in transportation district six; nine million dollars (\$9,000,000) for the New Mexico highway 118 Burlington Northern Santa Fe rail road overpass in transportation district six; five million dollars (\$5,000,000) for transportation projects in the Grants and Milan area in transportation district six; and five million six hundred thousand dollars (\$5,600,000) for U.S. highway 180 from mile post 21 to mile post 32.5 in transportation district six. Any unexpended balances remaining from this appropriation at the end of fiscal year 2025 shall revert to the general fund.

(2) DEPARTMENT OF TRANSPORTATION 121,000.0 121,000.0

To the transportation project fund for expenditure in fiscal years 2021 through 2025 to carry out the provisions of Section 67-3-78 NMSA 1978. Any unexpended balances remaining at the end of fiscal year 2025 shall revert to the general fund.

(3) DEPARTMENT OF TRANSPORTATION 9,000.0 9,000.0

For essential air service, contingent on enactment of Senate Bill 133 or similar legislation of the first session of the fifty-fifth legislature that authorizes such expenditure.

[(-4) DEPARTMENT OF TRANSPORTATION 200,000.0 200,000.0

~~From the appropriation contingency fund of the general fund for major road projects in fiscal years 2021 through 2024 contingent on the transfer of federal coronavirus state fiscal recovery fund revenue authorized in the American Rescue Plan Act of 2021 into the appropriation contingency fund of the general fund.] LINE ITEM VETO~~

TOTAL SPECIAL TRANSPORTATION 500,000.0 500,000.0  
APPROPRIATIONS

## Chapter 137 Section 10 Laws 2021

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
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SECTION 10. FUND TRANSFERS.--The following amounts are transferred from the general fund or other state funds to other state funds as specified.

(1) DEPARTMENT OF FINANCE AND ADMINISTRATION

Upon enactment of this act, the department of finance and administration shall transfer fifty million dollars (\$50,000,000) from the general fund operating reserve to the appropriation contingency fund of the general fund.

[(-2) LOCAL ECONOMIC DEVELOPMENT ACT FUND 100,000.0 100,000.0

~~From the appropriation contingency fund of the general fund contingent on the transfer of federal coronavirus state fiscal recovery fund revenue authorized in the American Rescue Plan Act of 2021 into the appropriation contingency fund of the general fund.~~

~~(3) EARLY CHILDHOOD EDUCATION  
AND CARE FUND~~

~~Contingent on the transfer of federal coronavirus state fiscal recovery fund revenue authorized in the American Rescue Plan Act of 2021 into the appropriation contingency fund of the general fund, twenty million dollars (\$20,000,000) shall be transferred from the general fund to the early childhood education and care fund.] LINE ITEM VETO~~

(4)	EARLY CHILDHOOD EDUCATION AND CARE FUND	3,000.0	3,000.0
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For the early childhood education and care fund. The other state funds transfer is from the public pre-kindergarten fund at the public education department.

(5)	EARLY CHILDHOOD EDUCATION AND CARE FUND	7,000.0	7,000.0
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The other state funds transfer is from the children, youth and families department pre-kindergarten fund.

~~[-(6) KIKI SAAVEDRA SENIOR DIGNITY  
FUND~~

~~Contingent on the transfer of federal coronavirus state fiscal recovery fund revenue authorized in the American Rescue Plan Act of 2021 into the appropriation contingency fund of the general fund, five million dollars (\$5,000,000) shall be transferred from the general fund to the Kiki Saavedra senior dignity fund.]~~

~~LINE ITEM VETO~~

(7)	TEACHER PREPARATION AFFORDABILITY SCHOLARSHIP FUND	20,000.0	20,000.0
(8)	TEACHER LOAN REPAYMENT FUND	5,000.0	5,000.0

(9)	NATIONAL BOARD CERTIFICATION	5,000.0		5,000.0
	SCHOLARSHIP FUND			
(10)	COMMUNITY SCHOOLS FUND	10,000.0	10,000.0	20,000.0

The fund transfer is contingent on enactment of Senate Bill 341 or similar legislation in the first session of the fifty-fifth legislature. The other state funds appropriation is from the public education reform fund.

(11)	STATE-SUPPORT RESERVE FUND		15,500.0	15,500.0
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The other state funds transfer is from the K-3 plus fund.

(12)	COLLEGE AFFORDABILITY	15,000.0		15,000.0
	ENDOWMENT FUND			
<del>[-(13)-]</del>	<del>LOTTERY TUITION FUND</del>	<del>100,000.0</del>		<del>100,000.0</del>

~~From the appropriation contingency fund of the general fund contingent on the transfer of federal coronavirus state fiscal recovery fund revenue authorized in the American Rescue Plan Act of 2021 into the appropriation contingency fund of the general fund.] LINE ITEM VETO~~

(14)	HIGHER EDUCATION ENDOWMENT	5,000.0		5,000.0
	FUND			

The higher education department shall require a fifty percent match of any awards from recipient institutions of higher education.

	TOTAL FUND TRANSFERS	260,000.0	35,500.0	295,500.0
	APPROPRIATIONS			

## Chapter 137 Section 11 Laws 2021

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
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~~[SECTION 11. ADDITIONAL CONTINGENT APPROPRIATIONS. On receipt of any federal funds in the state treasury from the coronavirus state fiscal recovery fund authorized in the American Rescue Plan Act of 2021, the secretary of the department of finance and administration shall transfer those funds in their entirety to the appropriation contingency fund of the general fund for expenditures:~~

~~A. to respond to the public health emergency with respect to the coronavirus disease 2019 or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;~~

~~B. to respond to workers performing essential work during the coronavirus disease 2019 public health emergency by providing premium pay to eligible workers of the state performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;~~

~~C. for the provision of government services to the extent of the reduction in revenue due to the coronavirus disease 2019 public health emergency relative to revenues collected in fiscal year 2019;~~

~~D. to make necessary investments in water, sewer or broadband infrastructure;~~

~~E. allowable pursuant to guidance regarding expenditures of the coronavirus state fiscal recovery fund by the United States department of the treasury.~~

~~Contingent on the transfer of federal coronavirus state fiscal recovery fund revenue authorized in the American Rescue Plan Act of 2021 into the appropriation contingency fund of the general fund, the following amounts are appropriated from the appropriation contingency fund of the general fund. Unless otherwise indicated, the appropriations may be expended in fiscal years 2021 and 2022. Unless otherwise indicated, any unexpended balances of the appropriations remaining at the end of fiscal year 2022 shall revert to the general fund.~~

~~(1) DEPARTMENT OF FINANCE AND ADMINISTRATION 25,000.0 25,000.0~~

~~For assistance to households, small businesses and nonprofits, or aid to impacted industries such as tourism, travel and hospitality contingent on the board of finance approval of an expenditure plan.~~

~~(2) DEPARTMENT OF FINANCE AND ADMINISTRATION 20,500.0 20,500.0~~

~~To replace lost revenue due to the coronavirus disease 2019 public health emergency. Up to six million dollars (\$6,000,000) of this appropriation is for the state fair. The remaining fourteen million five hundred thousand dollars (\$14,500,000) is for the state parks program at the energy, minerals and natural resources department and the museums and historic sites program at the department of cultural affairs. Any balances from this appropriation remaining after lost revenue is replaced shall be used for infrastructure upgrades statewide at state parks, museums and monuments.~~

~~(3) DEPARTMENT OF FINANCE AND ADMINISTRATION~~

~~On receipt of any federal funds in the state treasury from the coronavirus state fiscal recovery fund authorized in the American Rescue Plan Act of 2021, and contingent on enactment of Senate Bill 377 in the first session of the fifty-fifth legislature, the period of time for expenditure for sixty-nine million four hundred thousand dollars (\$69,400,000) of the general fund appropriation made in Subsection B(1) of Section 17 of Senate Bill 377, the five million dollar (\$5,000,000) general fund appropriation made in Subsection B(1) of Section 17 of Senate Bill 377 and the ten million dollar (\$10,000,000) general fund appropriation made in Subsection C of Section 17 of Senate Bill 377 will become through May 1, 2021 and the department of finance and administration shall make appropriations of the same amounts and for the same purposes as in Subsections B(1), B(2) and C of Section 17 of Senate Bill 377 from the appropriation~~

~~contingency fund of the general fund.~~

~~(4) TOURISM DEPARTMENT 10,000.0 10,000.0~~

~~For assistance to the tourism industry for state advertising and cooperative marketing, including cooperative marketing for communities across the state equitably distributed by region with no local spending matching fund requirements for rural communities from this appropriation.~~

~~(5) WORKFORCE SOLUTIONS 5,000.0 5,000.0  
DEPARTMENT~~

~~For the reemployment services and eligibility assessment program to respond to the negative economic impacts from the coronavirus disease 2019 public health emergency.~~

~~(6) WORKFORCE SOLUTIONS 600,000.0 600,000.0  
DEPARTMENT~~

~~For the unemployment insurance program to respond to the negative economic impacts from the coronavirus disease 2019 public health emergency for expenditure through fiscal year 2023. Up to one hundred seventy-eight million three hundred thousand dollars (\$178,300,000) may be used to repay the federal advance received under Title XII of the Social Security Act. The remaining balance is for the state unemployment trust fund.~~

~~TOTAL ADDITIONAL CONTINGENT 660,500.0 660,500.0]  
APPROPRIATIONS~~

LINE ITEM VETO



## Chapter 137 Section 12 Laws 2021

SECTION 12. ADDITIONAL FISCAL YEAR 2021 BUDGET ADJUSTMENT AUTHORITY.--During fiscal year 2021, subject to review and approval by the department of finance and administration, pursuant to Sections 6-3-23 through 6-3-25 NMSA 1978, in addition to the budget adjustment authority in the General Appropriation Act of 2020:

A. the first judicial district court may request budget increases up to sixty thousand dollars (\$60,000) from fund balances in the court's child support program for operations of the child support hearing office;

B. the second judicial district court may request budget increases up to three hundred thousand dollars (\$300,000) from other state funds or internal service funds/interagency transfers received from human services department for the competency program;

C. the thirteenth judicial district court may request budget increases up to thirty-five thousand dollars (\$35,000) from fund balances to support court operations, may request budget increases up to seventy-five thousand dollars (\$75,000) from internal service funds/interagency transfers and other state funds for case management for adult drug court, and may request budget increases up to seventy-five thousand dollars (\$75,000) from internal service funds/interagency transfers and other state funds for drug court funding;

D. the Bernalillo county metropolitan court may request budget adjustment increases up to two hundred thousand dollars (\$200,000) from Bernalillo county for the background investigations program for personal services and employee benefits and other costs;

E. the public defender department may request budget increases up to five hundred thousand dollars (\$500,000) in other state funds from the public defender automation fund and from other grant agreements for operating expenses;

F. the motor vehicle program of the taxation and revenue department may request budget increases up to one million five hundred thousand dollars (\$1,500,000) from other state funds for operating expenses including support and maintenance of the motor vehicle administration information technology system of record;

G. the New Mexico sentencing commission may request budget increases from fund balances for operating expenses and may request budget increases up to one hundred fifty thousand dollars (\$150,000) from other state funds for operating expenses;

H. the economic development department may request budget increases up to one million five hundred thousand dollars (\$1,500,000) from internal service/interagency transfers and other state funds from grants, local governments and federal agencies for the purpose of economic growth and related support services;

I. the cultural affairs department may request program transfers between programs up to one million dollars (\$1,000,000);

J. the early childhood education and care department may request program transfers up to two million dollars (\$2,000,000) between programs;

K. the aging and long-term services department may request program transfers up to five hundred thousand dollars (\$500,000) between programs for budget shortfalls;

L. the income support program of the human services department may request budget increases up to fifteen million dollars (\$15,000,000) from the federal temporary assistance for needy families block grant to provide cash assistance to participants as defined in the New Mexico Works Act, including wage subsidies for participants, clothing allowances and diversion payments;

M. the independent living services program of the division of vocational rehabilitation may request budget increases up to two hundred thousand dollars (\$200,000) from other state funds for independent living services for the disabled;

N. the department of health may request program transfers up to six million dollars (\$6,000,000) between programs for budget shortfalls;

O. the water protection division of the department of environment may request budget increases from other state funds and internal service funds/interagency transfers up to the available balances from the rural infrastructure revolving loan fund to disburse loans to local entities and may request budget increases from other state funds and internal service funds/interagency transfers up to the available balances from the wastewater facility construction loan fund to disburse loans to local entities;

P. the children, youth and families department may request budget increases up to five hundred thousand dollars (\$500,000) from other internal service funds/interagency transfers for program support lease revenue;

Q. the victim compensation program of the crime victims reparation commission may request budget increases up to three hundred thousand dollars (\$300,000) from other state funds for care and support; and

R. the department of transportation may request budget increases up to thirty-five million dollars (\$35,000,000) from other state funds and fund balances to meet federal matching requirements for debt service and related costs, intergovernmental agreements, lawsuits and construction- and maintenance-related costs.

## **Chapter 137 Section 13 Laws 2021**

### SECTION 13. CERTAIN FISCAL YEAR 2022 BUDGET ADJUSTMENTS AUTHORIZED.--

A. As used in this section and Section 12 of the General Appropriation Act of 2021:

(1) "budget category" means an item or an aggregation of related items that represents the object of an appropriation. Budget categories include personal services and employee benefits, contractual services, other and other financing uses;

(2) "budget increase" means an approved increase in expenditures by an agency from a specific source;

(3) "category transfer" means an approved transfer of funds from one budget category to another budget category, provided that a category transfer does not include a transfer of funds between divisions; and

(4) "program transfer" means an approved transfer of funds from one program of an agency to another program of that agency.

B. Pursuant to Sections 6-3-23 through 6-3-25 NMSA 1978, those budget adjustments specified in this section are authorized for fiscal year 2022.

C. In addition to the specific category transfers authorized in Subsection E of this section and unless a conflicting category transfer is authorized in Subsection E of this section, all agencies, including legislative agencies, may request category transfers among personal services and employee benefits, contractual services and other.

D. Unless a conflicting budget increase is authorized in Subsection E of this section, a program with internal service funds/interagency transfers appropriations or other state funds appropriations that collects money in excess of those appropriated may request budget increases in an amount not to exceed five percent of its internal service funds/interagency transfers or other state funds appropriations contained in Section 4 of the General Appropriation Act of 2021. To track the five percent transfer limitation,

agencies shall report cumulative budget adjustment request totals on each budget request submitted. The department of finance and administration shall certify agency reporting of these cumulative totals.

E. In addition to the budget authority otherwise provided in the General Appropriation Act of 2021, the following agencies may request specified budget adjustments:

(1) the New Mexico compilation commission may request budget increases from internal service funds/interagency transfers and other state funds for publishing expenses;

(2) the judicial standards commission may request budget increases up to thirty thousand dollars (\$30,000) from other state funds from investigation and trial cost reimbursements to support agency operations;

(3) the first judicial district court may request budget increases up to sixty thousand dollars (\$60,000) from fund balances in the court's child support program for operations of the child support hearing office, may request budget increases up to fifteen thousand dollars (\$15,000) from internal service funds/interagency transfers to operate the court appointed special advocates program and may request budget increases up to forty thousand dollars (\$40,000) from internal service funds/interagency transfers to provide treatment services to clients enrolled in problem-solving courts in the first judicial district;

(4) the second judicial district court may request budget increases up to fifty thousand dollars (\$50,000) from other state funds for other program revenue received from the collection of adult drug court fees and may request budget increases up to four hundred thousand dollars (\$400,000) from other state funds received from Bernalillo county;

(5) the third judicial district court may request budget increases up to twenty thousand dollars (\$20,000) from other state funds for program revenues received from fees collected for alternative dispute resolution and mediation programs for operating expenses, may request budget increases up to five thousand dollars (\$5,000) from other state funds from copy fees for operating expenses, may request budget increases up to five thousand dollars (\$5,000) from other state funds from drug court fees for treatment service expenses and may request budget increases up to thirty-six thousand dollars (\$36,000) from other state funds for the veterans treatment court program expenses;

(6) the fourth judicial district court may request budget increases up to twenty-five thousand dollars (\$25,000) from other state funds from alternative dispute resolution fees for operating expenses, may request budget increases up to fifteen thousand dollars (\$15,000) from other state funds from copy fees for operating expenses and may request budget increase up to ten thousand dollars (\$10,000) from other state funds from mediation fees for operating expenses;

(7) the fifth judicial district court may request budget increases up to five thousand dollars (\$5,000) from other state funds for the Chaves county adult drug court participant fees to fund routine drug court program operating expenses, may request budget increases up to seventy thousand dollars (\$70,000) from other state funds from duplication fees for operating expenses and may request budget increases up to twenty-seven thousand dollars (\$27,000) from other state funds for the family reunification drug-court program for operating expenses;

(8) the twelfth judicial district court may request budget increases up to five thousand dollars (\$5,000) from alternative dispute resolution fees for operating expenses, may request budget increases up to three thousand dollars (\$3,000) from copy and tape fees for operating expenses, may request budget increases up to five thousand dollars (\$5,000) from adult drug court fees for operating expenses, may request budget increases up to seven thousand five hundred dollars (\$7,500) from mediation fees for operating expenses and may request budget increases up to fifteen thousand dollars (\$15,000) from other state funds for operating expenses;

(9) the thirteenth judicial district court may request budget increases up to seventy-five thousand dollars (\$75,000) from internal service funds/interagency transfers and other state funds for case management for adult drug court and may request budget increases up to seventy-five thousand dollars (\$75,000) from internal service funds/interagency transfers and other state funds for drug court expenses;

(10) the second judicial district attorney may request budget increases up to three million dollars (\$3,000,000) from internal service funds/interagency transfers and other state funds from grants and local governments for case prosecution and related support services;

(11) the attorney general may request budget increases up to five hundred thousand dollars (\$500,000) from other state funds from the consumer settlement fund for operating expenses arising from matters that are unforeseen, such as police officer misconduct cases and other complex investigative and litigation matters;

(12) the state investment council may request budget increases from other state funds for investment-related management fees and to meet emergencies or unexpected physical plant failures that might impact the health and safety of workers or visitors to the agency;

(13) the administrative hearings office may request budget increases from other funds received from conducting and adjudicating administrative hearings for other state agencies, the amount of the budget increase not to exceed the amount received from the other agency;

(14) the benefits, risk and program support programs of the public school insurance authority may request budget increases from internal service funds/interagency transfers, other state funds and fund balances for claims;

(15) the healthcare benefits administration program of the retiree health care authority may request budget increases from other state funds for claims;

(16) the procurement services program of the general services department may request budget increases up to five hundred thousand dollars (\$500,000) from other state funds for operating expenses and the state printing services program of the general services department may request budget increases up to two hundred thousand dollars (\$200,000) from other state funds;

(17) the educational retirement board may request budget increases from other state funds for investment-related asset management fees and to meet emergencies or unexpected physical plant failures that might impact the health and safety of workers and visitors to the agency;

(18) the New Mexico sentencing commission may request increases from fund balances for operating expenses and may request budget increases up to one hundred fifty thousand dollars (\$150,000) from other state funds for operating expenses;

(19) the department of information technology may request budget increases up to two million dollars (\$2,000,000) from other state funds from fund balances for telecommunication, information processing and the statewide human resources, accounting and management reporting system, may request budget increases up to ten percent of internal service funds/interagency transfers and other state funds appropriated in section 4 of the General Appropriation Act of 2021 to support existing or new services and may request budget increases from fund balances up to the amount of depreciation expense, as reported in the notes to the financial statements of the agency's independent audit of the fiscal year ending June 30, 2021, to acquire and replace capital equipment and associated software used to provide enterprise services;

(20) the public employees retirement association may request budget increases from other state funds for investment-related asset management fees and to meet emergencies or unexpected physical plant failures that might impact the health and safety of workers or visitors to the agency;

(21) the marketing and promotion program of the tourism department may request budget increases up to five million dollars (\$5,000,000) from other state funds to grow the advertising efforts by leveraging partnership dollars in the tourism enterprise fund;

(22) the construction industries and manufactured housing program of the regulation and licensing department may request budget increases up to one hundred fifty thousand dollars (\$150,000) from

internal service funds/interagency transfers received from the public school facilities authority for costs associated with the permitting and inspecting projects funded under the Public School Capital Outlay Act, and the financial institutions division of the regulation and licensing department may request budget increases up to two hundred thousand dollars (\$200,000) from other state funds from the mortgage regulatory fund for operating expenses;

(23) the patient compensation fund of the office of superintendent of insurance may request budget increases from patient's compensation fund balances for patient compensation settlements and court ordered payments;

(24) the cultural affairs department may request budget increases from other state funds from the cultural affairs department enterprise fund, the museum and historic sites program of the cultural affairs department may request budget increases from other state funds and the preservation program of the cultural affairs department may request budget increases from other state funds for archaeological services or historic preservation services;

(25) the department of game and fish may request budget adjustments for capital project expenditures, may request budget increases up to five hundred thousand dollars (\$500,000) from other state funds from the game protection fund for emergencies and may request budget increases as a result of revenue received from other agencies for operating and capital expenses;

(26) the commissioner of public lands may request budget increases from other state funds to utilize bond recovery proceeds held in suspense to perform related remediation and reclamation work;

(27) the commissioner of public lands may request budget increases up to five million dollars (\$5,000,000) from the state trust lands restoration and remediation fund to address surface damage, remediation of hazardous waste sites and watershed restoration on state trust lands;

(28) the interstate stream compact compliance and water development program of the state engineer may request budget increases up to two hundred fifty thousand dollars (\$250,000) from the Ute construction fund for operational and maintenance requirements at the Ute reservoir, may request budget increases up to one million dollars (\$1,000,000) from the irrigation works construction fund for operational and maintenance costs associated with the Pecos river settlement agreement, may request budget increases up to two hundred fifty thousand dollars (\$250,000) from the irrigation works construction fund for Elephant Butte channel and other Rio Grande river maintenance and restoration work, and may request budget increases up to one million five hundred thousand dollars (\$1,500,000) from the New Mexico unit fund to meet water supply demands in the southwest water planning region of New Mexico, including costs associated with planning, evaluating, and aiding development of potential shovel-ready non-New Mexico unit

projects, and supporting the ongoing shovel-ready non-New Mexico unit projects that have previously been approved and funded by the interstate stream commission, pursuant to the 2004 Arizona Water Settlement Act;

(29) the commission for the blind may request transfers between the other category and the other financing uses category contingent on the inability of the division of vocation rehabilitation to match federal funds, may request budget increases from other state funds for the employment of blind or visually impaired persons pursuant to the federal Randolph-Sheppard Act, the federal Javits-Wagner-O'Day Act or the federal ability one program, may request budget increases from other state funds to contract with blind or visually impaired vendors to operate food services at the federal law enforcement training center and may request budget increases up to two hundred thousand dollars (\$200,000) from other state funds;

(30) the early childhood education and care department may request program transfers up to one million dollars (\$1,000,000) between programs, the support and intervention program of the early childhood education and care department may request category transfers between the other and other financing uses category for the family infant toddler program and may request category transfers between the other and other financing uses category for medicaid home visiting and the public pre-kindergarten program of the early childhood education and care department may request category transfers between the other category and other financing uses category for public pre-kindergarten awards;

(31) the aging network program of the aging and long-term services department may request program transfers up to eight hundred thousand dollars (\$800,000) from the adult protective services program if federal revenues create a surplus in the adult protective services program;

(32) the human services department may request program transfers between the medical assistance program and the medicaid behavioral health program;

(33) the division of vocational rehabilitation may request program transfers between the rehabilitation services program and the independent living services program;

(34) the developmental disabilities planning council may request program transfers up to five hundred thousand dollars (\$500,000) between programs for budget shortfalls;

(35) the miners' hospital of New Mexico may request budget increases from other state funds from fees from patient revenues for operating expenses;

(36) the health certification, licensing and oversight program of the department of health may request budget increases from other state funds from health facility license and certification fees pursuant to Subsection G of Section 24-1-5 NMSA 1978, the developmental disabilities support program of the



department of health may request budget increases from other state funds from private insurer payments, may request category transfers between all categories for the supports waiver and may request category transfers from the personal services and employee benefits category, contractual services category and other category to the other financing uses category for developmental disabilities waiver services, the epidemiology and response program of the department of health may request budget increases from internal service funds/interagency transfers and other state funds from payments for prevention services, conducting health surveys and analyzing data, the laboratory services program of the department of health may request budget increases from internal service funds/interagency transfers and other state funds for operating expenses, the medical cannabis program of the department of health may request budget increases from other state funds from medical cannabis revenue for operating expenses and the facilities management program of the department of health may request up to three million dollars (\$3,000,000) from the developmental disabilities support waiver fund;

(37) the water protection program of the department of environment may request budget increases up to three hundred fifty thousand dollars (\$350,000) from other state funds and internal service funds/interagency transfers for providing technical or community services, the resource protection division of the department of environment may request budget increases from other state funds and internal service funds/interagency transfers up to the available balances from the hazardous waste emergency fund for emergencies and may request budget increases from other state funds and internal service funds/interagency transfers up to the available balances from the corrective action fund for claims and the environmental protection program of the department of environment may request budget increases up to one million seven hundred thousand dollars (\$1,700,000) from other state funds and internal service funds/interagency transfers to support the costs of administering regulations to carry out provisions of the cannabis regulation act contingent on enactment of House Bill 12 or similar legislation in the first session of the fifty-fifth legislature;

(38) the juvenile justice facilities program of the children, youth and families department may request budget increases up to six hundred thousand dollars (\$600,000) from other state funds for the juvenile continuum grant fund and may request budget increases up to four hundred thousand dollars (\$400,000) from other state funds for the juvenile community corrections grant fund;

(39) the department of military affairs may request budget increases up to fifty thousand dollars (\$50,000) from other state funds from leases, land royalties, miscellaneous revenue, gifts or grants for support of national guard facility operations, maintenance and repair of the New Mexico youth challenge academy and the New Mexico national guard members family assistance fund;

(40) the inmate management and control program of the corrections department may request budget increases up to one million dollars (\$1,000,000) from internal service funds/interagency transfers and other state funds from inmate work crew program income for operating expenses and the corrections industries program of the corrections department may request budget increases up to one million five

hundred thousand dollars (\$1,500,000) from internal service funds/interagency transfers and other state funds from sales, fund balances, inmate canteen purchases and telephone services for operating expenses;

(41) the department of transportation may request program transfers among the project design and construction program, the highway operations program, and modal program for costs related to engineering, construction and maintenance services, may request budget increases up to eighty-five million dollars (\$85,000,000) from other state funds and fund balances to meet federal matching requirements for debt service and related costs and may request budget increases up to fifty-four million dollars (\$54,000,000) from other state funds and fund balances to mitigate emergency road conditions in transportation district two; and

(42) the public education department may request budget increases up to twenty thousand dollars (\$20,000) from the school transportation training fund for public school transportation workshops and training.

## **Chapter 137 Section 14 Laws 2021**

### SECTION 14. TRANSFER AUTHORITY.--

A. In addition to the transfer authority provided in Section 13 of Chapter 271 of Laws 2019, Section 13 of Chapter 83 of Laws 2020 and Section 15 of Chapter 5 of Laws 2020 (1st S.S.), if revenues and transfers to the general fund at the end of fiscal year 2021 are not sufficient to meet appropriations, the governor, with state board of finance approval, may transfer to the appropriation account of the general fund the amount necessary to meet that fiscal year's obligations from the tax stabilization reserve pursuant to Subsection E of Section 6-4-2.2 NMSA 1978, provided that the total transferred pursuant to this subsection shall not exceed two hundred fifty million dollars (\$250,000,000).

B. If revenue and transfers to the general fund at the end of fiscal year 2022 are not sufficient to meet appropriations, the governor, with the state board of finance approval, may transfer to the appropriation account of the general fund the amount necessary to meet that fiscal year's obligations from the operating reserve, provided that the total transferred pursuant to this section shall not exceed one hundred twenty million dollars (\$120,000,000).

## **Chapter 137 Section 15 Laws 2021**

SECTION 15. SEVERABILITY.--If any part or application of this act is held invalid, the remainder or its application to other situations or persons shall not be affected.

# LAWS 2021, CHAPTER 138

HTRC/House Bill 285, aa, w/ec, w/cc, partial veto  
Approved April 9, 2021

## AN ACT

RELATING TO CAPITAL EXPENDITURES; AUTHORIZING THE ISSUANCE OF SEVERANCE TAX BONDS; AUTHORIZING EXPENDITURES FROM CERTAIN FUNDS AND BALANCES; CLARIFYING CONDITIONS FOR THE ISSUANCE OF BONDS; ESTABLISHING CONDITIONS FOR THE EXPENDITURE OF SEVERANCE TAX BOND PROCEEDS; PROVIDING CONTINGENT AUTHORIZATION TO THE PUBLIC EDUCATION DEPARTMENT TO REQUEST BUDGET INCREASES FOR CERTAIN CAPITAL EXPENDITURES; ESTABLISHING CONDITIONS FOR THE REVERSION OF UNEXPENDED BALANCES; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

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

### **Chapter 138 Section 1 Laws 2021**

SECTION 1. SEVERANCE TAX BONDS--AUTHORIZATIONS--  
APPROPRIATION OF PROCEEDS.--

A. The state board of finance may issue and sell severance tax bonds in compliance with the Severance Tax Bonding Act in an amount not to exceed the total of the amounts authorized for purposes specified in this act. The state board of finance shall schedule the issuance and sale of the bonds in the most expeditious and economical manner possible upon a finding by the board that the project has been developed sufficiently to justify the issuance and that the project can proceed to contract within a reasonable time. The state board of finance shall further take the appropriate steps necessary to comply with the federal Internal Revenue Code of 1986, as

amended. Proceeds from the sale of the bonds are appropriated for the purposes specified in this act.

B. The agencies named in this act shall certify to the state board of finance when the money from the proceeds of the severance tax bonds appropriated in this section is needed for the purposes specified in the applicable section of this act. If an agency has not certified the need for severance tax bond proceeds for a particular project by the end of fiscal year 2023, the authorization for that project is void.

C. Before an agency may certify for the need of severance tax bond proceeds, the project must be developed sufficiently so that the agency reasonably expects to:

(1) incur within six months after the applicable bond proceeds are available for the project a substantial binding obligation to a third party to expend at least five percent of the bond proceeds for the project; and

(2) spend at least eighty-five percent of the bond proceeds within three years after the applicable bond proceeds are available for the project.

D. Except as otherwise specifically provided by law:

(1) the unexpended balance from the proceeds of severance tax bonds appropriated in this act for a project shall revert to the severance tax bonding fund no later than the following dates:

(a) for a project for which severance tax bond proceeds were appropriated to match federal grants, six months after completion of the project;

(b) for a project for which severance tax bond proceeds were appropriated to purchase vehicles, including emergency vehicles and other vehicles that require special equipment; heavy equipment; books; educational technology; or other equipment or furniture that is not related to a more inclusive construction or renovation

project, at the end of the fiscal year two years following the fiscal year in which the severance tax bond proceeds were made available for the purchase; and

(c) for any other project for which severance tax bonds were appropriated, within six months of completion of the project, but no later than the end of fiscal year 2025; and

(2) all remaining balances from the proceeds of severance tax bonds appropriated for a project in this act shall revert to the severance tax bonding fund three months after the latest reversion date specified for that type of project in Paragraph (1) of this subsection.

E. Except for appropriations to the capital program fund, money from severance tax bond proceeds provided pursuant to this act shall not be used to pay indirect project costs.

F. Except for a project that was originally funded using a tax-exempt loan or bond issue, a project involving repayment of debt previously incurred shall be funded through the issuance of taxable severance tax bonds with a term that does not extend beyond the fiscal year in which they are issued.

G. Money that is appropriated from the proceeds of severance tax bonds pursuant to this act shall not be subject to a binding written agreement with a third party prior to the authorized state agency's approval to enter into that agreement.

H. For the purposes of this section, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses subject to a binding written agreement with a third party.

## Chapter 138 Section 2 Laws 2021

### SECTION 2. GENERAL FUND APPROPRIATIONS--LIMITATIONS--REVERSIONS.--

A. Except as otherwise specifically provided by law, the unexpended balance of an appropriation made in this act from the general fund shall revert:

(1) no later than September 30 following:

(a) the end of fiscal year 2022 if the project for which an appropriation was made has less than five percent of the project's total appropriation amount subject to a binding written agreement with a third party on that date;

(b) the end of fiscal year 2023 for a project for which an appropriation was made to purchase vehicles, including emergency vehicles and other vehicles that require special equipment; heavy equipment; books; educational technology; or other equipment or furniture that is not related to a more inclusive construction or renovation project; or

(c) the end of fiscal year 2025 for a project for which an appropriation was made related to an inclusive construction or renovation project; or

(2) within six months of completion of the project for any other project for which an appropriation was made, but no later than the end of fiscal year 2025.

B. Except for appropriations to the capital program fund, money from appropriations made in this act from the general fund shall not be used to pay indirect project costs.

C. Except as provided in Subsection D of this section, the balance of an appropriation made from the general fund shall revert in the time frame set forth in Subsection A of this section to the capital projects fund.

D. The balance of an appropriation made from the general fund to the Indian affairs department or the aging and long-term services department for a project located on lands of an Indian nation, tribe or pueblo shall revert in the time frame set forth in Subsection A of this section to the tribal infrastructure project fund.

E. For the purposes of this section, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses subject to a binding written agreement with a third party.

F. Money that is appropriated from the general fund pursuant to this act shall not be subject to a binding written agreement with a third party prior to the authorized state agency's approval to enter into that agreement.

## **Chapter 138 Section 3 Laws 2021**

### **SECTION 3. FUND APPROPRIATIONS OTHER THAN GENERAL FUND-- LIMITATIONS--REVERSIONS.--**

A. Except as otherwise specifically provided by law:

(1) the unexpended balance of an appropriation from a fund other than the general fund shall revert no later than the following dates:

(a) for a project for which an appropriation was made to match federal grants, six months after completion of the project;

(b) for a project for which an appropriation was made to purchase vehicles, including emergency vehicles and other vehicles that require special

equipment; heavy equipment; books; educational technology; or other equipment or furniture that is not related to a more inclusive construction or renovation project, at the end of the fiscal year two years following the fiscal year in which the appropriation was made for the purchase; and

(c) for any other project for which an appropriation was made, within six months of completion of the project, but no later than the end of fiscal year 2025; and

(2) all remaining balances from an appropriation made in this act for a project shall revert three months after the latest reversion date specified for that type of project in Paragraph (1) of this subsection.

B. Except for appropriations to the capital program fund, money from appropriations made from other state funds shall not be used to pay indirect project costs.

C. Except as otherwise provided in Subsection D of this section, the balance of an appropriation made from other state funds shall revert in the time frame set forth in Subsection A of this section to the originating fund.

D. The balance of an appropriation made from other state funds to the Indian affairs department or the aging and long-term services department for a project located on lands of an Indian nation, tribe or pueblo shall revert in the time frame set forth in Subsection A of this section to the tribal infrastructure project fund.

E. Money that is appropriated from a fund other than the general fund pursuant to this act shall not be subject to a binding written agreement with a third party prior to the authorized state agency's approval to enter into that agreement.

F. For the purposes of this section, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses subject to a binding written agreement with a third party.



## Chapter 138 Section 4 Laws 2021

SECTION 4. ADMINISTRATIVE OFFICE OF THE COURTS PROJECTS-- SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the administrative office of the courts that the need exists for the issuance of the bonds, the following amounts are appropriated to the administrative office of the courts for the following purposes:

1. nine hundred forty-one thousand eight hundred twenty-two dollars (\$941,822) to plan, design, construct, renovate, furnish and equip a new location for the magistrate court in Curry county;
2. one million five hundred twenty thousand nine dollars (\$1,520,009) to plan, design, construct, renovate, furnish and equip a new location for the magistrate court in Grant county;
3. one million four hundred thirty-four thousand three hundred ninety-six dollars (\$1,434,396) to plan, design, construct, renovate, furnish and equip a new location for the magistrate court in Guadalupe county;
4. fifty thousand dollars (\$50,000) to plan, design, construct, repair, improve and equip the Harding county courthouse in Mosquero in Harding county;
5. four hundred thirty thousand nine hundred sixty-six dollars (\$430,966) to plan, design, construct, renovate, furnish and equip a new location for the magistrate court in Otero county; and
6. four million dollars (\$4,000,000) to plan, design, construct, furnish and equip a new magistrate court building in Santa Fe county.

## Chapter 138 Section 5 Laws 2021

SECTION 5. AGING AND LONG-TERM SERVICES DEPARTMENT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the aging and long-term services department that the need exists for the issuance of the bonds, the following amounts are appropriated to the aging and long-term services department for the following purposes:

1. one hundred five thousand dollars (\$105,000) to plan, design, construct, renovate, upgrade, furnish and equip the Bear Canyon senior center in Albuquerque in Bernalillo county;
2. twenty-nine thousand six hundred seventy dollars (\$29,670) to purchase and equip vehicles for the Bear Canyon senior center in Albuquerque in Bernalillo county;
3. twenty-four thousand dollars (\$24,000) to purchase and install meals equipment and other equipment for the city of Albuquerque senior affairs nutrition and transportation program in Albuquerque in Bernalillo county;
4. two hundred sixty-six thousand nine hundred fifty dollars (\$266,950) to purchase and equip vehicles for the city of Albuquerque senior affairs nutrition and transportation program in Albuquerque in Bernalillo county;
5. seventy-nine thousand nine hundred ninety-eight dollars (\$79,998) for renovations to the Highland senior center in Albuquerque in Bernalillo county;
6. twenty-one thousand five hundred eighty-two dollars (\$21,582) to purchase and install meals equipment and other equipment for the Manzano Mesa multigenerational center in Albuquerque in Bernalillo county;

7. seventy-five thousand dollars (\$75,000) to purchase, replace and equip meal delivery vehicles for the senior centers in Quemado and Glenwood in Catron county;
8. twenty-five thousand dollars (\$25,000) to purchase, equip and install kitchen equipment for the senior centers in Reserve, Quemado and Glenwood in Catron county;
9. fifty-eight thousand five hundred dollars (\$58,500) to purchase and equip vehicles for the Eagle Nest senior center in Eagle Nest in Colfax county;
10. thirty-one thousand thirty-four dollars (\$31,034) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Friendship senior center in Clovis in Curry county;
11. one hundred thousand dollars (\$100,000) to plan, design, construct, improve, furnish and equip the Placitas community senior center in Dona Ana county;
12. one hundred twenty thousand dollars (\$120,000) for renovations to the Santa Clara senior center in Santa Clara in Grant county;
13. ninety-six thousand one hundred ninety-one dollars (\$96,191) for renovations to the Silver City senior center in Silver City in Grant county;
14. thirty thousand six hundred fifty-six dollars (\$30,656) to purchase and install meals equipment and other equipment for La Loma senior center in Anton Chico in Guadalupe county;
15. fifty-five thousand four hundred one dollars (\$55,401) to purchase and equip vehicles for La Loma senior center in Anton Chico in Guadalupe county;

16. fifty thousand three hundred sixty-five dollars (\$50,365) to purchase and equip vehicles for the Puerto de Luna senior center in Santa Rosa in Guadalupe county;
17. sixty-five thousand dollars (\$65,000) to purchase and equip vans for the Vaughn senior center in Vaughn in Guadalupe county;
18. one hundred twenty-one thousand five hundred ninety-seven dollars (\$121,597) to purchase and install meals equipment and other equipment for the Ena Mitchell senior center in Lordsburg in Hidalgo county;
19. two hundred thousand dollars (\$200,000) to plan, design, construct, furnish, equip and install improvements, including a roof replacement, at the Ena Mitchell senior center in Lordsburg in Hidalgo county;
20. seventy-three thousand five hundred dollars (\$73,500) for renovations to the Corona Zia senior center in Corona in Lincoln county;
21. thirteen thousand seven hundred dollars (\$13,700) to plan and design the Ruidoso Downs senior center in Ruidoso Downs in Lincoln county;
22. seventy-six thousand dollars (\$76,000) to purchase and equip vehicles for the Neighborhood senior center in Gallup in McKinley county;
23. one hundred fifty thousand dollars (\$150,000) to plan and design the Gallup regional senior center in Gallup in McKinley county;
24. seventy thousand dollars (\$70,000) to purchase and equip buses with accessibility features for the Mora senior center in Mora in Mora county;
25. twenty-five thousand sixty-three dollars (\$25,063) to purchase and install meals equipment and other equipment for the Alamogordo senior center in Alamogordo in Otero county;

26. fifty-eight thousand one hundred fourteen dollars (\$58,114) for renovations to the Tucumcari senior center in Tucumcari in Quay county;

27. forty-seven thousand five hundred dollars (\$47,500) to purchase and equip vehicles for the Chama senior center in Chama in Rio Arriba county;

28. twenty-five thousand dollars (\$25,000) to plan, design, construct, renovate, purchase and install upgraded kitchen appliances for La Arboleda senior center in Chimayo in Rio Arriba county;

29. twenty thousand dollars (\$20,000) to plan, design and construct a parking lot, including paving, for the Coyote senior center in Coyote in Rio Arriba county;

30. one hundred seventeen thousand five hundred dollars (\$117,500) to purchase and equip vehicles for the Coyote senior center in Coyote in Rio Arriba county;

31. forty-seven thousand five hundred dollars (\$47,500) to purchase and equip vehicles for the Dixon senior center in Dixon in Rio Arriba county;

32. forty-seven thousand five hundred dollars (\$47,500) to purchase and equip vehicles for the El Rito senior center in El Rito in Rio Arriba county;

33. five hundred thousand dollars (\$500,000) to plan, design, construct and improve the interior and exterior of the Espanola senior center, including the purchase and installation of equipment, in Espanola in Rio Arriba county;

34. seventy thousand dollars (\$70,000) to purchase and equip vehicles for the Espanola senior center in Espanola in Rio Arriba county;

35. forty-seven thousand five hundred dollars (\$47,500) to purchase and equip vehicles for the Tierra Amarilla senior center in Tierra Amarilla in Rio Arriba county;

36. forty-seven thousand five hundred dollars (\$47,500) to purchase and equip vehicles for the Truchas senior center in Truchas in Rio Arriba county;
37. fifty-three thousand dollars (\$53,000) to purchase and equip vehicles for the Portales community service center in Portales in Roosevelt county;
38. twenty-five thousand five hundred dollars (\$25,500) for renovations to the Bloomfield senior center in Bloomfield in San Juan county;
39. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, equip and furnish a senior center, including infrastructure, for the Gadii'ahi/Tokoi chapter of the Navajo Nation in San Juan county;
40. one hundred thousand dollars (\$100,000) to plan, design, construct, repair, equip and install improvements to the Shiprock senior center parking lot in the Shiprock chapter of the Navajo Nation in San Juan county;
41. fifty thousand dollars (\$50,000) to purchase and equip vehicles for the Jemez senior center in Sandoval county;
42. sixty-four thousand four hundred fifty dollars (\$64,450) to purchase and equip vehicles for the Bernalillo senior center in Bernalillo in Sandoval county;
43. one hundred seventy-five thousand dollars (\$175,000) to plan, design and construct improvements to a senior center, including lighting, parking, entry, garage, patio, bathrooms, kitchen and roof repair and replacement, and to purchase and equip vehicles for the senior center in the Pueblo of Cochiti in Sandoval county;
44. forty-six thousand three hundred seventy-one dollars (\$46,371) to purchase and equip vehicles for the Cuba senior center in Cuba in Sandoval county;
45. forty-one thousand six hundred seventy-six dollars (\$41,676) to purchase and equip vehicles for the Pena Blanca senior center in Sandoval county;

46. three hundred thousand dollars (\$300,000) to plan and design the Placitas senior center in Sandoval county;

47. seventeen thousand six hundred forty-five dollars (\$17,645) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Meadowlark senior center in Rio Rancho in Sandoval county;

48. forty-one thousand seven hundred dollars (\$41,700) to purchase and equip vehicles for the Rio Rancho meal site in Rio Rancho in Sandoval county;

49. three hundred seventy-five thousand dollars (\$375,000) to plan, design, construct, furnish and equip facility improvements to the Nambe Pueblo senior center in the Pueblo of Nambe in Santa Fe county;

50. one hundred thirty-seven thousand dollars (\$137,000) to plan, design, construct, upgrade and equip the Abedon Lopez senior center in Santa Cruz in Santa Fe county;

51. forty-seven thousand dollars (\$47,000) to purchase and equip a home-delivered meal vehicle for the Ken James senior center in Truth or Consequences in Sierra county;

52. seventy-six thousand dollars (\$76,000) for renovations to the Ken James senior center in Truth or Consequences in Sierra county;

53. fifty-eight thousand four hundred thirteen dollars (\$58,413) to purchase and equip vehicles for the Ken James senior center in Truth or Consequences in Sierra county;

54. seventy-six thousand dollars (\$76,000) to plan, design, construct, purchase, replace, equip and install heating, ventilation and air conditioning units and

related equipment for the Ken James senior center in Truth or Consequences in Sierra county;

55. one hundred twenty-seven thousand five hundred dollars (\$127,500) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Magdalena senior center in Magdalena in Socorro county;

56. eighty-nine thousand dollars (\$89,000) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Veguita senior center in Veguita in Socorro county;

57. sixty thousand five hundred dollars (\$60,500) for renovations to the Moriarty senior center in Moriarty in Torrance county;

58. one hundred seventy-six thousand dollars (\$176,000) to plan, design, construct, equip and furnish the Mountainair senior center in Mountainair in Torrance county; and

59. one hundred thousand dollars (\$100,000) to purchase and equip vehicles for the Belen senior center in Belen in Valencia county.

## **Chapter 138 Section 6 Laws 2021**

SECTION 6. BERNALILLO COUNTY METROPOLITAN COURT PROJECT-- SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the Bernalillo county metropolitan court that the need exists for the issuance of the bonds, two hundred seventy-six thousand five hundred dollars (\$276,500) is appropriated to the Bernalillo county metropolitan court to plan, design, purchase, equip and install improvements, including a parking operating system and a courtroom security system, at the Bernalillo county metropolitan court in Bernalillo county.



## **Chapter 138 Section 7 Laws 2021**

SECTION 7. COMMISSION FOR THE BLIND PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the commission for the blind that the need exists for the issuance of the bonds, sixty-two thousand five hundred forty-three dollars (\$62,543) is appropriated to the commission for the blind to plan, design, construct, renovate, repair, furnish and equip facilities for the commission for the blind in Otero and Bernalillo counties.

## **Chapter 138 Section 8 Laws 2021**

SECTION 8. BORDER AUTHORITY PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the border authority that the need exists for the issuance of the bonds, the following amounts are appropriated to the border authority for the following purposes:

1. six hundred fifty-one thousand dollars (\$651,000) to plan, design and construct a parking facility on property adjacent to the New Mexico border authority in Santa Teresa in Dona Ana county; and

2. four hundred eighteen thousand dollars (\$418,000) to plan, design and construct wastewater system improvements, including a new pond, at the port of entry in Columbus in Luna county.

## **Chapter 138 Section 9 Laws 2021**

SECTION 9. CAPITAL PROGRAM FUND PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the facilities management division of the general services department that the need exists for the issuance of the bonds, the following amounts are appropriated to the capital program fund for the following purposes:

1. four million seven hundred forty thousand four hundred fifty-five dollars (\$4,740,455) to plan, design, construct, improve, repair, renovate, furnish and equip the child wellness center in Albuquerque in Bernalillo county;
2. one million four hundred sixty-one thousand one hundred fifteen dollars (\$1,461,115) to plan, design, construct, renovate, remodel, furnish and equip improvements, including demolition and abatement of hazardous materials, to the workforce solutions department administration building in Albuquerque in Bernalillo county;
3. four hundred thousand dollars (\$400,000) to plan, design, construct, renovate, replace, equip, purchase and install infrastructure improvements, including interior service windows, heating, ventilation and air conditioning systems and other improvements, at the Albert Amador building in Espanola in Rio Arriba county;
4. one million five hundred thousand dollars (\$1,500,000) to plan, design, construct, renovate, furnish and equip facilities for the children, youth and families department at the public employees retirement association building in Santa Fe in Santa Fe county;
5. five million dollars (\$5,000,000) to plan, design, construct, furnish and equip a new crime laboratory in Santa Fe in Santa Fe county;
6. one million five hundred thousand dollars (\$1,500,000) to plan, design, construct, renovate, furnish and equip facilities for the early childhood education and care department at the public employees retirement association building in Santa Fe in Santa Fe county;
7. four million dollars (\$4,000,000) to plan, design, construct, renovate, remediate, furnish and equip state buildings located on the capitol campus to implement the Santa Fe master plan in Santa Fe in Santa Fe county;

8. four million dollars (\$4,000,000) to plan, design, construct, renovate and improve the John F. Simms building in Santa Fe in Santa Fe county;

9. ten million dollars (\$10,000,000) to plan, design, construct, renovate, purchase, install, furnish, equip and to make other infrastructure improvements at correctional facilities statewide;

10. two million eight hundred sixty-two thousand dollars (\$2,862,000) to plan, design, construct, improve, renovate, furnish and equip facilities for the children, youth and families department statewide;

11. ten million two hundred fifty thousand dollars (\$10,250,000) to plan, design, construct, renovate, remediate, furnish, equip, purchase and install infrastructure improvements, including information technology, utility vehicles and medical equipment, at department of health facilities statewide;

12. two million two hundred fifty thousand dollars (\$2,250,000) to plan, design, construct, renovate, furnish and equip infrastructure improvements at state police facilities statewide;

13. eight million dollars (\$8,000,000) to plan, design, construct, renovate, remediate, furnish and equip facilities at state-owned facilities statewide; and

14. one hundred seventy-five thousand dollars (\$175,000) to plan, design, repair and replace infrastructure at workforce solutions department offices statewide.

## **Chapter 138 Section 10 Laws 2021**

SECTION 10. CULTURAL AFFAIRS DEPARTMENT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the cultural affairs department that the need exists for the issuance of the bonds, the

following amounts are appropriated to the cultural affairs department for the following purposes:

1. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct improvements to exhibits and facilities, including repairs, for the national Hispanic cultural center in Albuquerque in Bernalillo county;
2. four hundred ninety-five thousand dollars (\$495,000) to plan, design, construct, repair and improve exhibits and facilities at the New Mexico museum of natural history and science in Albuquerque in Bernalillo county;
3. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, repair, equip and install improvements to the facilities and exhibits at the Bosque Redondo memorial at the Fort Sumner historic site in De Baca county;
4. two hundred thousand dollars (\$200,000) to plan, design, construct, repair, improve and equip the exhibits and facilities at the New Mexico farm and ranch heritage museum in Las Cruces in Dona Ana county;
5. two hundred thousand dollars (\$200,000) to plan, design, construct, repair, renovate, furnish, equip and install improvements to the exhibits and facilities at the Fort Selden historic site in Radium Springs in Dona Ana county;
6. one hundred sixty-five thousand dollars (\$165,000) to plan, design, construct, repair, equip and install improvements to facilities and exhibits at the Fort Stanton historic site in Fort Stanton in Lincoln county;
7. fifty thousand dollars (\$50,000) to plan, design, construct, repair, furnish, equip and install improvements to the facilities and exhibits at the Lincoln historic site in Lincoln in Lincoln county;

8. fifty thousand dollars (\$50,000) to plan, design, construct, repair, renovate, furnish, equip and install improvements to the exhibits and facilities at the Coronado historic site in Sandoval county;

9. forty thousand dollars (\$40,000) to plan, design, construct, repair and improve exhibits and facilities at the New Mexico history museum in Santa Fe in Santa Fe county;

10. ten thousand dollars (\$10,000) to plan, design, construct, repair and improve exhibits and facilities at the New Mexico museum of art in Santa Fe in Santa Fe county;

11. one hundred fifty thousand six hundred sixty-six dollars (\$150,666) to plan, design, construct, upgrade, equip and install outdoor bathrooms, walkways, entrances, parking lots, Braille signage and accessibility improvements on the property used by the Santa Fe children's museum in Santa Fe in Santa Fe county;

~~[12. one hundred ten thousand dollars (\$110,000) to plan, design, construct, repair, renovate, furnish and equip a facility for the preservation of Hispano art forms at the museum of Spanish colonial art in Santa Fe in Santa Fe county;]~~ and *LINE-ITEM VETO*

13. six million dollars (\$6,000,000) to plan, design, construct, improve, renovate, furnish and equip facilities and infrastructure, including fire suppression and mitigation, climate control, security systems and exhibits at museums, monuments and historic sites statewide.

## **Chapter 138 Section 11 Laws 2021**

SECTION 11. CUMBRES AND TOLTEC SCENIC RAILROAD COMMISSION PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the Cumbres and Toltec scenic railroad commission that the

need exists for the issuance of the bonds, one million one hundred thousand dollars (\$1,100,000) is appropriated to the Cumbres and Toltec scenic railroad commission for track rehabilitation and related infrastructure improvements, including locomotive and boiler upgrades to comply with federal railroad administration standards, and for improvements to passenger cars for the Cumbres and Toltec scenic railroad operating between New Mexico and Colorado.

### **Chapter 138 Section 12 Laws 2021**

SECTION 12. BOARD OF REGENTS OF NEW MEXICO SCHOOL FOR THE DEAF PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of New Mexico school for the deaf that the need exists for the issuance of the bonds, three million five hundred thousand dollars (\$3,500,000) is appropriated to the board of regents of New Mexico school for the deaf to plan, design, construct, renovate, furnish and equip facilities, including abatement, at the James A. Little theater building, central plant and associated site areas at the New Mexico school for the deaf in Santa Fe in Santa Fe county.

### **Chapter 138 Section 13 Laws 2021**

SECTION 13. FIRST JUDICIAL DISTRICT COURT PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the first judicial district court that the need exists for the issuance of the bonds, four hundred sixty-five thousand dollars (\$465,000) is appropriated to the first judicial district court to plan, design, purchase, equip and install improvements, including audiovisual upgrades and an electronic queue management system, at the first judicial district courts in Santa Fe, Rio Arriba and Los Alamos counties.

### **Chapter 138 Section 14 Laws 2021**

SECTION 14. THIRD JUDICIAL DISTRICT COURT PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by

the third judicial district court that the need exists for the issuance of the bonds, seventy-eight thousand eight hundred fifty-two dollars (\$78,852) is appropriated to the third judicial district court to plan, design, purchase, renovate, equip and install building improvements, including security equipment, at the third judicial district court in Dona Ana county.

### **Chapter 138 Section 15 Laws 2021**

SECTION 15. ELEVENTH JUDICIAL DISTRICT COURT PROJECT-- SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the eleventh judicial district court that the need exists for the issuance of the bonds, one hundred twenty-five thousand seven hundred thirty-seven dollars (\$125,737) is appropriated to the eleventh judicial district court to plan, design, purchase, equip and install improvements, including telecommunications upgrades, at the eleventh judicial district court in San Juan county.

### **Chapter 138 Section 16 Laws 2021**

SECTION 16. ECONOMIC DEVELOPMENT DEPARTMENT PROJECTS-- SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the economic development department that the need exists for the issuance of the bonds, the following amounts are appropriated to the economic development department for the following purposes:

1. twelve million five hundred thousand dollars (\$12,500,000) for economic development projects statewide pursuant to the Local Economic Development Act; and
2. two million five hundred thousand dollars (\$2,500,000) to plan, design, construct and improve infrastructure in downtown mainstreet districts and in local arts and cultural districts statewide.

## Chapter 138 Section 17 Laws 2021

SECTION 17. PUBLIC EDUCATION DEPARTMENT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the public education department that the need exists for the issuance of the bonds, the following amounts are appropriated to the public education department for the following purposes:

1. seventy-five thousand dollars (\$75,000) to plan, design, construct, renovate, furnish and equip buildings and grounds, including the purchase and installation of educational technology, information technology, security system upgrades, fencing, wiring, infrastructure and related equipment at the Media Arts collaborative charter school in Albuquerque in Bernalillo county;
2. two hundred twenty-eight thousand two hundred dollars (\$228,200) to plan, design, construct, renovate, furnish and equip buildings and grounds, including the purchase and installation of solar energy systems, educational technology and related equipment, fencing, information technology, wiring and infrastructure, at the Twenty-First Century public academy in Albuquerque in Bernalillo county;
3. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and equip science, technology, engineering and mathematics education laboratories at ACES technical charter school in Albuquerque in Bernalillo county;
4. thirty-five thousand dollars (\$35,000) to plan, design, construct, renovate, furnish and equip buildings and grounds, including the purchase of outdoor learning space and educational technology and the installation of related equipment, fencing, information technology and security infrastructure, at Albuquerque Collegiate charter school in Albuquerque in Bernalillo county;
5. one hundred twenty-one thousand dollars (\$121,000) to plan, design, construct, renovate, furnish and equip buildings and grounds, including fencing,



information technology and security infrastructure, and to purchase and install educational technology, including related equipment, furniture and infrastructure, at Albuquerque School of Excellence charter school in Albuquerque in Bernalillo county;

6. ten thousand dollars (\$10,000) to purchase and equip activity vans and vehicles for the Albuquerque sign language academy charter school in Albuquerque in Bernalillo county;

7. sixty-five thousand dollars (\$65,000) to plan, design, construct, renovate, furnish and equip buildings, grounds and outdoor learning spaces, including fencing, security systems and the purchase of information technology and related equipment and infrastructure, at the Altura preparatory school in Albuquerque in Bernalillo county;

8. two hundred thousand dollars (\$200,000) to plan, design, construct, renovate, furnish and equip buildings and grounds, including the purchase and installation of educational and information technology, indoor and outdoor learning spaces, fencing, wiring, infrastructure and related equipment, at Cesar Chavez community charter school in Albuquerque in Bernalillo county;

9. twenty thousand two hundred fifty dollars (\$20,250) to plan, design, construct, renovate, furnish and equip buildings and grounds, including the purchase and installation of water fountains with filling stations, security system upgrades and equipment, fencing, wiring and infrastructure, at Coral Community charter school in Albuquerque in Bernalillo county;

10. thirty-five thousand dollars (\$35,000) to plan, design, construct, renovate, furnish and equip buildings and grounds, including installation of the final phase of a roofing project and the installation of related equipment, fencing, security infrastructure and information technology, including related equipment, furnishings and infrastructure, at Cottonwood Classical preparatory school in Albuquerque in Bernalillo county;

11. one hundred twenty-seven thousand five hundred dollars (\$127,500) to plan, design, construct, renovate, furnish and equip buildings and grounds, including

installation of a science laboratory and related equipment, fencing, information technology and security infrastructure, at El Camino Real academy charter school in Albuquerque in Bernalillo county;

12. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate, furnish and equip buildings and grounds, including the installation of outdoor coronavirus-disease-2019-safe learning spaces and related equipment, fencing, information technology and security infrastructure, at Los Puentes charter school in Albuquerque in Bernalillo county;

13. one hundred sixty-two thousand five hundred dollars (\$162,500) to plan, design, construct, renovate, furnish and equip buildings and grounds, including the purchase of educational technology, installation of related equipment, fencing, information technology and security infrastructure, at Mark Armijo academy charter school in Albuquerque in Bernalillo county;

14. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct, renovate, furnish and equip buildings and grounds, including the purchase and installation of playground equipment, security systems upgrades, fencing, lighting, information technology, wiring, infrastructure and related equipment, at the Mission Achievement and Success charter school in Albuquerque in Bernalillo county;

15. thirty-five thousand dollars (\$35,000) to plan, design, construct, renovate, furnish and equip buildings and grounds, including the purchase and installation of water fountains with fill stations, intercom systems, fencing, wiring, security infrastructure and related equipment, at the Montessori elementary and middle school in Albuquerque in Bernalillo county;

16. one hundred five thousand dollars (\$105,000) to acquire land and to plan, design, construct, purchase, renovate and furnish buildings at South Valley preparatory school in Albuquerque in Bernalillo county;

17. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate, furnish, purchase and equip buildings and grounds, including the purchase and installation of security systems, fencing, information technology, wiring, security infrastructure and related equipment, at the Southwest Aeronautics, Mathematics and Science academy in Albuquerque in Bernalillo county;

18. thirty-two thousand dollars (\$32,000) to plan, design, construct, renovate, furnish and equip infrastructure and buildings and grounds, including a safe outdoor learning space, and to purchase and install related equipment, security fencing and information technology at the Solare Collegiate charter school in Albuquerque in Bernalillo county;

19. one hundred seventy-five thousand five hundred dollars (\$175,500) to plan, design, construct, furnish and equip Tierra Adentro charter school, including the installation of intelligent wall systems with integrated technology, in Albuquerque in Bernalillo county;

20. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate, furnish and equip buildings and grounds, including installation of a demonstration solar system, educational technology, including related equipment, furnishings and infrastructure, and related equipment, fencing, information technology and security infrastructure, at ACE Leadership high school in the Albuquerque public school district in Bernalillo county;

21. one hundred twenty-six thousand dollars (\$126,000) to plan, design, construct, purchase, equip and furnish outdoor benches and shade structures at Adobe Acres elementary school in the Albuquerque public school district in Bernalillo county;

22. forty-six thousand dollars (\$46,000) to plan, design, construct, purchase and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment for Alameda elementary school in the Albuquerque public school district in Bernalillo county;

23. fifty-five thousand dollars (\$55,000) to plan, design, construct, improve and renovate buildings and grounds, including the purchase and installation of a marquee, exterior lighting, electrical systems and related equipment, at Alamosa elementary school in the Albuquerque public school district in Bernalillo county;
24. sixty-six thousand dollars (\$66,000) to plan, design, construct, purchase and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment for Alamosa elementary school in the Albuquerque public school district in Bernalillo county;
25. eighty-five thousand dollars (\$85,000) to plan, design, purchase and install indoor air quality systems for Albuquerque high school in the Albuquerque public school district in Bernalillo county;
26. one hundred thirty-seven thousand five hundred dollars (\$137,500) to plan, design, construct, repair and improve buildings and parking lots at Alice King community school in the Albuquerque public school district in Bernalillo county;
27. forty-one thousand dollars (\$41,000) to plan, design, construct, purchase and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment for Alvarado elementary school in the Albuquerque public school district in Bernalillo county;
28. sixty-three thousand dollars (\$63,000) to acquire, plan, design, purchase, build, equip, furnish and install fixtures, furniture, window coverings and related equipment for classrooms at Apache elementary school in the Albuquerque public school district in Bernalillo county;
29. seventy-six thousand dollars (\$76,000) to plan, design, construct, purchase and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment at Armijo elementary school in the Albuquerque public school district in Bernalillo county;

30. ninety thousand dollars (\$90,000) to acquire, plan, design, purchase and install indoor air quality systems at Atrisco elementary school in the Albuquerque public school district in Bernalillo county;

31. one hundred thousand five hundred dollars (\$100,500) to plan, design, construct, purchase and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment at Atrisco Heritage academy high school in the Albuquerque public school district in Bernalillo county;

32. ninety thousand dollars (\$90,000) to plan, design, purchase and install indoor air quality systems at Bandelier elementary school in the Albuquerque public school district in Bernalillo county;

33. one hundred thirty-nine thousand dollars (\$139,000) to plan, design, purchase, build, equip, furnish and install fixtures, furniture, window coverings and related equipment for classrooms at Barcelona elementary school in the Albuquerque public school district in Bernalillo county;

34. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, equip and furnish outdoor benches and shade structures at Bel-Air elementary school in the Albuquerque public school district in Bernalillo county;

35. thirty thousand dollars (\$30,000) to plan, design, construct, purchase, equip and furnish outdoor benches and shade structures at Bellehaven elementary school in the Albuquerque public school district in Bernalillo county;

36. eighty-six thousand five hundred dollars (\$86,500) to plan, design, construct, purchase, equip and furnish outdoor benches and shade structures at Carlos Rey elementary school in the Albuquerque public school district in Bernalillo county;

37. twenty-one thousand six hundred dollars (\$21,600) to plan, design, construct, purchase and install refillable water stations and improvements to drinking

water systems, pipes, infrastructure and related equipment at Chamiza elementary school in the Albuquerque public school district in Bernalillo county;

38. seventy-nine thousand dollars (\$79,000) to plan, design, construct and renovate grounds and playgrounds, including the purchase and installation of related equipment, fencing, shade structures, turf, bleachers, drainage improvements and landscaping, at Chelwood elementary school in the Albuquerque public school district in Bernalillo county;

39. ten thousand dollars (\$10,000) to plan, design, construct, purchase and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment at Cibola high school in the Albuquerque public school district in Bernalillo county;

40. seventy-five thousand dollars (\$75,000) to plan, design, construct, renovate, furnish and equip buildings and grounds, including the purchase and installation of educational and information technology, security systems upgrades, fencing, wiring, infrastructure and related equipment, at the Cien Aguas international school in the Albuquerque public school district in Bernalillo county;

41. eighty thousand dollars (\$80,000) to plan, design, purchase and install indoor air quality systems at Cleveland middle school in the Albuquerque public school district in Bernalillo county;

42. eighty-seven thousand dollars (\$87,000) to plan, design, construct, equip, purchase, furnish and install infrastructure, buildings, equipment and landscaping for outdoor classrooms and community gardens at Cochiti elementary school in the Albuquerque public school district in Bernalillo county;

43. sixty-nine thousand dollars (\$69,000) to plan, design, construct, purchase, equip and furnish outdoor benches and shade structures at Corrales elementary school in the Albuquerque public school district in Bernalillo county;

44. thirty-six thousand dollars (\$36,000) to plan, design, construct, purchase and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment at Coyote Willow family school in the Albuquerque public school district in Bernalillo county;

45. eighty thousand six hundred dollars (\$80,600) to plan, design, construct, purchase and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment at Del Norte high school in the Albuquerque public school district in Bernalillo county;

46. forty-five thousand dollars (\$45,000) to acquire, plan, design, build, purchase, equip, furnish and install fixtures, furniture, window coverings and related classroom equipment at Dennis Chavez elementary school in the Albuquerque public school district in Bernalillo county;

47. twenty-five thousand dollars (\$25,000) to plan, design, construct, renovate, furnish and equip buildings and grounds, including the purchase and installation of coronavirus-disease-2019-safe water fountains with filling stations and related equipment, fencing, information technology and security infrastructure, at Digital Arts and Technology academy charter school in Albuquerque in Bernalillo county;

48. thirty-six thousand dollars (\$36,000) to plan, design, construct, purchase, equip and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment at Douglas MacArthur elementary school in the Albuquerque public school district in Bernalillo county;

49. eighty-three thousand dollars (\$83,000) to plan, design, construct, purchase, equip, furnish and install infrastructure, buildings and landscaping for outdoor classrooms and community gardens at Duranes elementary school in the Albuquerque public school district in Bernalillo county;

50. fifty-five thousand dollars (\$55,000) to plan, design, construct, purchase, equip, furnish and install infrastructure, buildings and landscaping for outdoor

classrooms and community gardens at East San Jose elementary school in the Albuquerque public school district in Bernalillo county;

51. ninety-four thousand dollars (\$94,000) to plan, design, construct, purchase, equip and furnish outdoor benches and shade structures at Edmund G. Ross elementary school in the Albuquerque public school district in Bernalillo county;

52. one hundred eighteen thousand five hundred dollars (\$118,500) to plan, design, construct, purchase, equip and furnish outdoor benches and shade structures at Edward Gonzales elementary school in the Albuquerque public school district in Bernalillo county;

53. twenty thousand dollars (\$20,000) to plan, design, construct, purchase and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment at Eisenhower middle school in the Albuquerque public school district in Bernalillo county;

54. eighty thousand dollars (\$80,000) to plan, design, purchase, construct and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment at Eldorado high school in the Albuquerque public school district in Bernalillo county;

55. fifty-seven thousand dollars (\$57,000) to plan, design, construct, purchase, equip and furnish outdoor benches and shade structures at Emerson elementary school in the Albuquerque public school district in Bernalillo county;

56. one hundred five thousand dollars (\$105,000) to acquire, plan, design, purchase and install indoor air quality systems at Ernie Pyle middle school in the Albuquerque public school district in Bernalillo county;

57. forty-six thousand five hundred dollars (\$46,500) to plan, design, construct, improve and renovate exterior buildings, including re-stuccoing, at Freedom high school in the Albuquerque public school district in Bernalillo county;



58. eighty thousand dollars (\$80,000) to acquire, plan, design, purchase and install indoor air quality systems at Garfield middle school in the Albuquerque public school district in Bernalillo county;

59. thirty-one thousand dollars (\$31,000) to plan, design, construct, purchase, equip and furnish outdoor benches and shade structures at George I. Sanchez collaborative community school in the Albuquerque public school district in Bernalillo county;

60. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, renovate, furnish and equip buildings and grounds, including the purchase and installation of educational technology, information technology, fencing, wiring, security infrastructure and related equipment, at Gilbert L. Sena charter high school in the Albuquerque public school district in Bernalillo county;

61. sixty-five thousand dollars (\$65,000) to plan, design, construct, purchase, install and equip solar panels and peripherals and an electric automobile charging station at Gordon Bernell charter school in the Albuquerque public school district in Bernalillo county;

62. sixty-four thousand six hundred dollars (\$64,600) to plan, design, construct and renovate the grounds and playgrounds, including the purchase and installation of related equipment, fencing, shade structures, turf, bleachers, drainage improvements and landscaping, at Governor Bent elementary school in the Albuquerque public school district in Bernalillo county;

63. fifty-five thousand dollars (\$55,000) to plan, design, purchase, construct and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment at Grant middle school in the Albuquerque public school district in Bernalillo county;

64. seventy-five thousand dollars (\$75,000) to plan, design, construct, purchase and install ceiling fans and air quality systems at Griegos elementary school in the Albuquerque public school district in Bernalillo county;

65. one hundred fifty-two thousand five hundred dollars (\$152,500) to plan, design, construct, purchase, equip and furnish outdoor benches and shade structures at Harrison middle school in the Albuquerque public school district in Bernalillo county;

66. eighty-two thousand dollars (\$82,000) to plan, design, construct, purchase, equip, furnish and install fixtures, furniture, window coverings and related equipment for classrooms at Hawthorne elementary school in the Albuquerque public school district in Bernalillo county;

67. thirty thousand dollars (\$30,000) to purchase and process print, nonprint and electronic library resources for libraries and book rooms at Hawthorne elementary school in the Albuquerque public school district in Bernalillo county;

68. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct, renovate, furnish and equip the buildings and grounds, including the purchase of educational technology and installation of related equipment, fencing, information technology and security infrastructure, at the Health Leadership high school in the Albuquerque public school district in Bernalillo county;

69. fifty thousand dollars (\$50,000) to plan, design, construct, equip and furnish infrastructure buildings and landscaping for an outdoor classroom and community gardens at Helen Cordero elementary school in the Albuquerque public school district in Bernalillo county;

70. one hundred twenty thousand dollars (\$120,000) to plan, design, construct, equip and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment at Highland high school in the Albuquerque public school district in Bernalillo county;

71. twenty-five thousand dollars (\$25,000) to plan, design, construct, furnish, equip and install outdoor benches and shade structures at Hodgkin elementary school in the Albuquerque public school district in Bernalillo county;

72. eighty thousand dollars (\$80,000) to plan, design, construct, furnish, equip and install outdoor benches and shade structures at Hoover middle school in the Albuquerque public school district in Bernalillo county;

73. fifty thousand dollars (\$50,000) to plan, design, purchase, construct and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment at Inez elementary school in the Albuquerque public school district in Bernalillo county;

74. seventy-five thousand dollars (\$75,000) to plan, design, construct, renovate, furnish and equip buildings and grounds, including the purchase and installation of educational technology, security systems and related equipment, security fencing, information technology and infrastructure, at the International school at Mesa del Sol charter school in the Albuquerque public school district in Bernalillo county;

75. thirty-five thousand dollars (\$35,000) to plan, design, construct, purchase, equip and install ceiling fans and air quality systems at Jackson middle school in the Albuquerque public school district in Bernalillo county;

76. eighty thousand dollars (\$80,000) to plan, design, purchase and install indoor air quality systems at James Monroe middle school in the Albuquerque public school district in Bernalillo county;

77. sixty-five thousand two hundred fifty dollars (\$65,250) to plan, design, purchase, construct and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment at Jefferson middle school in the Albuquerque public school district in Bernalillo county;

78. thirty-eight thousand dollars (\$38,000) to plan, design, construct, purchase, equip, furnish and install fixtures, furniture, window coverings and related equipment for classrooms at Jimmy Carter middle school in the Albuquerque public school district in Bernalillo county;

79. one hundred thousand two hundred dollars (\$100,200) to plan, design, construct, purchase, equip, furnish and install fixtures, furniture, window coverings and related equipment for classrooms at John Adams middle school in the Albuquerque public school district in Bernalillo county;

80. eighty thousand dollars (\$80,000) to plan, design, construct, purchase, equip and install ceiling fans and air quality systems at John Baker elementary school in the Albuquerque public school district in Bernalillo county;

~~[81. five thousand dollars (\$5,000) to plan, design, construct, purchase, equip and install ceiling fans and air quality systems at the juvenile detention center in the Albuquerque public school district in Bernalillo county;]~~ *LINE-ITEM VETO*

82. twenty thousand dollars (\$20,000) to plan, design, construct, equip and install improvements to the KANW educational radio station in the Albuquerque public school district in Bernalillo county;

83. twenty-three thousand two hundred dollars (\$23,200) to plan, design, construct, renovate and equip basketball courts, including fences, turf, bleachers, drainage improvements, landscaping and related equipment, at Kirtland elementary school in the Albuquerque public school district in Bernalillo county;

84. fifty-one thousand dollars (\$51,000) to plan, design, construct, purchase, equip and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment at Kit Carson elementary school in the Albuquerque public school district in Bernalillo county;

85. one hundred ten thousand dollars (\$110,000) to plan, design, construct, renovate, furnish and equip buildings and grounds, including the purchase and installation of educational technology for a makerspace program and related equipment, fencing, information technology and security infrastructure, at La Academia de Esperanza charter school in the Albuquerque public school district in Bernalillo county;

86. forty thousand dollars (\$40,000) to plan, design, construct, purchase, furnish, equip and install fixtures, furniture, window coverings and related equipment for classrooms at La Luz elementary school in the Albuquerque public school district in Bernalillo county;

87. thirty-six thousand dollars (\$36,000) to plan, design, construct, purchase, equip and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment at La Mesa elementary school in the Albuquerque public school district in Bernalillo county;

88. eighty thousand dollars (\$80,000) to plan, design, construct, purchase, furnish and equip infrastructure, buildings and landscaping for an outdoor classroom and equipment for community gardens at Lavaland elementary school in the Albuquerque public school district in Bernalillo county;

89. twenty-eight thousand five hundred dollars (\$28,500) to plan, design, construct, purchase, furnish and equip outdoor benches and shade structures at Lew Wallace elementary school in the Albuquerque public school district in Bernalillo county;

90. one hundred twenty-eight thousand dollars (\$128,000) to plan, design, construct, purchase, furnish, equip and install infrastructure, buildings and landscaping for an outdoor classroom and equipment for community gardens at Los Padillas elementary school in the Albuquerque public school district in Bernalillo county;

91. thirty-six thousand dollars (\$36,000) to plan, design, construct, purchase, equip and install refillable water stations and improvements to drinking water systems,

pipes, infrastructure and related equipment at Los Ranchos elementary school in the Albuquerque public school district in Bernalillo county;

92. forty-eight thousand dollars (\$48,000) to plan, design, construct, purchase, furnish, equip and install fixtures, furniture, window coverings and related equipment for classrooms at Lyndon B. Johnson middle school in the Albuquerque public school district in Bernalillo county;

93. eighty-seven thousand dollars (\$87,000) to plan, design, construct, purchase, equip, furnish and install fixtures, furniture, window coverings and related equipment for classrooms at Madison middle school in the Albuquerque public school district in Bernalillo county;

94. eighty-one thousand dollars (\$81,000) to plan, design, construct, purchase and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment at Manzano high school in the Albuquerque public school district in Bernalillo county;

95. thirty-six thousand dollars (\$36,000) to plan, design, construct, purchase and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment at Manzano Mesa elementary school in the Albuquerque public school district in Bernalillo county;

96. thirty-six thousand dollars (\$36,000) to plan, design, construct, purchase and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment at Marie M. Hughes elementary school in the Albuquerque public school district in Bernalillo county;

97. sixty-six thousand dollars (\$66,000) to plan, design, purchase and install ceiling fans and air quality systems at Mark Twain elementary school in the Albuquerque public school district in Bernalillo county;

98. thirty-three thousand dollars (\$33,000) to plan, design, purchase, build, equip, furnish and install fixtures, furniture, window coverings and related equipment for classrooms at Mary Ann Binford elementary school in the Albuquerque public school district in Bernalillo county;

99. thirty-five thousand dollars (\$35,000) to plan, design, purchase and install ceiling fans and air quality systems at Matheson Park elementary school in the Albuquerque public school district in Bernalillo county;

100. eighty thousand dollars (\$80,000) to plan, design, construct, purchase, install, renovate, equip and furnish improvements to gymnasium buildings and facilities, including gym floor upgrades, floor surfacing and related equipment and infrastructure, at McCollum elementary school in the Albuquerque public school district in Bernalillo county;

101. fifty thousand dollars (\$50,000) to plan, design, purchase, equip, furnish and install fixtures, furniture, window coverings and related equipment for classrooms at McKinley middle school in the Albuquerque public school district in Bernalillo county;

102. sixty-five thousand dollars (\$65,000) to plan, design, purchase, acquire, build, equip, furnish and install fixtures, furniture, window coverings and related equipment for classrooms at Mission Avenue elementary school in the Albuquerque public school district in Bernalillo county;

103. eighty thousand dollars (\$80,000) to plan, design, construct, purchase, furnish and equip infrastructure, buildings and landscaping for outdoor classrooms and equipment for community gardens at Monte Vista elementary school in the Albuquerque public school district in Bernalillo county;

104. thirty thousand dollars (\$30,000) to plan, design, construct, purchase, furnish and equip outdoor benches and shade structures at Montezuma elementary school in the Albuquerque public school district in Bernalillo county;

105. thirty-nine thousand dollars (\$39,000) to plan, design, construct, purchase, furnish and equip outdoor benches and shade structures at Mountain View elementary school in the Albuquerque public school district in Bernalillo county;

106. one hundred sixty thousand dollars (\$160,000) to plan, design, construct, purchase, furnish, equip and install fixtures, furniture, window coverings and related equipment for classrooms at Navajo elementary school in the Albuquerque public school district in Bernalillo county;

107. thirty-seven thousand dollars (\$37,000) to plan, design, construct, purchase, furnish and equip outdoor benches and shade structures at New Futures high school in the Albuquerque public school district in Bernalillo county;

108. thirteen thousand two hundred dollars (\$13,200) to plan, design, construct, purchase, furnish, equip and install fixtures, furniture, window coverings and related equipment for classrooms at Nex+Gen academy high school in the Albuquerque public school district in Bernalillo county;

109. three hundred eighty thousand dollars (\$380,000) to plan, design, construct, replace and renovate the roof, including skylights and other roof penetrations, at the New Mexico international school in the Albuquerque public school district in Bernalillo county;

110. seventy-nine thousand dollars (\$79,000) to plan, design, construct, equip and renovate the grounds and playgrounds, including the purchase and installation of fencing, shade structures, turf, bleachers, drainage improvements, landscaping and related equipment, at Ocate elementary school in the Albuquerque public school district in Bernalillo county;

111. twenty-five thousand dollars (\$25,000) to plan, design, construct, purchase, furnish, equip and install infrastructure, buildings and landscaping for an outdoor classroom and for community gardens at Osuna elementary school in the Albuquerque public school district in Bernalillo county;



112. thirty-six thousand dollars (\$36,000) to plan, design, construct, purchase, equip and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment at Painted Sky elementary school in the Albuquerque public school district in Bernalillo county;

113. one hundred thirteen thousand seven hundred fifty dollars (\$113,750) to plan, design, construct, purchase, equip and furnish infrastructure, buildings and landscaping for an outdoor classroom and equipment for community gardens at Pajarito elementary school in the Albuquerque public school district in Bernalillo county;

114. eighty thousand dollars (\$80,000) to plan, design, construct, purchase, equip and install ceiling fans and air quality systems at Petroglyph elementary school in the Albuquerque public school district in Bernalillo county;

115. forty thousand dollars (\$40,000) to plan, design, construct, purchase, equip and furnish infrastructure, buildings and landscaping for outdoor classrooms and equipment for community gardens at Polk middle school in the Albuquerque public school district in Bernalillo county;

116. one hundred ninety-one thousand dollars (\$191,000) to plan, design, construct, purchase, equip and furnish outdoor benches and shade structures at Rio Grande high school in the Albuquerque public school district in Bernalillo county;

117. two hundred five thousand dollars (\$205,000) to plan, design, construct, renovate, furnish and equip buildings and grounds, including educational and information technology, related furnishings, equipment and infrastructure, the purchase and installation of security system equipment, fencing, wiring and infrastructure, at Robert F. Kennedy charter school in the Albuquerque public school district in Bernalillo county;

118. one hundred ten thousand dollars (\$110,000) to plan, design, construct, purchase and install refillable water stations and improvements to drinking water

systems, pipes, infrastructure and related equipment at Rudolfo Anaya elementary school in the Albuquerque public school district in Bernalillo county;

119. sixteen thousand dollars (\$16,000) to plan, design, purchase, construct and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment at Sandia Base elementary school in the Albuquerque public school district in Bernalillo county;

120. thirty-two thousand dollars (\$32,000) to plan, design, construct, purchase, equip and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment at Sandia high school in the Albuquerque public school district in Bernalillo county;

121. sixty thousand dollars (\$60,000) to plan, design, construct, equip, install and furnish infrastructure, buildings, antennas and landscaping related to outdoor classrooms and community gardens at Sandia Mountain natural history center in the Albuquerque public school district in Bernalillo county;

122. twenty thousand dollars (\$20,000) to plan, design, construct and renovate the grounds and playgrounds, including the purchase and installation of related equipment, fencing, shade structures, turf, bleachers, drainage improvements and landscaping, at Seven Bar elementary school in the Albuquerque public school district in Bernalillo county;

123. eighty-eight thousand eight hundred dollars (\$88,800) to plan, design, construct, purchase, equip and furnish outdoor benches and shade structures at Sierra Vista elementary school in the Albuquerque public school district in Bernalillo county;

124. forty thousand dollars (\$40,000) to plan, design, construct, purchase and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment at Sombra Del Monte elementary school in the Albuquerque public school district in Bernalillo county;

125. three hundred sixteen thousand dollars (\$316,000) to plan, design, construct, renovate, furnish and equip buildings and grounds, including the purchase and installation of heating, ventilation and air conditioning systems and related equipment, fencing, information technology and security infrastructure, at South Valley academy charter school in the Albuquerque public school district in Bernalillo county;

126. ninety-eight thousand dollars (\$98,000) to plan, design, construct, purchase, equip and furnish outdoor benches and shade structures at Susie R. Marmon elementary school in the Albuquerque public school district in Bernalillo county;

127. fifty-two thousand dollars (\$52,000) to plan, design, construct, renovate, furnish and equip buildings and grounds, including the purchase and upgrade of a laboratory and installation of related equipment, fencing, information technology, wiring and security infrastructure, at the Southwest secondary learning center in Albuquerque in Bernalillo county;

128. fifty-two thousand four hundred dollars (\$52,400) to plan, design, construct, purchase and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment for Taft middle school in the Albuquerque public school district in Bernalillo county;

129. eighty-one thousand dollars (\$81,000) to plan, design, construct, purchase and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment at Taylor middle school in the Albuquerque public school district in Bernalillo county;

130. eighty thousand dollars (\$80,000) to plan, design, construct, renovate, furnish and equip buildings and grounds, including the purchase and installation of educational technology, including related equipment, furnishings and infrastructure, and security systems upgrades and related equipment, fencing, information technology and infrastructure, at Technology Leadership high school charter school in the Albuquerque public school district in Bernalillo county;

131. one hundred thirty-five thousand six hundred dollars (\$135,600) to plan, design, construct, purchase, equip, install and upgrade security systems, including fencing, entryways, cameras, access cards and alarm upgrades, at Tierra Antigua elementary school in the Albuquerque public school district in Bernalillo county;

132. thirty-six thousand dollars (\$36,000) to plan, design, construct, purchase and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment at Tomasita elementary school in the Albuquerque public school district in Bernalillo county;

133. fifty-four thousand dollars (\$54,000) to plan, design, construct, purchase and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment at Tony Hillerman middle school in the Albuquerque public school district in Bernalillo county;

134. seventy-seven thousand dollars (\$77,000) to plan, design, construct, purchase, furnish and equip infrastructure, buildings and landscaping, including outdoor classrooms and community gardens, at Tres Volcanes community collaborative K-8 school in the Albuquerque public school district in Bernalillo county;

135. one hundred thousand dollars (\$100,000) to plan, design, purchase and install ceiling fans and air quality systems at Truman middle school in the Albuquerque public school district in Bernalillo county;

136. sixty-five thousand five hundred dollars (\$65,500) to plan, design, purchase, build, equip, furnish and install fixtures, furniture, window coverings and related equipment for classrooms at Valley high school in the Albuquerque public school district in Bernalillo county;

137. eighty thousand dollars (\$80,000) to acquire, plan, design, purchase and install ceiling fans and air quality systems at Ventana Ranch elementary school in the Albuquerque public school district in Bernalillo county;

138. eighty thousand dollars (\$80,000) to acquire, plan, design, purchase and install ceiling fans and air quality systems for Volcano Vista high school in the Albuquerque public school district in Bernalillo county;

139. one hundred forty-one thousand dollars (\$141,000) to plan, design, purchase and install indoor air quality systems at West Mesa high school in the Albuquerque public school district in Bernalillo county;

140. twenty-two thousand five hundred dollars (\$22,500) to plan, design, construct, purchase, equip and furnish outdoor benches and shade structures for Wherry elementary school in the Albuquerque public school district in Bernalillo county;

141. thirty-three thousand dollars (\$33,000) to plan, design, construct, purchase, install and renovate grounds and playgrounds, including fencing, shade structures, turf, bleachers, drainage improvements, landscaping and related equipment, at Whittier elementary school in the Albuquerque public school district in Bernalillo county;

142. ninety-four thousand dollars (\$94,000) to acquire, plan, design, purchase and install ceiling fans and air quality systems at Wilson middle school in the Albuquerque public school district in Bernalillo county;

143. one hundred five thousand dollars (\$105,000) to plan, design, construct, purchase, install and renovate grounds, playgrounds, fencing, shade structures, turf, bleachers, drainage improvements, landscaping and related equipment for students with disabilities at Zia elementary school in the Albuquerque public school district in Bernalillo county;

144. fifty thousand dollars (\$50,000) to plan, design, construct, purchase and install refillable water stations and improvements to drinking water systems, pipes, infrastructure and related equipment at Zuni elementary school in the Albuquerque public school district in Bernalillo county;

145. one hundred thousand dollars (\$100,000) to purchase, equip and install backup generators for the Reserve independent school district in Catron county;

146. one hundred thousand dollars (\$100,000) to upgrade and repair cooling systems and roofs and to construct a safety corridor from class areas to the cafeteria at the Lake Arthur municipal school district building in Chaves county;

147. seventy-five thousand dollars (\$75,000) to plan, design, construct and install a building security system, including cameras, at the Lake Arthur municipal school district building in Chaves county;

148. two hundred thousand dollars (\$200,000) to plan, design, construct, equip and install improvements, including perimeter fencing, electronic gates and electrical systems and programming, at the Lake Arthur municipal school district building in Chaves county;

149. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to heating, ventilation and air conditioning systems for the Grady municipal school district in Curry county;

150. sixty thousand dollars (\$60,000) to plan, design, construct, renovate, furnish and equip buildings and grounds, including the purchase and installation of educational technology and equipment, fencing, information technology and security infrastructure, at New America charter school in Las Cruces in Dona Ana county;

151. three hundred thousand dollars (\$300,000) to plan, design, construct and install improvements to wood shops, including electrical systems, lighting, heating, ventilation and air conditioning, plumbing and remodeling space, at Organ Mountain high school in Las Cruces in Dona Ana county;

152. two hundred thousand dollars (\$200,000) to purchase and install equipment, including educational technology, furniture and infrastructure, for media

programs at elementary, middle and high schools in the Las Cruces public school district in Dona Ana county;

153. one hundred sixty thousand dollars (\$160,000) to purchase and equip resources for the aerospace program, including flight simulators, wind tunnels and aircraft engine trainers, at Mayfield high school in the Las Cruces public school district in Dona Ana county;

154. three hundred thousand dollars (\$300,000) to plan, design, construct, renovate and equip a wood shop and classroom, including electrical systems, lighting, heating, ventilation and air conditioning systems, plumbing and remodeling space, at Mesa middle school in the Las Cruces public school district in Dona Ana county;

155. three hundred thousand dollars (\$300,000) to plan, design, construct and replace the gymnasium roof at Artesia high school in the Artesia public school district in Eddy county;

156. five hundred thousand dollars (\$500,000) to plan, design, construct, replace and renovate the roof and the heating, ventilation and air conditioning systems at Central elementary school in the Artesia public school district in Eddy county;

157. two hundred thousand dollars (\$200,000) to purchase, upgrade, improve, equip and install emergency communications and information technology equipment for the Cobre consolidated school district in Bayard in Grant county;

158. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, equip and furnish facility improvements for the Silver consolidated school district in Grant county;

159. one hundred fifty-two thousand eight hundred ten dollars (\$152,810) to purchase and equip activity buses for the Roy municipal school district in Harding county;

160. seventy-five thousand dollars (\$75,000) to purchase and install security card reader access system equipment, hardware and cabling to school and school office entrance doors in the Lovington municipal school district in Lea county;

161. one hundred eighty-two thousand dollars (\$182,000) to purchase and equip a passenger activity bus for the Hondo Valley public school district in Hondo in Lincoln county;

162. thirty-eight thousand dollars (\$38,000) to purchase and install technology, including audio, video and surveillance systems, for the Mora independent school district in Mora county;

163. seventy-five thousand dollars (\$75,000) to purchase, equip and install security monitoring systems for all district campuses in the Espanola public school district in Rio Arriba county;

164. one hundred thousand dollars (\$100,000) to purchase and equip vehicles for the Floyd municipal school district in Roosevelt county;

165. two hundred thousand dollars (\$200,000) to plan, design, construct and renovate existing space for a health center at Valley elementary and middle schools in the West Las Vegas public school district in San Miguel county;

166. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, renovate, furnish and equip buildings and grounds, including the purchase and installation of outdoor learning spaces, security system and information technology upgrades, fencing, wiring, infrastructure and related equipment at the ASK academy in Rio Rancho in Sandoval county;

167. one hundred fifty thousand dollars (\$150,000) to purchase, install and improve information technology, including related equipment, furnishings and infrastructure, for a robotics program in the Rio Rancho public school district in Sandoval county;



168. one million five hundred thousand dollars (\$1,500,000) to plan, design, construct, equip and furnish a cafeteria and multipurpose space, including a kitchen, and to purchase and install security fencing, security gates, landscaping and courtyard improvements at the New Mexico school for the arts in Santa Fe in Santa Fe county;

169. forty thousand dollars (\$40,000) to plan, design, construct, renovate, furnish and equip buildings and grounds, including the purchase of water bottle filling stations and touchless sinks, and installation of related equipment, fencing, information technology and security infrastructure, at Turquoise Trail charter school in Santa Fe in Santa Fe county;

170. fifty thousand dollars (\$50,000) to plan, design, construct, purchase, install and equip upgrades to information technology systems, including firewalls and infrastructure upgrades, at the B.F. Young and educational services center administrative buildings in the Santa Fe public school district in Santa Fe county;

171. two hundred thousand dollars (\$200,000) to purchase and install information technology and related equipment, furniture and infrastructure, including color printers, in classrooms for special needs autistic students statewide;

172. one hundred eighty thousand dollars (\$180,000) to purchase, equip and install school bus cameras for school districts statewide;

173. seventy-five thousand dollars (\$75,000) to plan, design, construct, repair, equip and install improvements to the buildings and grounds, including a multipurpose turf field and track repair, at the Mesa Vista campus in the Mesa Vista consolidated school district in Taos county;

174. one hundred thousand dollars (\$100,000) to plan, design, construct, furnish and equip facilities at the Red River Valley charter school in Red River in Taos county;

175. one hundred thousand dollars (\$100,000) to acquire a building and to plan, design, construct and expand Taos academy charter school, including career technical education and early college high school additions and landscaping, in Taos in Taos county;

176. two hundred fifty thousand dollars (\$250,000) to purchase, equip, install, improve and replace security infrastructure, including cameras, locks, lockdown systems, law enforcement and first responder emergency notification systems and related equipment, for the Taos municipal school district in Taos county; and

177. fifty thousand dollars (\$50,000) to purchase and install heating, ventilation and air conditioning equipment, including split air units, for classrooms in the Estancia municipal school district in Torrance county.

## **Chapter 138 Section 18 Laws 2021**

SECTION 18. ENERGY, MINERALS AND NATURAL RESOURCES  
DEPARTMENT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the energy, minerals and natural resources department that the need exists for the issuance of the bonds, the following amounts are appropriated to the energy, minerals and natural resources department for the following purposes:

1. two million dollars (\$2,000,000) to plug, remediate and reclaim abandoned oil and gas wells statewide; and

2. three million dollars (\$3,000,000) to plan, design and construct watershed restoration and community wildfire protection improvements, including forest thinning, statewide.

## **Chapter 138 Section 19 Laws 2021**

### **SECTION 19. STATE PARKS DIVISION OF THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT PROJECTS--SEVERANCE TAX BONDS.--**

Pursuant to the provisions of Section 1 of this act, upon certification by the state parks division of the energy, minerals and natural resources department that the need exists for the issuance of the bonds, the following amounts are appropriated to the state parks division of the energy, minerals and natural resources department for the following purposes:

1. twenty thousand dollars (\$20,000) to plan, design and construct improvements, including to park access, facilities and parking areas, at Rio Grande nature center state park in Bernalillo county;
2. twenty thousand dollars (\$20,000) to plan, design and construct improvements, including to park access, boat ramps, parking areas and campsites, at Bluewater Lake state park in Cibola county;
3. twenty thousand dollars (\$20,000) to plan, design and construct improvements, including to park access, boat ramps, parking areas and campsites, at Eagle Nest Lake state park in Colfax county;
4. six hundred thousand dollars (\$600,000) to plan, design and construct the decommissioning of sewer lagoons, including dewatering, sludge and lining removal, materials disposal and land restoration, in Eagle Nest in Colfax county;
5. five hundred twenty-five thousand dollars (\$525,000) to plan, design and construct improvements, including to park access, boat ramps, parking areas and campsites, at Navajo Lake state park in San Juan county;

6. seventy thousand dollars (\$70,000) to plan, design and construct improvements to park access, boat ramps, parking areas and campsites at Conchas Lake state park in San Miguel county;

7. twenty thousand dollars (\$20,000) to plan, design and construct improvements, including to park access, boat ramps, parking areas and campsites, at Fenton Lake state park in Sandoval county; and

8. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to park access, boat ramps, parking areas and campsites at Elephant Butte Lake state park in Sierra county.

## **Chapter 138 Section 20 Laws 2021**

SECTION 20. OFFICE OF THE STATE ENGINEER PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the office of the state engineer that the need exists for the issuance of the bonds, the following amounts are appropriated to the office of the state engineer for the following purposes:

1. fifty thousand dollars (\$50,000) to plan, design and construct repairs to Cimarroncito dam in Cimarron in Colfax county;

2. fifty thousand dollars (\$50,000) to plan and design a geohydrology study for Colfax county;

3. five hundred thousand dollars (\$500,000) to acquire easements and to plan, design, construct and replace the 4599 flume project in the Bloomfield irrigation district in San Juan county;

4. two million dollars (\$2,000,000) to plan, design, construct, repair and equip the raw water reservoir in Aztec in San Juan county;

5. five million dollars (\$5,000,000) to plan, design, construct, rehabilitate and make improvements to publicly owned dams statewide; and

6. two million one hundred thousand dollars (\$2,100,000) to purchase, construct, install, map and calibrate surface and ground water measurement structures, equipment and related software for administrative purposes and accountability statewide.

## **Chapter 138 Section 21 Laws 2021**

SECTION 21. DEPARTMENT OF ENVIRONMENT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the department of environment that the need exists for the issuance of the bonds, the following amounts are appropriated to the department of environment for the following purposes:

1. four hundred ten thousand dollars (\$410,000) to plan, design and construct a wastewater treatment and discharge system, including a treatment plant, irrigation and aquifer storage and recovery systems, on the west side of the Rio Grande in Bernalillo county;

2. seven hundred seventy thousand dollars (\$770,000) to plan, design and construct a ground water monitoring well for the Albuquerque-Bernalillo county water utility authority to monitor ethylene dibromide contamination in the area of Kirtland air force base in Bernalillo county;

3. one hundred fifty-five thousand dollars (\$155,000) to plan, design, construct and upgrade water and wastewater systems, including connecting homes to a public sanitary sewer system, in the Carnuel community and Tijeras watershed in Bernalillo county;

4. three hundred twenty-two thousand five hundred dollars (\$322,500) to plan, design and construct the realignment of the southside water reclamation plant effluent outfall to the Rio Grande for the Albuquerque-Bernalillo county water utility authority in Albuquerque in Bernalillo county;
5. five hundred thousand dollars (\$500,000) to plan, design and construct well 3 for Tijeras in Bernalillo county;
6. fifty thousand dollars (\$50,000) to plan, design, construct, purchase, equip and furnish improvements to wastewater treatment plants and effluent sewer systems for Reserve in Catron county;
7. four hundred thirty-nine thousand five hundred dollars (\$439,500) to plan, design and construct water system improvements in Lake Arthur in Chaves county;
8. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, repair and improve the wastewater system, including lagoons and sewer systems, in Lake Arthur in Chaves county;
9. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct, upgrade, furnish and equip a pump station at Coyote del Malpais golf course in Grants in Cibola county;
10. forty thousand dollars (\$40,000) to purchase, equip, replace and install water meters and valves in Milan in Cibola county;
11. fifty thousand dollars (\$50,000) to plan, design and construct water system improvements in Angel Fire in Colfax county;
12. fifty thousand dollars (\$50,000) to plan, design, construct and improve water and wastewater systems in Cimarron in Colfax county;

13. seven hundred forty-five thousand dollars (\$745,000) to plan, design, construct and furnish wastewater treatment plant upgrades, including replacement of wastewater lines from the plant into Cimarron, in Colfax county;
14. one hundred thousand dollars (\$100,000) to plan, design, construct and equip phase 4 of water system improvements, including environmental studies, in Eagle Nest in Colfax county;
15. one hundred forty thousand dollars (\$140,000) to plan, design, construct, furnish, equip and install emergency generators for the Eagle Nest well house in Eagle Nest in Colfax county;
16. seventy-five thousand dollars (\$75,000) to plan, design, construct, replace, install and equip sewer lagoon liners for the Maxwell wastewater system plant in Maxwell in Colfax county;
17. seventy thousand dollars (\$70,000) to plan, design, construct, replace, purchase and install a water storage tank for Maxwell in Colfax county;
18. fifty thousand dollars (\$50,000) to plan, design, construct, improve and furnish a water distribution system in Springer in Colfax county;
19. seventy thousand dollars (\$70,000) to plan, design, construct, improve and equip a wastewater treatment plant for Springer in Colfax county;
20. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, purchase, furnish and equip a wastewater treatment facility in Fort Sumner in De Baca county;
21. two hundred forty thousand dollars (\$240,000) to plan, design, construct, improve and repair wastewater treatment plants and collection systems in the Rincon and Salem service areas in Dona Ana county;

22. one hundred thousand dollars (\$100,000) to plan, design, construct, repair, improve and protect wastewater infrastructure, including manholes, sewer lines and flood control structures, for the Dona Ana mutual domestic water consumers association in the Picacho hills area of Dona Ana county;

23. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, install and equip a solar energy array, including security fencing, for La Union mutual domestic sewer and water association in Dona Ana county;

24. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct, purchase, equip and install water system improvements, including the extension of a waterline along Stern drive, for the lower Rio Grande public water works authority in Dona Ana county;

25. five hundred twenty-seven thousand dollars (\$527,000) to plan, design, construct, replace and equip improvements to septic systems in Las Cruces in Dona Ana county;

26. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, equip and install a supervisory control and data acquisition system in Mesilla in Dona Ana county;

27. one hundred thousand dollars (\$100,000) to plan and design an elevated water storage tank for the Camino Real regional utility authority in Santa Teresa in Dona Ana county;

28. one million four hundred thousand dollars (\$1,400,000) to plan, design, construct, improve, repair, replace and equip, including installation, the Bataan sanitary sewer lift station and force main in Carlsbad in Eddy county;

29. two million six hundred ninety-eight thousand four hundred one dollars (\$2,698,401) to plan, design, construct, equip and install a sewer line extension along



Old Cavern highway, including from Farris street to Chapman road, in Carlsbad in Eddy county;

30. six hundred thousand dollars (\$600,000) to plan, design and construct a waste expansion area at the Southwest solid waste authority landfill in Grant county;

31. one million dollars (\$1,000,000) to plan, design, construct and renovate water storage tanks, including lead abatement, in Bayard in Grant county;

32. eighty-six thousand dollars (\$86,000) to plan, design, construct and equip a water system in Hurley in Grant county;

33. twenty-five thousand dollars (\$25,000) to plan, design, construct and improve wastewater systems in Santa Clara in Grant county;

34. fifty thousand five hundred dollars (\$50,500) to plan, design, construct, improve and equip a water system, including an emergency back-up power supply at the booster pump station, for the Sangre de Cristo regional mutual domestic water consumers and mutual sewage works association in Guadalupe county;

35. fifty thousand dollars (\$50,000) to plan, design, construct, purchase, equip and install water system improvements, including water meters, in Vaughn in Guadalupe county;

36. two hundred forty thousand dollars (\$240,000) to plan, design, construct, improve and repair a water system, including an elevated water tank, for Mosquero in Harding county;

37. seventy thousand dollars (\$70,000) to plan, design, construct, repair and equip water system improvements, including water storage tanks, in Roy in Harding county;

38. five hundred fifty thousand dollars (\$550,000) to plan, design, construct, equip and furnish a desalination plant in Eunice in Lea county;

39. four hundred five thousand dollars (\$405,000) to acquire property, easements and rights of way and to plan, design, construct, purchase and equip a wastewater treatment plant in Jal in Lea county;

40. eight hundred seven thousand six hundred twenty-nine dollars (\$807,629) to plan, design, construct, improve and equip the water system, including water main and sewer line replacement, in the historic downtown area of Lovington in Lea county;

41. seventy thousand dollars (\$70,000) to plan, design, construct, purchase and equip a water tower in northwest Lovington in Lea county;

42. one hundred seventy-five thousand dollars (\$175,000) to purchase, plan, design, construct, improve, equip and install a lift station and controls for the wastewater treatment plant in Capitan in Lincoln county;

43. two hundred fifty thousand dollars (\$250,000) to purchase and install radio read meters and software for the Carrizozo municipal water system in Carrizozo in Lincoln county;

44. one million five hundred fifty-three thousand dollars (\$1,553,000) to plan, design, improve, repair, replace, construct and equip the sewer system in Ruidoso in Lincoln county;

45. sixty thousand dollars (\$60,000) to plan, design, construct, purchase, equip and install water and wastewater system improvements, including a pond aeration system, variable frequency drives for wastewater pumps and ball valves, electrical improvements, recoating of water tanks and water line replacement for reverse osmosis systems, for the White Cliffs mutual domestic water users association in McKinley county;

46. one million seven hundred seventy thousand dollars (\$1,770,000) to plan, design and construct infrastructure improvements, including water supply lines and well construction, for the Agua Pura mutual domestic water consumers association in Mora county;

47. fifty thousand dollars (\$50,000) to plan, design and construct water system improvements for the Buena Vista mutual domestic water consumer's and sewage works association in Mora county;

48. seventy thousand dollars (\$70,000) to purchase and install equipment, including radio read meters, for the operation, upkeep and maintenance of the water distribution system for the Guadalupita mutual domestic water consumers association in Mora county;

49. seventy-five thousand dollars (\$75,000) to plan, design, construct, equip and install water system improvements, including a meter building, waterlines and well equipment, for the Regina mutual domestic water consumers association in Rio Arriba and Sandoval counties;

50. one hundred thirty thousand dollars (\$130,000) to purchase property for a wastewater treatment plant for Cloudcroft in Otero county;

51. seventy-five thousand fifty dollars (\$75,050) to plan, design and construct improvements to distribution systems and to purchase and install equipment for upkeep and maintenance for the Alcalde mutual domestic water consumers' and mutual sewage works association in Rio Arriba county;

52. fifty thousand dollars (\$50,000) to plan, design, construct, improve and replace waterlines for the Canjilon mutual domestic water consumers' and mutual sewage works association in Rio Arriba county;

53. one hundred fifty-two thousand eight hundred fifty-eight dollars (\$152,858) to plan, design and construct phase 2 of a water storage tank replacement, including a

level control system and foundation, for La Madera mutual domestic water consumers association in Rio Arriba county;

54. twenty-five thousand dollars (\$25,000) to plan, design and construct a water storage tank for the Rio Chiquito mutual domestic water consumers' and mutual sewage works association in Rio Arriba county;

55. thirty thousand dollars (\$30,000) to plan, design, construct, purchase and install smart water meters and related information technology for the Truchas mutual domestic water consumers' association and mutual sewage works association in Rio Arriba county;

56. nine hundred thirty-six thousand three hundred dollars (\$936,300) to plan, design, construct and improve a water system, including storage tanks and water transmission lines, for the Abiquiu mutual domestic water consumers association and mutual sewage works association in Rio Arriba county;

57. nine hundred fifty thousand dollars (\$950,000) to plan, design and construct wastewater system improvements, including sewer line extensions, for Chama in Rio Arriba county;

58. eight hundred thousand dollars (\$800,000) to plan, design and construct water system improvements, including water line extensions, for Chama in Rio Arriba county;

59. fifty thousand dollars (\$50,000) to purchase, equip and install a power generator at a water treatment plant in Chama in Rio Arriba county;

60. three hundred thirty thousand dollars (\$330,000) to acquire land for and to plan, design, construct and improve water well fields for Portales in Roosevelt county;

61. two hundred thousand dollars (\$200,000) to acquire easements and to plan, design and construct a water system and a transmission line for Aztec in San Juan county;

62. nine hundred thousand dollars (\$900,000) to purchase land for and to plan, design, construct, purchase and install water storage tanks and related equipment, including concrete slabs and fencing, for the Navajo Dam domestic water consumers and mutual sewage works cooperative in San Juan county;

63. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to the water system for the Chapelle mutual domestic consumers association in San Miguel county;

64. fifty thousand dollars (\$50,000) to plan, design and construct water system improvements for El Creston mutual domestic water consumers association in San Miguel county;

65. twenty-five thousand dollars (\$25,000) to plan, design and improve water systems for the El Valle water alliance in San Miguel county;

66. forty-five thousand dollars (\$45,000) to plan, design, construct and improve the Lower Colonias area water system, including a water tank, for the El Valle water alliance in San Miguel county;

67. six hundred nineteen thousand two hundred dollars (\$619,200) to plan, design and construct water supply lines and well construction projects for the Pendaries village mutual domestic water consumers association in San Miguel county;

68. two hundred thousand dollars (\$200,000) for the removal of wastewater lagoons for Pecos in San Miguel county;

69. one hundred fifty thousand dollars (\$150,000) to plan, design, replace and construct water lines, including the main water line, for the Jemez Springs domestic water association in Sandoval county;

70. two hundred twenty thousand dollars (\$220,000) to plan, design and construct water system improvements for La Jara water users' association in Sandoval county;

71. one hundred thousand dollars (\$100,000) to plan, design and construct water system improvements, including waterlines, pressure-reducing valve stations and fire hydrants, for the Pena Blanca water and sanitation district in Sandoval county;

72. eighty thousand dollars (\$80,000) to plan, design, construct, purchase, equip and replace water lines and meters for the Ponderosa mutual domestic water consumers' association and sewage works association in Sandoval county;

73. one hundred fifty thousand dollars (\$150,000) to acquire property and to plan, design and construct a well, tank and office building for the Sile mutual domestic water consumers and sewage works association in Sandoval county;

74. four hundred five thousand dollars (\$405,000) to plan, design and construct a water quality facility for an industrial park for the southern Sandoval county arroyo flood control authority in Sandoval county;

75. three hundred thousand dollars (\$300,000) to plan, design, construct, purchase, equip and install a supervisory control and data acquisition system for wastewater facilities in Bernalillo in Sandoval county;

76. one hundred sixty-four thousand dollars (\$164,000) to plan, design and construct improvements to water, wastewater and sewer systems in Cuba in Sandoval county;

77. three hundred thousand dollars (\$300,000) to acquire water rights, including applications and transfers, and to plan, design and construct improvements to water distribution systems, including wells and waterline extensions, for the Agua Fria community water system association in Santa Fe county;

78. twenty-five thousand dollars (\$25,000) to plan, design and construct capital improvements for the Chupadero water-sewage corporation in Santa Fe in Santa Fe county;

79. five hundred thousand dollars (\$500,000) to plan, design and construct phase 1 water system improvements, including pipeline replacement, for the Eldorado area water and sanitation district in Santa Fe county;

80. thirty-five thousand dollars (\$35,000) to plan, design, construct, purchase, equip and install fire hydrants and meters related to a well for La Bajada community ditch and mutual domestic water association in Santa Fe county;

81. ten thousand dollars (\$10,000) to plan, design and construct waterlines, including tank connections, for La Bajada community ditch and mutual domestic water association in Santa Fe county;

82. six hundred seventy-five thousand dollars (\$675,000) to plan, design, construct and expand a sewer system in the Agua Fria area of Santa Fe county;

83. one hundred fifty thousand dollars (\$150,000) for a master plan and a preliminary engineering report to evaluate existing water infrastructure, to examine uses and impacts and to identify the best methods for increasing flows in La Cienega springs and traditional water sources for La Cienega in Santa Fe county;

84. twenty-five thousand dollars (\$25,000) to plan, design, construct and expand a bulk potable water station at the site of an existing bulk water station on New Mexico highway 14 in Santa Fe county;

85. nine hundred fifty thousand dollars (\$950,000) to plan, design, construct and equip a wastewater treatment plant for Edgewood in Santa Fe county;

86. three hundred thousand dollars (\$300,000) to plan, design and construct wastewater system improvements, including sewer services and a storm water plan, for vereda de Valencia in Santa Fe county;

87. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and improve the water system, including erosion control for a well house, for the Garfield mutual domestic water consumers' and mutual sewage works association in Sierra county;

88. five hundred fifty thousand dollars (\$550,000) to plan, design and construct water system improvements in Elephant Butte in Sierra county;

89. one million dollars (\$1,000,000) to plan, design, construct and improve Benjamin well, including a booster pump and water storage tank, in Magdalena in Socorro county;

90. one million five hundred thousand dollars (\$1,500,000) to plan, design and construct projects to improve surface water quality and river habitats statewide;

91. one hundred seventy thousand dollars (\$170,000) to plan, design, construct, purchase and equip improvements to a water system, including electrical lines, pressure relief lines and concrete pads at the well number 3 site and water distribution loop lines, for El Prado water and sanitation district in Taos county;

92. one hundred thousand dollars (\$100,000) to purchase sewer maintenance equipment, including vacuum trucks, for El Valle de los Ranchos water and sanitation district in Taos county;



93. forty-eight thousand five hundred ninety dollars (\$48,590) to plan, design and construct water system improvements for the Rio Lucio domestic water consumers' association in Taos county;

94. fifty thousand dollars (\$50,000) to plan, design and construct water system improvements, including waterline replacements along El Tros road, for the Talpa mutual domestic water consumers association in Taos county;

95. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, equip and install improvements, including a supervisory control and data acquisition system, automatic meter readers, water storage tank repairs, distribution lines and a global positioning system, for the Penasco mutual domestic water consumers' and mutual sewage works association in Taos county;

96. three hundred thousand dollars (\$300,000) to plan, design, construct and equip water system improvements for Red River in Taos county;

97. three hundred eighty-five thousand dollars (\$385,000) to plan, design, construct, equip and install a water booster station for a water tank for Taos Ski Valley in Taos county;

98. twenty-five thousand dollars (\$25,000) to plan, design, construct and equip water system improvements for Duran in Torrance county;

99. fifty thousand dollars (\$50,000) to plan, design, construct, purchase, equip and install an automated water meter reading system, including meters and meter reading equipment, in Estancia in Torrance county;

100. fifty thousand dollars (\$50,000) to plan, design and construct water system improvements, including repair and replacement of waterlines, in Estancia in Torrance county;

101. thirty-five thousand dollars (\$35,000) to plan, design, construct, purchase, equip and install wastewater system improvements in Estancia in Tarrant county;

102. two hundred thousand dollars (\$200,000) to plan, design and construct a wastewater treatment plant in Mountainair in Tarrant county;

103. two hundred twenty-five thousand dollars (\$225,000) to acquire land and water rights and to plan, design, construct, improve and equip water systems for the Loma Escondida water cooperative association in Valencia county;

104. eight hundred sixty thousand dollars (\$860,000) to plan, design, construct, replace and improve sewer lines along west Aragon road in Belen in Valencia county;

105. eight hundred fifty-nine thousand five hundred dollars (\$859,500) to plan, design, construct, equip and install improvements to the wastewater treatment system, including clarifier and sludge processing, for Bosque Farms in Valencia county; and

106. five hundred thousand dollars (\$500,000) to plan, design and construct a wastewater collection system in Peralta in Valencia county.

## **Chapter 138 Section 22 Laws 2021**

SECTION 22. STATE FAIR COMMISSION PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the state fair commission that the need exists for the issuance of the bonds, the following amounts are appropriated to the state fair commission for the following purposes:

1. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct, purchase and equip improvements, including information technology and furniture, for the African American performing arts center and exhibit hall at the state fairgrounds in Albuquerque in Bernalillo county;

2. three million dollars (\$3,000,000) to plan, design, construct, renovate, purchase and install electrical equipment and for site improvements at the New Mexico state fairgrounds in Albuquerque in Bernalillo county; and

3. seventy-five thousand dollars (\$75,000) to plan, design, construct and equip improvements to facilities and grounds at the state fairgrounds in Albuquerque in Bernalillo county.

## **Chapter 138 Section 23 Laws 2021**

SECTION 23. DEPARTMENT OF FINANCE AND ADMINISTRATION PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the department of finance and administration that the need exists for the issuance of the bonds, three million dollars (\$3,000,000) is appropriated to the department of finance and administration for the New Mexico mortgage finance authority to build or rehabilitate affordable housing statewide, pursuant to the provisions of the New Mexico housing trust fund and the Affordable Housing Act.

## **Chapter 138 Section 24 Laws 2021**

SECTION 24. DEPARTMENT OF GAME AND FISH PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the department of game and fish that the need exists for the issuance of the bonds, two hundred thousand dollars (\$200,000) is appropriated to the department of game and fish to plan, design, construct and equip improvements, including infrastructure and amenities, for the Jackson Lake wildlife area in San Juan county.

## **Chapter 138 Section 25 Laws 2021**

SECTION 25. INDIAN AFFAIRS DEPARTMENT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the Indian affairs department that the need exists for the issuance of the bonds, the

following amounts are appropriated to the Indian affairs department for the following purposes:

1. one hundred ninety-two thousand dollars (\$192,000) to plan, design and construct water system improvements, including a waterline to connect the Albuquerque system to the To'hajiilee chapter system, for the To'hajiilee chapter of the Navajo Nation in Bernalillo county;
2. seventy-five thousand dollars (\$75,000) to purchase, equip, install and replace existing elevators at the Indian pueblo cultural center in Albuquerque in Bernalillo county;
3. one hundred sixty-five thousand dollars (\$165,000) to acquire property for and to plan, design, construct, renovate, furnish and equip a makerspace at the Indian pueblo cultural center in Albuquerque in Bernalillo county;
4. one hundred sixty thousand dollars (\$160,000) to plan, design, construct and improve the westside wastewater treatment plant, including a sequencing batch reactor, in the Pueblo of Isleta in Bernalillo county;
5. fifteen thousand dollars (\$15,000) to plan, design, construct, furnish and equip a broadband network operations center for the Pueblo of Acoma in Cibola county;
6. one million eight hundred thousand dollars (\$1,800,000) to plan, design, construct, furnish and equip small business development facilities for the Pueblo of Acoma in Cibola county;
7. two hundred fifty thousand dollars (\$250,000) to plan, design and construct parking lots for the Pueblo of Acoma in Cibola county;
8. two million two hundred fifteen thousand dollars (\$2,215,000) to plan, design, construct, furnish and equip fire station number 1 at the Pueblo of Laguna in Cibola county;

9. two hundred thousand dollars (\$200,000) to acquire land, to conduct archaeological and environmental studies and to plan, design and construct a community and veterans' cemetery in the Ramah chapter of the Navajo Nation in Cibola county;

10. one hundred fifty thousand dollars (\$150,000) to purchase and equip vehicles for the Ramah chapter of the Navajo Nation in Cibola county;

11. three hundred thousand dollars (\$300,000) to plan, design, construct and extend powerlines and droplines in the Top Mesa and Hosta Butte areas of the Mariano Lake chapter of the Navajo Nation in McKinley county;

12. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, furnish and equip improvements to the chapter house of the Baahaali chapter of the Navajo Nation in McKinley county;

13. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct, furnish and equip residential bathroom additions in the Baca chapter of the Navajo Nation in McKinley county;

14. forty thousand dollars (\$40,000) to plan, design and construct a community cemetery, including land withdrawal, fences and a gravel access road, for the Casamero Lake chapter of the Navajo Nation in McKinley county;

15. fifty-seven thousand dollars (\$57,000) to plan, design and construct fencing for the chapter compound in the Chichiltah chapter of the Navajo Nation in McKinley county;

16. five hundred thousand dollars (\$500,000) to plan, design, construct, purchase and equip a warehouse, including the installation of utility hookups and office and bathroom facilities, for the Chichiltah chapter of the Navajo Nation in McKinley county;

17. one hundred thousand dollars (\$100,000) to plan, design and construct a wastewater system in the Chichiltah chapter of the Navajo Nation in McKinley county;

18. one hundred thousand dollars (\$100,000) to plan, design, construct and equip bathroom additions in the Church Rock chapter of the Navajo Nation in McKinley county;

19. one hundred fifty thousand dollars (\$150,000) to acquire land, easements and rights of way and to plan, design and construct scattered waterline extensions for the Coyote Canyon chapter of the Navajo Nation in McKinley county;

20. one hundred eighty-one thousand dollars (\$181,000) to plan, design and construct a community cemetery, including gated fencing, for the Crownpoint chapter of the Navajo Nation in McKinley county;

21. one hundred thousand dollars (\$100,000) to plan, design, construct and improve the rodeo grounds, including concession areas, 4-H exhibit buildings, lighting and a powerline connection upgrade, in the Crownpoint chapter of the Navajo Nation in McKinley county;

22. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and equip bathroom additions in the Crystal chapter of the Navajo Nation in McKinley county;

23. two hundred thousand dollars (\$200,000) to make site improvements and to plan, design, construct and equip perimeter fencing for the chapter house in the Iyanbito chapter of the Navajo Nation in McKinley county;

24. fifty thousand dollars (\$50,000) to plan, design, construct, equip and install fiber-optic internet infrastructure in the Little Water chapter of the Navajo Nation in McKinley county;

25. one hundred fifty thousand dollars (\$150,000) to plan, design and construct bathroom additions in the Manuelito chapter of the Navajo Nation in McKinley county;

26. one hundred thousand dollars (\$100,000) to conduct archaeological and environmental studies and to plan, design and construct electrical powerlines for the Manuelito chapter of the Navajo Nation in McKinley county;

27. one hundred thousand dollars (\$100,000) to plan, design, construct and equip an intergovernmental administrative building in the Mexican Springs chapter of the Navajo Nation in McKinley county;

28. seventy-five thousand dollars (\$75,000) to plan, design and construct bathroom additions for the Nahodishgish chapter of the Navajo Nation in McKinley county;

29. twenty-five thousand dollars (\$25,000) to purchase and equip heavy equipment for the Ojo Encino chapter of the Navajo Nation in McKinley county;

30. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, renovate, furnish and equip the chapter house in the Ojo Encino chapter of the Navajo Nation in McKinley county;

31. seventy-five thousand dollars (\$75,000) to acquire land and to plan, design and construct a community cemetery in the Pinedale chapter of the Navajo Nation in McKinley county;

32. twenty thousand dollars (\$20,000) to acquire easements and rights of way and to plan, design and construct powerline extensions for the Pueblo Pintado chapter of the Navajo Nation in McKinley county;

33. one hundred fifty thousand dollars (\$150,000) to plan, design and construct a parking lot, including pavement, fencing, security cameras, landscaping and

gravel, at the administration building in the Red Rock chapter of the Navajo Nation in McKinley county;

34. two hundred thousand dollars (\$200,000) to plan, design and construct renovations to the chapter house in the Tse Lichii chapter of the Navajo Nation in McKinley county;

35. two hundred thousand dollars (\$200,000) to acquire land for and to plan, design, construct, furnish and equip a multipurpose building in the Rock Springs chapter of the Navajo Nation in McKinley county;

36. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct a heavy equipment repair shop, including canopies, in the Smith Lake chapter of the Navajo Nation in McKinley county;

37. three hundred thousand dollars (\$300,000) to plan, design, construct, furnish and equip a veterans' service center in the Thoreau chapter of the Navajo Nation in McKinley county;

38. eighty thousand dollars (\$80,000) to acquire rights of way and easements and to plan, design and construct a leach field replacement in the Tohatchi chapter of the Navajo Nation in McKinley county;

39. one million dollars (\$1,000,000) to acquire easements and rights of way and to plan, design, construct and equip a public safety complex, including hazardous materials abatement and demolition, in the Tohatchi chapter of the Navajo Nation in McKinley county;

40. fifty thousand dollars (\$50,000) to acquire easements and rights of way and to plan, design and construct wiring and powerlines to homes in the Tsa-Ya-Toh chapter of the Navajo Nation in McKinley county;



41. three hundred thousand dollars (\$300,000) to acquire easements and rights of way and to plan, design, construct and improve the electrical infrastructure, including house wiring and powerline extension, in the Tsa-Ya-Toh chapter of the Navajo Nation in McKinley county;
42. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct, equip and furnish a warehouse in the Tse'ii'ahi chapter of the Navajo Nation in McKinley county;
43. one hundred thousand dollars (\$100,000) to plan, demolish and remove a former chapter house in the Twin Lakes chapter of the Navajo Nation in McKinley county;
44. one hundred thousand dollars (\$100,000) to plan, design, construct, furnish and equip a veterans' center for the Bahastl'ah chapter of the Navajo Nation in McKinley county;
45. one hundred thousand dollars (\$100,000) to plan, design, construct and equip bathroom additions in the Whitehorse Lake chapter of the Navajo Nation in McKinley county;
46. four hundred thousand dollars (\$400,000) to plan, design, construct and install a sewer main line extension on Shalako drive in the Pueblo of Zuni in McKinley county;
47. thirty-five thousand dollars (\$35,000) to plan, design and construct upgrades to the solid waste transfer facility for the Pueblo of Isleta in Bernalillo, Tarrant and Valencia counties;
48. ten thousand dollars (\$10,000) to plan, design and construct water system improvements and additions, including wells and elevated water tanks, for the Pueblo of Isleta in Bernalillo, Tarrant and Valencia counties;

49. one million seven hundred twenty-five thousand dollars (\$1,725,000) to plan, design and construct a public safety building for the Mescalero Apache Tribe in Otero county;

50. thirty thousand dollars (\$30,000) to plan, design and construct phase 2 of the Gallerito sanitation facility for the Mescalero Apache Tribe in Otero county;

51. twenty-five thousand dollars (\$25,000) to plan, design, construct, purchase and equip a solid waste transfer station for the Mescalero Apache Tribe in Otero county;

52. six hundred twenty-two thousand dollars (\$622,000) to plan, design, construct, purchase and equip the Mescalero 8 canyon wastewater treatment facility for the Mescalero Apache Tribe in Otero county;

53. forty thousand dollars (\$40,000) to purchase and equip vehicles, including emergency medical services vehicles and related equipment, for the Jicarilla Apache Nation in Rio Arriba county;

54. forty thousand dollars (\$40,000) to purchase and equip equipment for the game and fish department of the Jicarilla Apache Nation in Rio Arriba county;

55. thirty thousand dollars (\$30,000) to plan, design, construct, equip and install power lines for the Jicarilla Apache Nation in Rio Arriba county;

56. one hundred sixty thousand dollars (\$160,000) to purchase and equip vehicles, including buses for a head start program, for the Jicarilla Apache Nation in Rio Arriba county;

57. two hundred thirty-seven thousand five hundred dollars (\$237,500) to plan, design, construct, furnish and equip a workforce development center for the Jicarilla Apache Nation in Rio Arriba county;

58. one million two hundred fifty thousand dollars (\$1,250,000) to plan, design and construct a wastewater treatment plant at Ohkay Owingeh in Rio Arriba county;

59. one million two hundred thousand dollars (\$1,200,000) to plan, design and construct improvements to the water and wastewater systems in the Pueblo of Santa Clara in Rio Arriba county;

60. four hundred thousand dollars (\$400,000) to plan, design, construct, equip and improve hogans, facilities and infrastructure at Navajo preparatory school in Farmington in San Juan county;

61. four hundred seventy-five thousand dollars (\$475,000) to purchase and install improvements, including cameras, keyless entry systems, computers and servers, at Navajo preparatory school in Farmington in San Juan county;

62. one hundred twenty thousand dollars (\$120,000) to plan, design, construct, equip and furnish an administrative complex for the Gadii'ahi/To'koi chapter of the Navajo Nation in San Juan county;

63. one hundred twenty-five thousand dollars (\$125,000) to acquire easements and rights of way for and to plan, design and construct scattered powerlines in the Huerfano chapter of the Navajo Nation in San Juan county;

64. fifty thousand dollars (\$50,000) to acquire easements and rights of way and to plan, design, construct and equip improvements, including waterlines and bathroom additions, to Carson north in the Huerfano chapter of the Navajo Nation in San Juan county;

65. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct, purchase, furnish and equip a warehouse in the Lake Valley chapter of the Navajo Nation in San Juan county;

66. one hundred thousand dollars (\$100,000) to plan, design and construct bathroom additions for the Red Valley chapter of the Navajo Nation in San Juan county;

67. one hundred fifteen thousand dollars (\$115,000) to acquire rights of way and easements and to plan, design and construct waterline extensions and bathroom additions in the Tse Alnaozti'i' chapter of the Navajo Nation in San Juan county;

68. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase and equip solar street lights at the Shiprock industrial park in Shiprock in the Navajo Nation in San Juan county;

69. five hundred thousand dollars (\$500,000) to plan, design and construct a judicial complex in Shiprock for the Shiprock chapter of the Navajo Nation in San Juan county;

70. thirty-nine thousand dollars (\$39,000) to plan, design, construct, furnish and equip a multipurpose veterans center in Shiprock in San Juan county;

71. seventy-five thousand dollars (\$75,000) to plan, design and construct additions to bathrooms for the T'iistoh Sikaad chapter of the Navajo Nation in San Juan county;

72. forty-five thousand dollars (\$45,000) to purchase and equip a tractor and backhoe for the Tse'Daa'Kaan chapter of the Navajo Nation in San Juan county;

73. one hundred thousand dollars (\$100,000) to plan, design and construct a community service center in the Tse'Daa'Kaan chapter of the Navajo Nation in San Juan county;

74. fifty thousand dollars (\$50,000) to acquire rights of way and easements and to plan, design and construct phase 1 scattered powerline extensions for the Toadlena/Two Grey Hills chapter of the Navajo Nation in San Juan county;

75. seventy-five thousand dollars (\$75,000) to plan, design and construct a community cemetery in the Upper Fruitland chapter of the Navajo Nation in San Juan county;

76. seventy-five thousand dollars (\$75,000) to plan, design, construct, furnish and equip a multipurpose building in the White Rock chapter of the Navajo Nation in San Juan county;

77. one hundred thousand dollars (\$100,000) to acquire land and to plan, design and construct a cemetery in the Counselor chapter of the Navajo Nation in Sandoval county;

78. fifty thousand dollars (\$50,000) to plan, design, construct, improve and equip a community library, including a roof replacement, in the Pueblo of Jemez in Sandoval county;

79. two hundred fifty thousand dollars (\$250,000) to purchase and equip a semi-tractor-trailer truck for the transportation department of the Pueblo of Jemez in Sandoval county;

80. one hundred thirty thousand dollars (\$130,000) to purchase and equip a vactor trailer for the public works department of the Pueblo of Jemez in Sandoval county;

81. two million five hundred five thousand dollars (\$2,505,000) to plan, design, construct, furnish and equip the Walatowa early childhood learning center in the Pueblo of Jemez in Sandoval county;

~~[82. five thousand dollars (\$5,000) to plan, design and construct a drainage system for flood mitigation at the Pueblo of San Felipe in Sandoval county;~~

~~83. five thousand dollars (\$5,000) to plan, design and construct improvements to the irrigation ditch system at the Pueblo of San Felipe in Sandoval county;] LINE-ITEM VETO~~

84. one million two hundred twenty thousand dollars (\$1,220,000) to plan, design, construct, equip and install a natural gas pipeline in the historic village in the Pueblo of San Felipe in Sandoval county;

85. one hundred eighty thousand dollars (\$180,000) to plan, design and construct a well for the Pueblo of San Felipe in Sandoval county;

86. one million seven hundred thousand dollars (\$1,700,000) to plan, design, construct, furnish and equip a child development center expansion for the Pueblo of Sandia in Sandoval county;

87. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, equip and furnish an emergency medical services and fire facility in the Pueblo of Sandia in Sandoval county;

88. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct and equip an underground electrical grid in Tamaya in the Pueblo of Santa Ana in Sandoval county;

89. one million nine hundred five thousand dollars (\$1,905,000) to plan, design, construct, furnish and equip a public safety, judicial and social services complex for the Pueblo of Santa Ana in Sandoval county;

~~[90. four thousand dollars (\$4,000) to purchase and equip vehicles, including dump trucks, for the roads department in the Pueblo of Santo Domingo in Sandoval county;] LINE-ITEM VETO~~

91. one million dollars (\$1,000,000) to plan, design, demolish, remove, construct, improve, renovate and equip tribal housing for the Pueblo of Santo Domingo in Sandoval county;

92. two hundred thousand dollars (\$200,000) to plan, design, construct, purchase and equip a transfer station and prefabricated buildings, including demolition and removal, for the tribal utilities department in the Pueblo of Santo Domingo in Sandoval county;

93. three hundred thousand dollars (\$300,000) to plan, design and construct a community library and learning center in the Torreon-Star Lake chapter of the Navajo Nation in Sandoval county;

94. one million three hundred five thousand dollars (\$1,305,000) to plan, design, construct and equip a safe, modern and culturally appropriate modular childhood development complex for the Pueblo of Zia in Sandoval county;

95. one hundred thirty-eight thousand seventy-two dollars (\$138,072) to purchase and equip police vehicles for the Pueblo of Zia in Sandoval county;

96. one hundred twenty thousand dollars (\$120,000) to plan, design, construct and improve broadband infrastructure for the Pueblo of Nambe in Santa Fe county;

97. ninety thousand dollars (\$90,000) to plan, design, construct, purchase, equip and furnish an addition to the Nambe Pueblo wellness center, including aerobics, cardio and weight rooms, a receptionist area, an intake room and a lobby, at the Pueblo of Nambe in Santa Fe county;

98. one million four hundred thirty thousand dollars (\$1,430,000) to plan, design, construct, renovate, repair, equip, improve and expand health care facilities, including behavioral health care facilities, in the Pueblo of Pojoaque in Santa Fe county;

99. twenty thousand dollars (\$20,000) to purchase and upgrade information technology, including servers, digital fiber and wireless infrastructure and surveillance equipment, for the Pueblo of Pojoaque in Santa Fe county;

100. fifty-five thousand dollars (\$55,000) to plan, design and construct an early childhood center in the Pueblo of Pojoaque in Santa Fe county;

~~[101. five thousand dollars (\$5,000) to plan, design, construct, equip and furnish Poeh community park in the Pueblo of Pojoaque in Santa Fe county;]~~ *LINE-ITEM VETO*

102. fifty-five thousand dollars (\$55,000) to plan, design, construct, renovate, repair, improve and expand the wellness center, including behavioral health facilities, in the Pueblo of Pojoaque in Santa Fe county;

103. thirty thousand dollars (\$30,000) to plan, design, construct and improve wastewater facilities and to purchase vehicles for the Pueblo of Pojoaque in Santa Fe county;

104. thirteen thousand dollars (\$13,000) to plan, design, construct, purchase, equip and install information technology and broadband, including related furniture, equipment and infrastructure, in the Pueblo of San Ildefonso in Santa Fe county;

~~[105. five thousand dollars (\$5,000) to plan, design, construct, renovate, repair and equip a community gymnasium at the Pueblo of San Ildefonso in Santa Fe county;]~~ *LINE-ITEM VETO*

106. one hundred five thousand dollars (\$105,000) to purchase and equip compact track loaders for the Pueblo of San Ildefonso in Santa Fe county;

107. one hundred eighty thousand dollars (\$180,000) to purchase and equip tractors with rototillers, land planers and heavy-duty disks for the Pueblo of San Ildefonso in Santa Fe county;



108. one hundred forty-five thousand dollars (\$145,000) to construct and equip monitoring wells to determine the efficacy of wastewater lagoons and their impact on ground water for the Pueblo of San Ildefonso in Santa Fe county;

109. fifty-five thousand dollars (\$55,000) to prepare a comprehensive land use plan for the Pueblo of San Ildefonso in Santa Fe county;

~~[110. five thousand dollars (\$5,000) to plan, design, construct, renovate and equip the Tewa community center at the Pueblo of San Ildefonso in Santa Fe county;]~~  
*LINE-ITEM VETO*

111. two million five thousand dollars (\$2,005,000) to plan, design, construct and equip water and wastewater system improvements, including a wastewater treatment facility and wastewater line extensions, for the Pueblo of San Ildefonso in Santa Fe county;

~~[112. five thousand dollars (\$5,000) to study potential backup water supply sources for the Pueblo of San Ildefonso in Santa Fe county;]~~ *LINE-ITEM VETO*

113. three hundred thousand dollars (\$300,000) to plan, design, construct and improve infrastructure, including entry boundary fencing and storm water drainage and mitigation, at the Santa Fe Indian school in Santa Fe county;

114. fifty-eight thousand dollars (\$58,000) to purchase and equip heavy equipment for water and wastewater systems in the Pueblo of Tesuque in Santa Fe county;

115. one hundred sixty thousand dollars (\$160,000) to purchase and equip a backhoe for the Pueblo of Tesuque in Santa Fe county;

116. forty thousand dollars (\$40,000) to plan and design a facility, including staff offices, training space, secure vehicle and equipment storage and a central

customer service area, for the utility authority of the Pueblo of Tesuque in Santa Fe county;

117. seventy-five thousand dollars (\$75,000) to plan, design, purchase and construct a food and water storage and distribution building, including a loading dock and security fencing, in the Alamo chapter of the Navajo Nation in Socorro county;

118. forty-eight thousand nine hundred ten dollars (\$48,910) to purchase and equip animal control vehicles, including cage sliders, for the Pueblo of Taos in Taos county; and

119. one hundred fifty thousand dollars (\$150,000) to purchase heavy equipment, including motor graders and bulldozers, for the roads department in the Pueblo of Taos in Taos county.

## **Chapter 138 Section 26 Laws 2021**

SECTION 26. DEPARTMENT OF INFORMATION TECHNOLOGY PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the department of information technology that the need exists for the issuance of the bonds, the following amounts are appropriated to the department of information technology for the following purposes:

1. seven million forty-eight thousand dollars (\$7,048,000) to plan, design, engineer, construct, purchase and equip broadband infrastructure statewide; provided that no more than five hundred thousand dollars (\$500,000) shall be expended until the department of information technology submits an expenditure plan to the legislative finance committee; and

2. eight million dollars (\$8,000,000) to plan, design, purchase, install and implement infrastructure to stabilize and modernize public safety radio communications systems statewide.

## **Chapter 138 Section 27 Laws 2021**

SECTION 27. INDIAN WATER RIGHTS SETTLEMENT FUND--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the office of the state engineer that the need exists for the issuance of the bonds, nine million dollars (\$9,000,000) is appropriated to the Indian water rights settlement fund. Notwithstanding the requirement for a joint resolution of the legislature in Subsection A of Section 72-1-11 NMSA 1978, if a corresponding commitment has been made for the federal portion of the settlements in the Aamodt case, the money may be expended by the interstate stream commission in fiscal year 2022 and subsequent fiscal years to implement the state's portion of the settlement, and any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert.

## **Chapter 138 Section 28 Laws 2021**

SECTION 28. INTERSTATE STREAM COMMISSION PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the interstate stream commission that the need exists for the issuance of the bonds, the following amounts are appropriated to the interstate stream commission for the following purposes:

1. fifty thousand dollars (\$50,000) to plan, design, construct, furnish and equip improvements for the Pleasanton eastside ditch association in Catron county;
2. two hundred fifty thousand five hundred dollars (\$250,500) to plan, design, construct and renovate improvements for the Cebolletita acequia association in Cibola county;
3. sixty-nine thousand dollars (\$69,000) to plan, design and construct improvements to the community ditch of San Jose de La Cienega in Cibola county;

4. eighty thousand dollars (\$80,000) to plan, design and construct improvements for the Cubero acequia association in Cibola county;
5. two hundred thousand dollars (\$200,000) to plan, design, construct, furnish and equip improvements for the San Mateo acequia association in San Mateo in Cibola county;
6. one hundred thousand dollars (\$100,000) to acquire permits and rights of way and to plan, design and construct improvements to the Santa Teresa arroyo in Dona Ana county;
7. twenty thousand dollars (\$20,000) to plan, design, construct and improve earth ditches, including pipeline and concrete lining, for the east Puerto de Luna acequia in Guadalupe county;
8. fifteen thousand dollars (\$15,000) to plan, design, construct and install improvements to the Morphy lake dam and the acequia de la Isla, including the acquisition of high-hazard dam monitoring equipment, for the acequia de la Isla in Mora county;
9. one hundred ten thousand dollars (\$110,000) to plan, design, construct and improve the acequia system, including replacement of switch gates, for the Tularosa community ditch in Otero county;
10. one hundred thirty thousand dollars (\$130,000) to plan, design, construct and upgrade a pipeline and water conveyance system for the Tularosa community ditch association in Otero county;
11. thirty-five thousand dollars (\$35,000) to plan, design and construct improvements to the acequia del Llano in the Embudo valley in Rio Arriba county;

12. sixty thousand dollars (\$60,000) to plan, design and construct improvements, including infrastructure and installation of piping, to the acequia del Molino in the Servilleta area of Rio Arriba county;
13. seventy-five thousand dollars (\$75,000) to plan, design, construct, equip and install improvements for La Cueva ditch association in Rio Arriba county;
14. seventy-two thousand dollars (\$72,000) to acquire San Juan-Chama project water for storage in the Rio Chama irrigation reserve for the member acequias of the Rio Chama acequia association in Rio Arriba county;
15. twenty thousand dollars (\$20,000) to plan, design and construct improvements to the acequia del Rincon in Rio Arriba county;
16. two hundred forty-five thousand dollars (\$245,000) to plan, design and construct a headgate spillway system for the Hillside irrigation ditch in San Juan county;
17. two hundred seven thousand dollars (\$207,000) to plan, design and construct improvements to the north Farmington ditch in Farmington in San Juan county;
18. forty thousand dollars (\$40,000) to plan, design, construct, equip and install improvements for the acequia de los Vecinos de los Vallecitos west in San Miguel county;
19. twenty-five thousand dollars (\$25,000) to plan, design, construct, repair, equip and install improvements to the acequia del Molino, including to points of diversion, in northwest Pecos in San Miguel county;
20. forty-five thousand dollars (\$45,000) to plan, design and construct improvements for La Fragua Puerticito y Saiz acequia association in San Miguel county;

21. one hundred fifteen thousand dollars (\$115,000) to plan, design, construct, purchase, equip and install a pipeline and acequia improvements for the acequia Madre de Las Vegas in San Miguel county;
22. twenty thousand dollars (\$20,000) to plan, design and construct improvements for the acequia Madre de los Romeros in San Miguel county;
23. thirty-five thousand dollars (\$35,000) to plan, design and construct improvements to El Cerrito ditch, including piping, for El Cerrito ditch association in San Miguel county;
24. fifty thousand dollars (\$50,000) to plan, design and construct improvements, including a diversion dam, for the west Pecos acequia in San Miguel county;
25. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, equip and install improvements, including piping, for the Archibeque community ditch association in Sandoval county;
26. ten thousand dollars (\$10,000) to plan, design, construct and make improvements to the acequia, including embankments, for the acequia de los Ranchos in Chimayo in Santa Fe county;
27. ten thousand dollars (\$10,000) to plan, design and construct improvements to the acequia del Cano in Santa Fe county;
28. twenty thousand dollars (\$20,000) to plan, design and construct improvements for the acequia del Potrero in Santa Fe county;
29. ten thousand dollars (\$10,000) to plan, design and construct improvements for the acequia del Rancho in El Rancho in Santa Fe county; and

30. one hundred thousand dollars (\$100,000) to purchase materials and to plan, design and construct improvements to las acequias de Chupadero in Santa Fe county.

## **Chapter 138 Section 29 Laws 2021**

SECTION 29. LOCAL GOVERNMENT DIVISION OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION PROJECTS--SEVERANCE TAX BONDS.-- Pursuant to the provisions of Section 1 of this act, upon certification by the local government division of the department of finance and administration that the need exists for the issuance of the bonds, the following amounts are appropriated to the local government division of the department of finance and administration for the following purposes:

~~[1. two thousand dollars (\$2,000) to plan, design, construct, equip and install improvements, including security and safety systems, gates, ventilation, children's locker rooms and parking lots, for a creative arts dance program in Bernalillo county;]~~  
*LINE-ITEM VETO*

2. fifty thousand dollars (\$50,000) to plan, design, construct and improve Dolores Huerta gateway park in the south valley in Bernalillo county;

~~[3. ten thousand dollars (\$10,000) to acquire property and to plan, design, construct, renovate, repair, furnish and equip an administrative building for a dual language education program in Bernalillo county;]~~ *LINE-ITEM VETO*

4. three hundred eighty thousand dollars (\$380,000) to demolish an existing building and to plan, design and construct a child development and family services facility in the south valley in Bernalillo county;

5. three hundred forty thousand dollars (\$340,000) to plan, design, construct, furnish and equip an educational center and local agricultural food hub in Bernalillo county;

6. eighty-five thousand dollars (\$85,000) to plan, design, upgrade, purchase and install equipment for county food trucks, including water tanks, exhaust hoods, roof improvements, gas lines, refrigeration and ventilation equipment, generators and air conditioning, in Bernalillo county;

7. four hundred five thousand dollars (\$405,000) to plan, design, construct, purchase, furnish, equip and install accessible showers and laundry services for a facility serving the homeless in Bernalillo county;

8. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, install and deliver information technology, including related equipment, furniture and infrastructure, in Bernalillo county;

9. three hundred fifty thousand dollars (\$350,000) to acquire land and to plan, design and construct a sheriff substation in county commission district 4 in Bernalillo county;

10. fifty thousand dollars (\$50,000) to plan, design, construct, expand and improve parking areas, including lighting, drainage and a connecting trail, for the parks and fields used by the Paradise Hills little league in Bernalillo county;

11. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, purchase, furnish and equip a route 66 visitor center in county commission district 2 in Bernalillo county;

12. four hundred twenty thousand dollars (\$420,000) to plan, design, construct, renovate, purchase, furnish and equip buildings and grounds, related equipment, fencing, information technology, wiring and infrastructure for the South Valley economic development center in Bernalillo county;



13. one hundred thousand dollars (\$100,000) to purchase, equip, make ready and deliver vehicles, including sport utility vehicles and intelligence vans, for the sheriff's department in Bernalillo county;

14. seventy-five thousand dollars (\$75,000) to acquire land and to plan, design, construct, equip and furnish phase 1 of a new fire station for the southwest mesa in Bernalillo county;

15. four hundred twenty-five thousand dollars (\$425,000) to plan, design, construct, repair, demolish, renovate and improve buildings, grounds and infrastructure, including utility and security systems, landscaping, parking, fencing and internal site circulation, for a transitional living facility in Bernalillo county;

16. forty-nine thousand dollars (\$49,000) to purchase, deliver and equip wildland fire trucks for the fire department in Bernalillo county;

17. three hundred five thousand dollars (\$305,000) to plan, design, construct, renovate and equip improvements to a youth service center in Bernalillo county;

18. one million six hundred thousand dollars (\$1,600,000) to plan, design, construct, replace and expand affordable rental housing at Broadway boulevard NE and McKnight avenue in Albuquerque in Bernalillo county;

~~[19. ten thousand dollars (\$10,000) to plan, design and construct an agroecology center in Albuquerque in Bernalillo county;] LINE-ITEM VETO~~

20. two hundred thousand dollars (\$200,000) to plan, design, equip, construct and improve the sports complex used by the Alameda little league in Albuquerque in Bernalillo county;

21. one hundred ten thousand dollars (\$110,000) to plan, design, construct, purchase, furnish, equip and install exhibitions, including the balloon fiesta exhibition

and an outdoor youth exhibition, at the Anderson-Abruzzo Albuquerque international balloon museum in Albuquerque in Bernalillo county;

~~[22. five thousand dollars (\$5,000) to plan, design, construct, purchase and equip improvements to aquatic facilities in Albuquerque in Bernalillo county;] LINE-ITEM VETO~~

23. twenty-five thousand dollars (\$25,000) to purchase and install equipment and furnishings at a community collaborative gymnasium for youth and their family members in Albuquerque in Bernalillo county;

24. one hundred sixty thousand dollars (\$160,000) to acquire property for and to plan, design and construct artificial turf playing fields at park and recreational facilities, including swimming pools, tennis courts, sports fields, open space, medians, bikeways, bosque lands and trails, in Albuquerque in Bernalillo county;

~~[25. fifteen thousand dollars (\$15,000) to plan, design and construct an Asian American community center in Albuquerque in Bernalillo county;] LINE-ITEM VETO~~

26. fifty thousand dollars (\$50,000) to plan, design, upgrade and construct improvements for Balloon Fiesta park in Albuquerque in Bernalillo county;

27. fifty thousand dollars (\$50,000) to plan, design, construct, renovate, upgrade and expand the bike trail from San Pedro drive NE to Tom Bolack park in Albuquerque in Bernalillo county;

28. five hundred fifty thousand dollars (\$550,000) to plan, design, construct and renovate the Candelaria nature preserve in Albuquerque in Bernalillo county;

29. fifty thousand dollars (\$50,000) to acquire property for and to plan, design and construct a health and wellness greenhouse and garden for the Casa Barelas community in Albuquerque in Bernalillo county;

30. twenty-five thousand dollars (\$25,000) to plan, design, develop, construct, demolish, rehabilitate, landscape and improve Casa Grande linear park in Albuquerque in Bernalillo county;

31. five hundred thousand dollars (\$500,000) to acquire property for and to plan, design, construct, furnish and equip a multigenerational community center on Cibola loop in Albuquerque in Bernalillo county;

32. sixty thousand dollars (\$60,000) to plan, design and construct a community garden in the Santa Barbara Martineztown neighborhood in Albuquerque in Bernalillo county;

33. two hundred five thousand dollars (\$205,000) to plan, design, construct, renovate and equip a building as a restaurant incubator and community kitchen in the Barelmas metropolitan redevelopment area in Albuquerque in Bernalillo county;

34. ninety-five thousand dollars (\$95,000) to acquire property for and to plan, design, construct and equip the Crestview bluff open space area in Albuquerque in Bernalillo county;

35. three hundred fifty thousand dollars (\$350,000) to plan, design, construct and renovate Daniel Webster park, including accessibility and infrastructure improvements, in Albuquerque in Bernalillo county;

36. fifteen thousand dollars (\$15,000) to plan, design and construct a welcome sign for Dr. Martin Luther King, Jr. avenue in Albuquerque in Bernalillo county;

37. ten thousand dollars (\$10,000) to plan, design and construct batting cages at fields used by the Eastdale little league in Albuquerque in Bernalillo county;

38. one hundred fifty-four thousand dollars (\$154,000) to plan, design and construct restrooms, a mechanical room and accessibility improvements at the facility used by the Eastdale little league in Albuquerque in Bernalillo county;

39. twenty-five thousand dollars (\$25,000) to purchase, install and replace windscreens at the fields used by the Eastdale little league in Albuquerque in Bernalillo county;

40. fifty thousand dollars (\$50,000) to plan, design, construct, improve, equip and install lighting for El Oso Grande park in Albuquerque in Bernalillo county;

41. thirty thousand dollars (\$30,000) to plan, design, construct and improve the Elena Gallegos open space facilities in Albuquerque in Bernalillo county;

42. eighty-seven thousand dollars (\$87,000) to purchase vehicles and equipment for use by a food bank emergency food distribution program, including semi-truck tractors and trailers, fork lifts, fork lift batteries, pallet jacks, electric pallet jacks, pallet racking and other equipment, in Albuquerque in Bernalillo county;

43. two hundred twenty thousand dollars (\$220,000) to plan, design, construct, renovate and equip an educational and service facility in Albuquerque in Bernalillo county;

44. one million one hundred sixty thousand dollars (\$1,160,000) to plan, design, construct and equip phase 2 of the cradle through career science, technology, engineering and mathematics learning campus, including design, construction, purchase and installation of exhibits, furnishings, equipment and information technology, at the Explora science center and children's museum in Albuquerque in Bernalillo county;

45. forty thousand dollars (\$40,000) to plan, design and construct safety and efficiency upgrades to the respite home and main building and to purchase and install equipment for the early intervention program at a specialized family services program in Albuquerque in Bernalillo county;

46. seven hundred sixty-one thousand dollars (\$761,000) to purchase and equip heart monitors and defibrillators for the fire department in Albuquerque in Bernalillo county;
47. one hundred seventeen thousand five hundred dollars (\$117,500) to acquire property for and to plan, design, construct, furnish and improve fire station 12 in Albuquerque in Bernalillo county;
48. six hundred twenty-five thousand dollars (\$625,000) to plan, design, construct, renovate and upgrade fire rescue facilities, including training academies, in Albuquerque in Bernalillo county;
49. two hundred fifty thousand dollars (\$250,000) to plan, design and construct fire station 23 on the northwest mesa in Albuquerque in Bernalillo county;
50. one million six hundred ten thousand dollars (\$1,610,000) to purchase and equip fire department vehicles for Albuquerque in Bernalillo county;
51. two hundred thirty thousand dollars (\$230,000) to plan, design, construct, renovate, equip and purchase improvements for the Foothills area command station for the police department in Albuquerque in Bernalillo county;
52. fifteen thousand dollars (\$15,000) to plan, design, construct, improve, equip and install lighting for the foothills trailheads in Albuquerque in Bernalillo county;
53. three million nine hundred forty-one thousand one hundred forty-five dollars (\$3,941,145) to acquire property, easements and rights of way for and to plan, design, construct, purchase and equip gateway and crisis triage centers in Albuquerque in Bernalillo county;
54. ninety-five thousand dollars (\$95,000) to plan, design, develop, construct, renovate, rehabilitate, improve, upgrade, expand, furnish and equip a greenhouse facility in Albuquerque in Bernalillo county;

55. one hundred forty-three thousand four hundred dollars (\$143,400) to plan, design, construct, improve, equip and renovate amenities, including play areas, shade structures, furnishings and landscaping, at Holiday park in Albuquerque in Bernalillo county;

56. two hundred forty-one thousand dollars (\$241,000) to plan, design and construct improvements at the international district library in Albuquerque in Bernalillo county;

57. four hundred thousand dollars (\$400,000) to plan, design, construct, purchase, renovate, equip and furnish a family resource center in the international district in Albuquerque in Bernalillo county;

58. five hundred thousand dollars (\$500,000) to plan, design, construct, renovate, purchase and equip improvements for the boxing program at the Jack Candelaria community center in Albuquerque in Bernalillo county;

59. eighty-five thousand dollars (\$85,000) to plan, design, construct, renovate and improve the Jerry Cline tennis center in Albuquerque in Bernalillo county;

60. thirty thousand dollars (\$30,000) to plan, design, construct, purchase and equip the Juan Tabo Hills dog park in Albuquerque in Bernalillo county;

61. five hundred twenty-five thousand dollars (\$525,000) to plan, design and construct improvements, including additions to the banquet room, water conservation pond lining and driving range lighting, to the Ladera golf course in Albuquerque in Bernalillo county;

62. fifty thousand dollars (\$50,000) to plan, design, construct, purchase and equip improvements to a facility used by the Lobo little league at Balduini park, including accessibility compliance, artificial turf, field lighting, shade structures and field expansion, in Albuquerque in Bernalillo county;

63. six hundred twenty-five thousand dollars (\$625,000) to plan, design, construct, replace, equip and install improvements to the roof and the heating, ventilation and air conditioning systems at the Lomas Tramway library in Albuquerque in Bernalillo county;

64. one million four hundred forty thousand dollars (\$1,440,000) to plan, design, develop, construct, improve, preserve and equip Los Altos park, including irrigation, forestry, lighting, fencing and aquatics, in Albuquerque in Bernalillo county;

65. thirty-seven thousand dollars (\$37,000) to plan, design and construct improvements at the George J. Maloof memorial air park in Albuquerque in Bernalillo county;

66. four hundred sixty thousand dollars (\$460,000) to plan, design, construct and renovate pickleball complexes at Manzano Mesa multigenerational center in Albuquerque in Bernalillo county;

67. one hundred thirty thousand dollars (\$130,000) to plan, design, construct, improve and equip parks, including play areas, shade structures, site furnishing, lighting and landscaping, at Matheson park in Albuquerque in Bernalillo county;

68. one hundred eighty thousand six hundred dollars (\$180,600) to purchase and install equipment, including freezers, ovens, a blast chiller, information technology and related equipment and infrastructure, for a homebound and special needs meal delivery program in Albuquerque in Bernalillo county;

69. twenty thousand dollars (\$20,000) to plan, design, construct and renovate Mesa Verde park in Albuquerque in Bernalillo county;

70. one hundred ten thousand dollars (\$110,000) to purchase and equip mobile facilities and vehicles, including shower units and soup kitchens, for the homeless community in the international district and surrounding areas in Albuquerque in Bernalillo county;

71. fifty thousand dollars (\$50,000) to plan, design, construct and replace playground equipment at Morningside park in Albuquerque in Bernalillo county;
72. one hundred ninety thousand dollars (\$190,000) to plan, design, construct, furnish, equip and improve the Albuquerque museum in Albuquerque in Bernalillo county;
73. two million seven hundred forty thousand dollars (\$2,740,000) to plan, design, construct and equip an aquatics facility at north Domingo Baca park in Albuquerque in Bernalillo county;
74. three hundred fifty thousand dollars (\$350,000) to plan, design and construct safety and security renovations, including accessibility compliance improvements, at the north Fourth arts center in Albuquerque in Bernalillo county;
75. one hundred sixty-five thousand dollars (\$165,000) to plan, design, construct, improve, equip and furnish buildings and infrastructure, including a café, reception space, studio, outdoor area, information technology, audio equipment and furniture, at a flamenco studio in Albuquerque in Bernalillo county;
76. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, improve, furnish and equip the northeast area command police substation in Albuquerque in Bernalillo county;
77. nine hundred thirty-seven thousand six hundred dollars (\$937,600) to plan, design, construct, renovate and equip a New Mexico veterans' memorial park in Albuquerque in Bernalillo county;
78. twenty thousand dollars (\$20,000) to plan, design, develop, construct, demolish, rehabilitate, landscape, improve and equip the Paseo de las Montanas trail in Albuquerque in Bernalillo county;



79. thirty thousand dollars (\$30,000) to plan, design and construct a dog park at Pat Hurley park in Albuquerque in Bernalillo county;

80. one million one hundred twenty-seven thousand twenty-seven dollars (\$1,127,027) to plan, design, construct and renovate buildings and grounds, including site preparation and the purchase and installation of fencing, infrastructure and related equipment, at a public performing, visual arts and education center in Albuquerque in Bernalillo county;

81. thirty thousand dollars (\$30,000) to plan, design, construct and equip improvements at facilities used by Petroglyph little league at Mariposa basin park in Albuquerque in Bernalillo county;

82. four hundred forty-five thousand dollars (\$445,000) to purchase, equip and install gunshot detection technology for the police department in city council district 3 in Albuquerque in Bernalillo county;

83. eight hundred twenty-five thousand dollars (\$825,000) to purchase and equip information technology for law enforcement in Albuquerque in Bernalillo county;

84. twenty thousand dollars (\$20,000) to purchase and install public safety equipment for the police department in city council district 3 in Albuquerque in Bernalillo county;

85. ten thousand dollars (\$10,000) to purchase and equip police vehicles for Albuquerque in Bernalillo county;

86. twenty-five thousand dollars (\$25,000) to acquire and conserve the former Poole property near the Rio Grande for open space in Albuquerque in Bernalillo county;

87. two hundred thirty thousand dollars (\$230,000) to plan, design, renovate, construct and improve the Albuquerque rail yards market in Albuquerque in Bernalillo county;

88. four million five hundred seventy thousand dollars (\$4,570,000) to plan, design, construct, purchase, equip, furnish and develop a real time crime center, including information technology, at the regional traffic management center in Albuquerque in Bernalillo county;

89. thirty thousand dollars (\$30,000) to plan, design, construct, renovate and improve the dog park at Rio Grande triangle park in Albuquerque in Bernalillo county;

90. seven hundred thirty-three thousand eight hundred dollars (\$733,800) to plan, design, construct, improve, equip and furnish a visitor center and multi-use trail along west Central avenue in Albuquerque in Bernalillo county;

91. one hundred thousand dollars (\$100,000) to plan, design, construct, furnish and equip a regional public safety complex near Kathryn avenue SE and San Mateo boulevard SE in Albuquerque in Bernalillo county;

92. twenty thousand dollars (\$20,000) to plan, design, construct and equip a dog park at Sandia Vista park in Albuquerque in Bernalillo county;

93. one million three hundred eighty-five thousand dollars (\$1,385,000) to plan, design, construct and improve pedestrian streets, including utility relocation, lighting and signage, in the Sawmill and Old Town areas of Albuquerque in Bernalillo county;

94. ten thousand dollars (\$10,000) to plan, design and construct a shared warehouse for museums and for the city clerk's office in Albuquerque in Bernalillo county;

95. one hundred thousand dollars (\$100,000) to plan, design and construct a shooting range park and a training center for the police department in Albuquerque in Bernalillo county;

96. fifty thousand dollars (\$50,000) to plan, design, construct, improve and equip tennis courts, including lighting and striping, at the Sierra Vista tennis facility on Montano road NW in Albuquerque in Bernalillo county;

97. one hundred twenty thousand dollars (\$120,000) to plan, design, construct and improve an archaeological site at Singing Arrow park in Albuquerque in Bernalillo county;

98. sixty thousand dollars (\$60,000) to plan, design, construct, renovate and replace roofing, heating, ventilation and air conditioning systems and related components at the nationally registered special collections library in Albuquerque in Bernalillo county;

99. four million nine hundred fifty-four thousand seven hundred fifty dollars (\$4,954,750) to plan, design and construct a multi-use event center and stadium, including professional soccer facilities, in Albuquerque in Bernalillo county;

100. fifty-five thousand dollars (\$55,000) to plan, design, construct, furnish and equip a public safety center in southwest Albuquerque in Bernalillo county;

101. four hundred thousand dollars (\$400,000) to plan, design, repair, construct, purchase, equip and install improvements to the Taylor Ranch library, including heating, ventilation and air conditioning systems, roofing and related infrastructure and equipment, in Albuquerque in Bernalillo county;

102. fifty thousand dollars (\$50,000) to plan, design and construct improvements to the west parking lot, including asphalt, curbs, sidewalks, steps and lighting, at the Tony Hillerman library in Albuquerque in Bernalillo county;

103. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and replace playground equipment at Trumbull park in Albuquerque in Bernalillo county;

104. fifty thousand dollars (\$50,000) to plan, design and construct a sports office at Ventana Ranch park in Albuquerque in Bernalillo county;
105. forty thousand dollars (\$40,000) to plan, design, construct, renovate and equip tennis courts in Wellesley park in Albuquerque in Bernalillo county;
106. one hundred forty-three thousand dollars (\$143,000) to plan, design, construct, renovate, equip and furnish the Westgate community center in Albuquerque in Bernalillo county;
107. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, furnish and equip phase 3 of a community center project, including information technology and related equipment and infrastructure, in the Westgate area of Albuquerque in Bernalillo county;
108. three hundred thousand dollars (\$300,000) to plan, design, construct, furnish and equip a west side indoor sports facility in Albuquerque in Bernalillo county;
109. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements, including rail track infrastructure, to the Wheels museum in Albuquerque in Bernalillo county;
110. one hundred seventy-nine thousand dollars (\$179,000) to purchase and install information technology and related equipment and vehicles for a youth education program in Albuquerque in Bernalillo county;
111. four hundred fifty-five thousand dollars (\$455,000) to plan, design, construct, replace, renovate, purchase and equip a facility to provide temporary housing for youth in Albuquerque in Bernalillo county;
112. five hundred thousand dollars (\$500,000) to plan, design, construct, furnish and equip renovations and upgrades at the park used by the Altamont little

league, including artificial turf infields, irrigation, lighting, field upgrades, playground, a tournament field, parking and fencing, in Albuquerque in Bernalillo county;

113. three million dollars (\$3,000,000) to plan, design, construct, improve, equip and furnish community buildings for social support, behavioral health, mental health and addiction treatment services in the international district in Albuquerque in Bernalillo county;

114. one hundred ninety-eight thousand six hundred dollars (\$198,600) to plan, design, construct, upgrade and equip the security system, including security gates, children's locker rooms, a ventilation hood for the props shop and parking lot refinishing and restriping, for the facilities used by the national dance institute of New Mexico at the Hiland theater in Albuquerque in Bernalillo county;

115. fifty thousand dollars (\$50,000) to plan, design and construct site improvements, including parking, circulation, site work and infrastructure, to the Mesa del Sol regional recreation complex in Albuquerque in Bernalillo county;

116. one hundred fifty thousand dollars (\$150,000) to plan, design and construct bus shelters on Bridge boulevard in Albuquerque in Bernalillo county;

117. sixty-five thousand dollars (\$65,000) to plan, design, construct, furnish and equip improvements to the Cuidando Los Ninos facility in Albuquerque in Bernalillo county;

118. sixty-five thousand dollars (\$65,000) to plan, design and construct an open space project at the headwaters of the Atrisco acequia at the intersection of route 66 and the Rio Grande for the middle Rio Grande conservancy district in Albuquerque in Bernalillo county;

119. one hundred twenty-seven thousand dollars (\$127,000) to plan, design, construct, install, purchase and equip improvements, including concessions, office, bathrooms, plumbing, electrical, security systems, overhead shade, fencing repairs,

wind and glare screens and turf, and to comply with accessibility requirements and with the guidelines of the centers for disease control and prevention at fields used by the West Mesa little league in Albuquerque in Bernalillo county;

120. fifty thousand dollars (\$50,000) to plan, design, construct, furnish and equip a fire department building for the Chilili land grant-merced in Bernalillo county;

121. one hundred eighty-five thousand dollars (\$185,000) to plan, design and construct a public park and trail in Tijeras in Bernalillo county;

122. two hundred thousand dollars (\$200,000) to plan, design, construct, improve, equip and furnish community centers in Quemado in Catron county;

123. eighty thousand dollars (\$80,000) to purchase and equip vehicles for Reserve in Catron county;

124. three hundred fifty thousand dollars (\$350,000) to plan, design, construct, purchase, equip and install improvements, including new restrooms, entrances and staff areas, for the Pecos Valley regional dispatch center in the Chaves county administrative center in Chaves county;

125. three hundred ninety-six thousand five hundred dollars (\$396,500) to plan, design, develop and construct improvements along Lake Van road in Dexter in Chaves county;

126. three hundred forty thousand dollars (\$340,000) to purchase, equip and install emergency generators for water and wastewater systems for Dexter in Chaves county;

127. ninety-five thousand dollars (\$95,000) to purchase and equip a backhoe for Hagerman in Chaves county;

128. eighty-five thousand dollars (\$85,000) to purchase and equip a tractor for Hagerman in Chaves county;

129. fifty thousand dollars (\$50,000) to purchase and equip vehicles for the Lake Arthur public works department in Chaves county;

130. two hundred thousand dollars (\$200,000) to plan, design, construct, purchase, equip and install a walking and exercise trail, including exercise stations, benches, landscaping and signage, around the county complex in Roswell in Chaves county;

131. six hundred thousand dollars (\$600,000) to plan, design, construct, purchase and install replacements for historic windows in the county courthouse in Roswell in Chaves county;

132. one hundred fifty-three thousand dollars (\$153,000) to purchase and equip law enforcement vehicles for Roswell in Chaves county;

133. three hundred forty thousand dollars (\$340,000) to plan, design, construct, renovate, furnish and equip the Roswell museum and art center, including building system upgrades, in Roswell in Chaves county;

134. three hundred fifty thousand dollars (\$350,000) to plan, design, construct, furnish and equip phase 2 renovations for police department facilities, including the technical special unit building, in Roswell in Chaves county;

135. four hundred thousand dollars (\$400,000) to plan, design, construct, purchase and equip a park on south Virginia avenue in Roswell in Chaves county;

136. thirty-seven thousand five hundred dollars (\$37,500) to plan, design, construct, renovate, furnish and equip a public safety building, including landscaping, fencing and parking lots, in Grants in Cibola county;

137. two hundred thousand dollars (\$200,000) to plan, design, construct, purchase and equip parking lot improvements, including striping, at Cibola general hospital in Grants in Cibola county;

138. two hundred twenty-five thousand dollars (\$225,000) to plan, design, construct, repair, renovate and equip a domestic violence shelter in Grants in Cibola county;

139. five hundred sixty-five thousand dollars (\$565,000) to purchase and install equipment for the road department in Colfax county;

140. one million dollars (\$1,000,000) to plan, design, construct, equip and furnish the Cimarron health care clinic and ambulance barn for the south central Colfax county special hospital district in Colfax county;

141. one million one hundred thousand dollars (\$1,100,000) to design, construct, purchase and equip a ladder truck for Raton in Colfax county;

142. seventy thousand dollars (\$70,000) to purchase and install equipment for the police department in Raton in Colfax county;

143. one million dollars (\$1,000,000) to plan, design, construct, furnish and equip the Colfax general hospital long-term care and laboratory facility of the south central Colfax county special hospital district in Colfax county;

144. forty thousand dollars (\$40,000) to plan, design, purchase, construct and equip a manufactured building to house administrative offices and laboratory services at the Colfax general long-term care facility of the south central Colfax county special hospital district in Springer in Colfax county;

145. fifty thousand dollars (\$50,000) to plan, design, construct, equip and improve roofing systems for municipal and public works buildings in Springer in Colfax county;



146. one million two hundred thousand dollars (\$1,200,000) to plan, design and construct a building for the cooperative extension service in Curry county;

147. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, equip and install improvements, including roof and gutter replacement and parking lot paving, for the Clovis food bank of eastern New Mexico in Clovis in Curry county;

148. seventy-five thousand dollars (\$75,000) to plan, design, construct and install equipment for two parks in Clovis in Curry county;

149. four hundred thousand dollars (\$400,000) to plan, design and construct a parking lot, including demolishing existing structures, at the intersection of west Seventh street and Mitchell street in Clovis in Curry county;

150. seven hundred fifty thousand dollars (\$750,000) to plan, design and construct phase 2 of a wellness and youth development center in Clovis in Curry county;

151. two hundred fifty thousand dollars (\$250,000) to purchase and equip an ambulance for the ambulance service in Fort Sumner in De Baca county;

152. one hundred fifty thousand dollars (\$150,000) to purchase and equip heavy equipment, including an excavator, for the Fort Sumner irrigation district in Fort Sumner in De Baca county;

153. four hundred thousand dollars (\$400,000) to plan, design, construct, renovate, equip, furnish and install improvements for a terminal building, including infrastructure, landscaping and parking, at the Las Cruces international airport in Las Cruces in Dona Ana county;

154. two hundred thousand dollars (\$200,000) to acquire land, to conduct environmental and archaeological studies and to plan, design, construct, purchase,

furnish and equip a building, including building relocation, for the Alto de las Flores mutual domestic water consumers association in Dona Ana county;

155. twenty-four thousand dollars (\$24,000) to plan, design, construct, repair and improve Casas Lindas park in Dona Ana county;

156. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, purchase, improve, furnish and equip a community center in Dona Ana county;

157. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct and equip structures and landscaping at Colquitt park in Dona Ana county;

158. two hundred thousand dollars (\$200,000) to plan, design, construct, purchase, repair, equip and install improvements, including water systems, facilities, structures and grounds, at the county fairgrounds in Dona Ana county;

159. five hundred fifty-two thousand dollars (\$552,000) to plan, design, construct and install exhaust removal systems in fire stations in Dona Ana county;

160. one hundred thirty-three thousand dollars (\$133,000) to purchase and install safety and health equipment for firefighters and first responders in Dona Ana county;

161. seventy-five thousand dollars (\$75,000) to plan, design and construct lighting improvements in the Placitas area of Dona Ana county;

162. nine hundred fifty thousand dollars (\$950,000) to purchase, equip and replace handheld and mobile radios for staff, vehicles and fixed locations in the county sheriff's department, fire departments, detention centers and emergency management department in Dona Ana county;

163. two hundred twenty-six thousand five hundred dollars (\$226,500) to plan, design, construct, improve, furnish and equip the Vado-Del Cerro community center in Dona Ana county;

164. one million two hundred thousand dollars (\$1,200,000) to design, construct, furnish and equip a central office and warehouse facility, including landscaping, walkways, site security, furnishings, information technology and communications equipment and related software, laboratory equipment, audiovisual equipment, parking and solar parking shade structures, for the lower Rio Grande public water works authority in Dona Ana county;

165. ninety thousand dollars (\$90,000) to purchase and equip passenger vans for the south central regional transit district service between Las Cruces and the Santa Fe industrial park in Santa Teresa in Dona Ana county;

166. forty thousand dollars (\$40,000) to purchase and install public safety equipment, including speed-awareness monitors and trailers, in Anthony in Dona Ana county;

167. seventy thousand dollars (\$70,000) to plan, design, construct, purchase, renovate and equip parks and recreational facilities, including a concession stand and restroom in Adams park, in Anthony in Dona Ana county;

168. six hundred fifty thousand dollars (\$650,000) to acquire land, easements and rights of way and to plan, design, demolish and construct phase 2 of a multigenerational building in Anthony in Dona Ana county;

169. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, equip and install a structure, including wash, sanitation and packing stations and cold storage, for a youth farmers' market in Anthony in Dona Ana county;

170. one hundred fifty-one thousand five hundred dollars (\$151,500) to plan, design, construct, improve, furnish and equip a community center in Anthony in Dona Ana county;

171. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, improve and equip the Berino baseball park, including playground equipment, in Dona Ana county;

172. two hundred thousand dollars (\$200,000) to plan, design and construct an administrative and central operations facility for the Chamberino mutual domestic water consumers' and sewage association in Chamberino in Dona Ana county;

173. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, improve, furnish and equip the Delores Wright community center in Chaparral in Dona Ana county;

174. two hundred thousand dollars (\$200,000) to plan, design, construct, purchase, install and equip parks, including archaeological and environmental studies, accessibility improvements and parking lot and flood control, in Hatch in Dona Ana county;

175. seventy-five thousand dollars (\$75,000) to plan, design, construct, purchase, equip and install improvements at La Mesa baseball park in Dona Ana county;

176. one hundred ten thousand dollars (\$110,000) to plan, design, construct, improve and equip a community center, including adding a recreation room and signage, in La Mesa in Dona Ana county;

177. one hundred thousand dollars (\$100,000) to plan, design, construct, improve, purchase and equip the roof of the public health department building in Las Cruces in Dona Ana county;

178. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate, purchase, install and equip improvements to the Branigan cultural center in Las Cruces in Dona Ana county;

179. one million eight hundred thirty-nine thousand dollars (\$1,839,000) to plan, design, construct, renovate, furnish and equip facilities for storage and distribution of food at the Mesilla Valley community of hope in Las Cruces in Dona Ana county;

180. four hundred sixty-four thousand dollars (\$464,000) to purchase and install p25-compliant radios and related equipment and infrastructure improvements for the public safety regional communications system in Las Cruces in Dona Ana county;

181. seventy-five thousand dollars (\$75,000) to purchase and equip vehicles for the marshal's department in Mesilla in Dona Ana county;

182. one hundred seventeen thousand dollars (\$117,000) to plan, design, construct and improve sidewalks, including for compliance with accessibility requirements, at the Mesilla plaza in Dona Ana county;

183. fifty thousand dollars (\$50,000) to plan, design, construct, improve and equip the Mesquite baseball park, including lighting, in Dona Ana county;

184. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, purchase, upgrade and equip a skate park in Mesquite in Dona Ana county;

185. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, furnish, equip and install improvements to a community center in Mesquite in Dona Ana county;

186. one hundred fifty thousand dollars (\$150,000) to purchase and equip law enforcement vehicles and equipment in Sunland Park in Dona Ana county;

187. one hundred fifty thousand dollars (\$150,000) to plan, design and construct a public safety complex in Sunland Park in Dona Ana county;
188. one hundred thousand dollars (\$100,000) to plan, design and construct the Paso del Norte river trail in Sunland Park in Dona Ana county;
189. one hundred fifty thousand dollars (\$150,000) to plan, design, purchase and construct a multipurpose building, including an office, shop, maintenance shop and storage facility, for the Cottonwood rural water association in Eddy county;
190. one hundred fifty thousand dollars (\$150,000) to purchase and equip a backhoe for the Malaga mutual domestic water consumers and sewage works association in Eddy county;
191. fifty thousand dollars (\$50,000) to purchase and equip trucks, including emergency lights, for the Malaga mutual domestic water consumers and sewage works association in Eddy county;
192. thirty thousand dollars (\$30,000) to purchase and install communications equipment, including furnishings, for the fire department in Carlsbad in Eddy county;
193. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish a detoxification facility in Grant county;
194. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct, furnish and equip facilities to comply with accessibility requirements at the Grant county fairgrounds in Grant county;
195. four hundred fifty thousand dollars (\$450,000) to plan, design and construct building improvements, including roofing, to the public safety building in Bayard in Grant county;

196. seventy-five thousand dollars (\$75,000) to plan, design, construct, equip and furnish recreational facility and concession stand improvements, including site work and the purchase of equipment, for Bayard in Grant county;

197. one hundred thirty-five thousand dollars (\$135,000) to plan, design, construct, improve, equip and furnish a community center and park in Gila in Grant county;

198. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, improve, furnish and equip recreational facilities in Hurley in Grant county;

199. one million four hundred thousand dollars (\$1,400,000) to plan, design, construct, equip and furnish improvements to Fort Bayard buildings in Santa Clara in Grant county;

200. three hundred thousand dollars (\$300,000) to plan, design, construct, equip and furnish improvements, including sidewalks and lighting, to the Copper Trails pedestrian and bicycle path in Santa Clara in Grant county;

201. twenty-eight thousand dollars (\$28,000) to plan design, construct, replace, improve, equip and furnish the Fort Bayard theater in Santa Clara in Grant county;

202. two hundred fifty thousand dollars (\$250,000) to purchase and install medical equipment for the Gila regional medical center in Silver City in Grant county;

203. two million dollars (\$2,000,000) to plan, design, construct, equip and furnish labor and delivery improvements at the Gila regional medical center in Silver City in Grant county;

204. one hundred fifty thousand dollars (\$150,000) to acquire land for and to plan, design, construct, improve, extend and equip the San Vicente creek trail in Silver City in Grant county;

205. five hundred thousand dollars (\$500,000) to acquire property, easements and rights of way and to plan, design, construct, equip and furnish improvements to the historic water works building in Silver City in Grant county;

206. two hundred twenty-five thousand dollars (\$225,000) to purchase, equip and replace a compactor for the southwest solid waste authority in Silver City in Grant county;

207. twenty-five thousand dollars (\$25,000) to purchase and equip body cameras and associated data storage units for the sheriff's department in Santa Rosa in Guadalupe county;

208. four hundred fifty thousand dollars (\$450,000) to purchase and equip a solid waste trash truck and trash bins for Guadalupe county;

209. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, purchase, furnish and equip a theater concession area, including a storage area, for the Pecos theater in Santa Rosa in Guadalupe county;

210. two hundred forty thousand dollars (\$240,000) to purchase and equip vehicles and related equipment for the police department in Santa Rosa in Guadalupe county;

211. three hundred thousand dollars (\$300,000) to plan, design, construct, furnish and equip employee housing quarters for the road department in Harding county;

212. twenty-five thousand dollars (\$25,000) to plan, design, construct and equip improvements for the Chris B. Cordova veterans' park memorial in Mosquero in Harding county;



213. three hundred thousand dollars (\$300,000) to plan, design and construct parking lots and emergency helipads for county buildings, including for the multipurpose facility, in Roy in Harding county;

214. twenty thousand dollars (\$20,000) to plan, design, construct, furnish and install playground equipment for parks in Roy in Harding county;

215. one hundred thirty thousand dollars (\$130,000) to purchase and equip a backhoe for Hidalgo county;

216. two hundred thousand dollars (\$200,000) to purchase, equip and install border communications equipment for Hidalgo county;

217. seventy-five thousand dollars (\$75,000) to plan, design and construct a memorial for New Mexico state police officer Darian Jarrott in Hidalgo county;

218. ninety thousand dollars (\$90,000) to plan, design, construct, improve, renovate, furnish and equip the public library in Virden in Hidalgo county;

219. three hundred twenty thousand dollars (\$320,000) to design, purchase, replace and equip infusion pump systems for the Nor-Lea general hospital in Lea county;

220. six hundred five thousand dollars (\$605,000) to plan, design, construct and equip a youth sports complex, including baseball, softball, football and soccer fields, for Eunice in Lea county;

221. five hundred thousand dollars (\$500,000) to plan, design, construct, purchase, furnish, equip, install, renovate and improve infrastructure, including security improvements and accessibility compliance, for public buildings in Hobbs in Lea county;

222. two hundred seventy thousand dollars (\$270,000) to plan, design, construct and improve a convenience center for Jal in Lea county;

223. one million dollars (\$1,000,000) to plan, design, construct, purchase, renovate, equip and furnish the historic county courthouse in Lovington in Lea county;

224. one million dollars (\$1,000,000) to plan, design, construct, equip and furnish an addition for the county detention center in Lovington in Lea county;

225. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, purchase and equip a new animal services facility and shelter in Lovington in Lea county;

226. two hundred thousand dollars (\$200,000) to plan, design, construct, purchase, install and equip a fire alarm system and security improvements at city hall in Lovington in Lea county;

227. sixty-five thousand dollars (\$65,000) to purchase and install information technology, including related equipment, furniture and infrastructure, laptops and high definition cameras with wireless integration and antennae, in police department facilities and mobile units and to plan, design, construct and equip a parking lot, including security fencing and security equipment, for the police department in Lovington in Lea county;

228. one hundred thousand dollars (\$100,000) to plan, design, construct and equip new fencing, gates and roads for the Tatum cemetery in Lea county;

229. eighty-four thousand dollars (\$84,000) to purchase, equip and install equipment, including dumpsters and poly carts, for the Greentree solid waste authority in Lincoln county;

230. one hundred sixty-two thousand dollars (\$162,000) to plan, design, construct, equip and furnish the county detention center in Carrizozo in Lincoln county;

231. seventy-five thousand dollars (\$75,000) to perform site preparation and to plan, design, construct, renovate, purchase and install equipment for Sloan-Simpson park facilities, including vaulted bathrooms and signage, in Corona in Lincoln county;

232. seven hundred fifty thousand dollars (\$750,000) to plan, design, construct, furnish and equip the Wingfield house as a cultural museum and visitor center in Ruidoso in Lincoln county;

233. fifty thousand dollars (\$50,000) to plan, design, construct and repair the asphalt parking lot and related areas at a Greentree solid waste authority facility in Ruidoso Downs in Lincoln county;

234. six hundred thousand dollars (\$600,000) to plan, design and construct infrastructure and facilities for a community recreation space in White Rock in Los Alamos county;

235. one million dollars (\$1,000,000) to plan, design, construct, equip and furnish a domestic violence and homeless shelter in Luna county;

236. five hundred thousand dollars (\$500,000) to purchase and equip heavy road machinery for the county road department in Luna county;

237. two hundred thousand dollars (\$200,000) to plan, design, construct, improve, equip and furnish a health and wellness community complex for Columbus in Luna county;

238. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish a multipurpose pedestrian path in Columbus in Luna county;

239. one hundred twenty-five thousand dollars (\$125,000) to plan, design, purchase, equip and install public art in the downtown historic district in Deming in Luna county;

240. two hundred seventy-five thousand dollars (\$275,000) to plan, design and construct a public works facility in Deming in Luna county;

241. two hundred eighty-four thousand dollars (\$284,000) to plan, design and construct improvements at Trees lake in Voiers park in Deming in Luna county;

242. five hundred thousand dollars (\$500,000) to plan, design, construct, equip and furnish a youth and community recreation complex in Deming in Luna county;

243. one hundred thousand dollars (\$100,000) to plan, design, construct, furnish and equip an adult detention center in McKinley county;

244. six hundred thousand dollars (\$600,000) to acquire property, easements and rights of way and to plan, design and construct a coronavirus disease 2019 survivors' clinic in McKinley county;

245. one million five hundred sixty-eight thousand dollars (\$1,568,000) to plan, design, construct, renovate and equip improvements to battered families domestic violence shelter buildings in McKinley county;

246. eighty thousand dollars (\$80,000) to purchase and equip vehicles for the police department in Gallup in McKinley county;

247. four million fourteen thousand dollars (\$4,014,000) to plan, design, construct, furnish and equip a public safety building in Gallup in McKinley county;

248. one hundred twenty-seven thousand dollars (\$127,000) to plan, design, construct, furnish and equip improvements to the community pantry building in Gallup in McKinley county;

249. fifty thousand dollars (\$50,000) to plan, design, construct, purchase and install safety improvements, including heating, ventilation and air conditioning systems

and fire safety systems, to the Rehoboth McKinley Christian health care services hospital in Gallup in McKinley county;

250. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, repair and renovate the northwest New Mexico council of governments building, including the interior and exterior, in Gallup in McKinley county;

251. twenty thousand dollars (\$20,000) to purchase and equip vehicles and equipment for the sheriff's department in Mora county;

252. one hundred forty-five thousand dollars (\$145,000) to purchase and equip equipment for the road department in Mora county;

253. one hundred thousand dollars (\$100,000) to plan, design, construct and renovate the historic Mora theater building in Mora in Mora county;

254. one hundred thirty-five thousand dollars (\$135,000) to purchase and equip solid waste vehicles for Wagon Mound in Mora county;

255. three hundred ninety-six thousand five hundred dollars (\$396,500) to purchase, replace and equip transit vehicles for the north central regional transit district in Rio Arriba, Santa Fe, Los Alamos and Taos counties;

256. three hundred thousand dollars (\$300,000) to plan, design, construct, renovate and equip emergency operations centers for Otero county;

257. four hundred thousand dollars (\$400,000) to purchase and equip vehicles for the sheriff's department in Otero county;

258. three hundred fifty thousand dollars (\$350,000) to purchase and equip a motor grader for the Timberon water and sanitation district in Otero county;

259. four hundred ninety thousand dollars (\$490,000) to plan, design, construct, renovate, purchase, furnish and equip fire station number seven in Alamogordo in Otero county;
260. five hundred twenty-four thousand dollars (\$524,000) to purchase and install building security measures, including fencing, paving, lighting, security cameras and key card entry systems, for the police department in Alamogordo in Otero county;
261. three hundred thousand dollars (\$300,000) to purchase and equip vehicles and equipment for the police department in Alamogordo in Otero county;
262. seventy-five thousand dollars (\$75,000) to purchase and equip canal maintenance equipment, including an excavator and backhoe, for the Arch Hurley conservancy district in Tucumcari in Quay county;
263. three hundred thirty-five thousand dollars (\$335,000) to plan, design, construct, renovate, furnish and equip the Quay county detention center in Tucumcari in Quay county;
264. forty thousand dollars (\$40,000) to purchase and equip a van for an animal shelter in Rio Arriba county;
265. fifty thousand dollars (\$50,000) to plan, design, construct, renovate, furnish and equip behavioral health facilities in Rio Arriba county;
266. seventy thousand dollars (\$70,000) to plan, design, construct, renovate and repair Chamita volunteer fire department facilities, including renovations to vehicle storage and training facilities, in Rio Arriba county;
267. ten thousand dollars (\$10,000) to purchase and equip a diesel diagnostic tool for heavy equipment in Rio Arriba county;

268. forty-six thousand six hundred eleven dollars (\$46,611) to purchase, equip and install improvements to the emergency response systems in Rio Arriba county;

269. thirty-five thousand dollars (\$35,000) to purchase and equip vehicles, including brush trucks, for the Truchas and Cordova fire department in Rio Arriba county;

270. one million dollars (\$1,000,000) to acquire land for and to plan, design, develop and construct workforce housing and residential care facilities in Rio Arriba county;

271. three hundred thousand dollars (\$300,000) to purchase, install and upgrade information technology, including related equipment, furniture and infrastructure, at county facilities in Rio Arriba county;

272. forty-five thousand dollars (\$45,000) to purchase equipment, including ankle bracelets, for the county detention center in Rio Arriba county;

273. twenty thousand dollars (\$20,000) to plan, design and construct a community center in the vicinity of Ojo Caliente in Rio Arriba county;

274. two hundred thousand dollars (\$200,000) to plan, design, construct, renovate and improve recreational and athletic facilities in Rio Arriba county;

275. one hundred fifty-four thousand seven hundred dollars (\$154,700) to purchase and equip heavy equipment for solid waste management in Rio Arriba county;

276. seventy thousand dollars (\$70,000) to acquire property in accordance with a settlement agreement reached by the office of the New Mexico attorney general, including to pay back any loan, excluding interest, required to meet the settlement terms that are made prior to the release of funds, for the land grant-merced de los Pueblos de Tierra Amarilla in Rio Arriba county;

277. twenty-five thousand dollars (\$25,000) to plan, design, construct, equip and renovate a cemetery in Alcalde in Rio Arriba county;

278. twenty-four thousand nine hundred seventy dollars (\$24,970) to plan, design and construct REDINet repeater fiber optic expansions, including 911 security improvements, for governmental business operations in Embudo in Rio Arriba county;

279. eighty thousand dollars (\$80,000) to purchase and equip heavy equipment for solid waste management in Espanola in Rio Arriba county;

280. eighty-six thousand one hundred forty-one dollars (\$86,141) to acquire property for and to plan, design, construct, equip, renovate and expand Valdez park, including replacement of existing playground equipment, in Espanola in Rio Arriba county;

281. one hundred thousand dollars (\$100,000) to plan, design and construct basketball courts and a skate park at Valdez park in Espanola in Rio Arriba county;

282. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and renovate the Rio Arriba empowerment center in Espanola in Rio Arriba county;

283. seventy-five thousand dollars (\$75,000) to plan, design, construct and renovate Agua Sana volunteer fire department facilities in Hernandez in Rio Arriba county;

284. one hundred ninety-five thousand five hundred dollars (\$195,500) to purchase and equip heavy equipment, including loaders, for Roosevelt county;

285. one hundred seventy-five thousand dollars (\$175,000) to purchase, replace and upgrade equipment for the radiology, emergency, laboratory and medical surgery departments, operating room and rural health clinic for the Roosevelt county special hospital district in Roosevelt county;



286. fifty thousand dollars (\$50,000) to plan, design and construct improvements to the parking lot at Roosevelt general hospital for the Roosevelt county special hospital district in Roosevelt county;

287. ninety thousand dollars (\$90,000) to plan, design, construct and renovate Bonem house mental health care facility in Portales in Roosevelt county;

288. eighty-five thousand dollars (\$85,000) to purchase and equip a backhoe, including a jackhammer attachment, for a cemetery in Portales in Roosevelt county;

289. two hundred fifty thousand dollars (\$250,000) to acquire land for and to plan, design, construct, expand and improve a cemetery in Portales in Roosevelt county;

290. two hundred thousand dollars (\$200,000) to plan, design, construct, improve, furnish and equip county facilities with accessibility improvements in San Juan county;

291. one hundred fifty thousand dollars (\$150,000) to purchase and equip vehicles for the police department, for animal care and control and for code enforcement in Aztec in San Juan county;

292. two hundred thousand dollars (\$200,000) to plan, design, construct, furnish and equip a lake Farmington response unit for the Farmington fire department in San Juan county;

293. two hundred fifty thousand dollars (\$250,000) to plan, design and construct renovations to the Lions pool in Farmington in San Juan county;

294. four hundred fifty thousand dollars (\$450,000) to purchase and equip law enforcement vehicles for the police department in Farmington in San Juan county;

295. eight hundred seventy-five thousand dollars (\$875,000) to plan, design, construct, purchase, install and equip security camera systems in the downtown park and trail system and in the river walk areas in Farmington in San Juan county;

296. two hundred seventy thousand dollars (\$270,000) to plan, design, construct, purchase and equip safety improvements, including the conversion of standard patient care rooms in the main hospital to negative pressure isolation rooms, at the San Juan regional medical center in Farmington in San Juan county;

297. sixty thousand dollars (\$60,000) to purchase and install ultraviolet lights and air handling systems in the patient care tower of the main hospital at San Juan regional medical center in Farmington in San Juan county;

298. fifty thousand dollars (\$50,000) to purchase and install equipment for fire departments in San Miguel county;

299. forty thousand dollars (\$40,000) to purchase and install information technology, including related equipment, furniture and infrastructure, and to purchase lapel cameras and other law enforcement equipment for the sheriff's department in San Miguel county;

300. fifty thousand dollars (\$50,000) to purchase and equip vehicles and heavy machinery, including solid waste trucks, trailers, mowers, solid waste bins, excavators and accessories, for the public works department in San Miguel county;

301. seventy-five thousand dollars (\$75,000) to plan, design, construct, equip, purchase and install infrastructure improvements for the Northeastern regional crisis and treatment center in San Miguel county;

302. one hundred thirty thousand dollars (\$130,000) to purchase and equip vehicles for the sheriff's department in San Miguel county;

303. two hundred thousand dollars (\$200,000) to plan, design, construct, furnish and equip a voting machine storage facility for the county clerk in San Miguel county;

304. ninety thousand dollars (\$90,000) to plan, design, construct and equip improvements to the Gallinas riverwalk, from Mills avenue to Prince street, in Las Vegas in San Miguel county;

305. forty thousand dollars (\$40,000) to purchase and equip maintenance vehicles, including multipurpose vehicles for road repair and snow removal, in Las Vegas in San Miguel county;

306. fifty thousand dollars (\$50,000) to plan, design, construct and repair museum and municipal court buildings, including asbestos abatement and mold, in Las Vegas in San Miguel county;

307. one hundred eighty-five thousand dollars (\$185,000) to purchase, equip and replace police vehicles for the Las Vegas police department in Las Vegas in San Miguel county;

308. fifty thousand dollars (\$50,000) to plan, design, construct, purchase and equip a solar electric installation, including connective infrastructure, for a recreation center and administrative offices in Las Vegas in San Miguel county;

309. three million five hundred thousand dollars (\$3,500,000) to plan, design, construct, renovate, equip and install improvements for a sports complex at Rodriguez park in Las Vegas in San Miguel county;

310. six hundred thousand dollars (\$600,000) to purchase land and to plan, design and construct an animal shelter in Sandoval county;

311. twenty-six thousand dollars (\$26,000) to plan, design and construct a public safety complex in Sandoval county;

312. two hundred sixty-one thousand eight hundred fifty-six dollars (\$261,856) to purchase and equip body cameras for the sheriff's department in Sandoval county;

313. one hundred thousand dollars (\$100,000) to purchase, equip and replace vehicles, including lighting, communication and safety equipment, for the sheriff's office in Sandoval county;

314. four hundred fifty thousand dollars (\$450,000) to plan, design, construct, purchase, furnish, equip and install improvements to countywide voting sites, including walkways, ramps, doorways, portable equipment and accessibility compliance, in Sandoval county;

315. two hundred seventy thousand dollars (\$270,000) to plan, design, construct, purchase, improve, equip and install information technology and telecommunications systems, including core data infrastructure, in Bernalillo in Sandoval county;

316. forty thousand dollars (\$40,000) to purchase and equip a vehicle for Corrales animal services in Corrales in Sandoval county;

317. one hundred thousand dollars (\$100,000) to plan, design, construct and renovate paving and parking lots at municipal facilities in Corrales in Sandoval county;

318. two hundred thousand dollars (\$200,000) to plan, design, construct and equip a fire substation in Corrales in Sandoval county;

319. seventy-five thousand dollars (\$75,000) to plan, design and construct a bicycle, equestrian and pedestrian trail to connect the Thompson fence line trail to Corrales in Bernalillo county;

320. one hundred forty-one thousand dollars (\$141,000) to plan, design, construct, renovate, furnish and equip public buildings in Corrales in Sandoval county;

321. forty thousand dollars (\$40,000) to purchase and equip a vehicle and equipment for the Corrales planning and zoning department in Corrales in Sandoval county;

322. two hundred forty-three thousand five hundred dollars (\$243,500) to plan, design and construct the west Meadowlark lane trail in Corrales in Sandoval county;

323. five hundred sixty thousand dollars (\$560,000) to plan, design, construct, purchase, furnish, equip and expand the public works facility shop in Cuba in Sandoval county;

324. seven thousand dollars (\$7,000) to plan, design, construct, improve, equip and furnish a performance stage at Leyba Land community park for the public library in Jemez Springs in Sandoval county;

325. one hundred eighty thousand dollars (\$180,000) to plan, design, construct and replace the roof at Esther Bone memorial library in Rio Rancho in Sandoval county;

326. two hundred thousand dollars (\$200,000) to plan, design, construct and replace heating, ventilation and air conditioning systems, including for the police department, municipal court and regional emergency communications facilities, in Rio Rancho in Sandoval county;

327. one hundred six thousand dollars (\$106,000) to plan, design, construct and renovate fire stations in Rio Rancho in Sandoval county;

328. one hundred thirty-four thousand dollars (\$134,000) to plan, design, construct, improve and replace a basketball court, paths and walkways and for accessibility improvements at Rio Vista park in Rio Rancho in Sandoval county;

329. one hundred thirty thousand dollars (\$130,000) to plan, design and construct a pedestrian and bicycle trail along avenida Azul in Santa Fe county;

330. one million eight hundred sixty thousand dollars (\$1,860,000) to acquire facilities to provide shelter and transitional living programs and services to the homeless and special populations in Espanola in Santa Fe county;

331. sixty thousand dollars (\$60,000) to purchase and equip vehicles for the north central New Mexico economic development district in Santa Fe county;

332. one hundred thirty thousand dollars (\$130,000) to plan and design a fire station in the Eldorado fire district in Santa Fe county;

333. four hundred fifty-two thousand six hundred sixty-eight dollars (\$452,668) to plan, design, construct and equip site improvements for public housing in Santa Fe county;

334. one million three hundred five thousand dollars (\$1,305,000) to plan, design and construct an expansion to a facility for a recovery program in Santa Fe county;

335. one hundred eighty-five thousand dollars (\$185,000) to plan, design, construct, renovate, upgrade and equip the Bennie J. Chavez community center in Chimayo in Santa Fe county;

336. two hundred fifty thousand dollars (\$250,000) to acquire United States bureau of land management land and to plan, design, construct, improve and equip a municipal park in Edgewood in Santa Fe county;

337. twenty thousand dollars (\$20,000) to plan, design and construct an additional apparatus bay at fire station 1 in Edgewood in Santa Fe county;

338. two hundred forty thousand dollars (\$240,000) to plan, design, construct and improve a trail, including an historic pedestrian bridge, in Edgewood in Santa Fe county;

339. two hundred seventy-five thousand dollars (\$275,000) to plan, design, construct, improve and equip the fire suppression system in the Madrid area in Santa Fe county;

340. two hundred fifty thousand dollars (\$250,000) to plan, design, renovate, construct, improve and equip a facility for a meals program serving homebound and special needs individuals in Santa Fe in Santa Fe county;

341. one million dollars (\$1,000,000) to plan, design, construct, repair, improve and equip parks in Santa Fe in Santa Fe county;

342. one million eight hundred five thousand dollars (\$1,805,000) to plan, design, construct, furnish and equip a teen and resource center on the south side of Santa Fe in Santa Fe county;

343. three hundred thousand dollars (\$300,000) to plan, design and construct a trail in the Tierra Contenta subdivision in Santa Fe in Santa Fe county;

344. one million dollars (\$1,000,000) to plan, design, construct and improve infrastructure for the midtown Santa Fe property in Santa Fe in Santa Fe county;

345. one hundred fifty thousand dollars (\$150,000) to purchase and equip vehicles and shuttle buses for Sierra county;

346. one hundred thousand dollars (\$100,000) to plan, design, construct, extend, resurface and pave a parking lot for a county complex in Truth or Consequences in Sierra county;

347. one hundred eighty thousand dollars (\$180,000) to purchase and equip ambulances for Sierra Vista hospital in Truth or Consequences in Sierra county;

348. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, purchase, install, furnish and equip a park, including shelters and parking, in Williamsburg in Sierra county;

349. three hundred twenty thousand dollars (\$320,000) to purchase and equip an ambulance for Magdalena in Socorro county;

350. one hundred ninety thousand dollars (\$190,000) to plan, design, construct, improve, furnish and equip a community center in Socorro in Socorro county;

351. four hundred fifty thousand dollars (\$450,000) to plan, design, construct, renovate, furnish, equip and install energy-efficient improvements to the county courthouse in Socorro in Socorro county;

352. two hundred thousand dollars (\$200,000) to plan, design, construct, furnish and equip convention facilities in Socorro in Socorro county;

353. two hundred ten thousand dollars (\$210,000) to purchase and equip an ambulance for Taos county;

354. fifty thousand dollars (\$50,000) to purchase and equip wildland trucks for the Cerro and San Cristobal fire departments, including rope equipment for a county rescue truck, in Taos county;

355. one hundred fifty thousand dollars (\$150,000) to purchase and equip vehicles for the sheriff's department in Taos county;

356. seventy-five thousand dollars (\$75,000) to plan, design, construct and renovate a community center, including roofing, windows and gas heaters, in Taos county;



357. one million three hundred seventy-five thousand dollars (\$1,375,000) to plan, design, construct and renovate the parking lot at the Taos regional airport in Taos county;

358. fifty thousand dollars (\$50,000) to acquire land and buildings and to plan, design, construct, renovate, remodel, furnish and equip an administrative multipurpose facility for the Don Fernando de Taos land grant-merced in Taos county;

359. two hundred twenty thousand dollars (\$220,000) to plan, design and construct a multi-use recreational trail between Questa and Red River in Taos county;

360. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish a county administrative building in Torrance county;

361. seven hundred thousand dollars (\$700,000) to plan, design, construct, improve, furnish and equip the county fairgrounds in Torrance county;

362. seventy-five thousand five hundred dollars (\$75,500) to plan, design, construct and equip building security and entry control systems for the county 911 dispatch center in Torrance county;

363. twenty-five thousand dollars (\$25,000) to plan, design, construct, equip and furnish a room for cats at the Torrance county animal shelter in McIntosh in Torrance county;

364. three hundred twenty-five thousand dollars (\$325,000) to plan, design and construct improvements to public facilities, including paving and parking areas, in Moriarty in Torrance county;

365. forty thousand dollars (\$40,000) to plan, design, construct and replace the roof of the town hall in Mountainair in Torrance county;

366. fifty thousand dollars (\$50,000) to purchase and equip heavy equipment and to plan, design, demolish and renovate condemned properties in Willard in Torrance county;

367. one hundred sixty-nine thousand dollars (\$169,000) to plan, design, construct, furnish and equip a youth recreational and resource center in Willard in Torrance county;

368. three hundred ninety thousand dollars (\$390,000) to plan, design, construct, improve, demolish and remove abandoned properties under abatement in Valencia county;

369. fifty thousand dollars (\$50,000) to purchase and install interoperable communications equipment for public safety departments in Valencia county;

370. one hundred eight thousand dollars (\$108,000) to purchase and install security fencing at Eagle park in Belen in Valencia county;

371. seven hundred forty-six thousand dollars (\$746,000) to plan, design, construct and install improvements to Eagle park in Belen in Valencia county;

372. one hundred five thousand dollars (\$105,000) to plan, design and construct multipurpose trails and maintenance service roads in Eagle park in Belen in Valencia county;

373. one hundred thousand dollars (\$100,000) to plan, design, construct, improve and equip the veterans memorial at Eagle park in Belen in Valencia county;

374. thirty thousand dollars (\$30,000) to plan, design, construct, purchase and install improvements to the gazebo and arch gateway in Belen in Valencia county;

375. two hundred thousand dollars (\$200,000) to plan, design, construct, equip and install improvements to the fire and police departments in Bosque Farms in Valencia county;

376. two hundred six thousand five hundred dollars (\$206,500) to purchase and equip vehicles for the Bosque Farms police department in Valencia county;

377. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, furnish and equip an indoor aquatic center in Los Lunas in Valencia county;

378. two hundred twenty-five thousand dollars (\$225,000) to plan, design, construct, equip and install improvements to River park in Los Lunas in Valencia county;

379. four hundred thousand dollars (\$400,000) to plan, design, construct, furnish and equip improvements to a sports complex in Los Lunas in Valencia county;

380. three hundred thousand dollars (\$300,000) to plan, design, construct, renovate, equip and install improvements, including a fire alarm and sprinkler system, upgrades to electrical, plumbing, heating, ventilation and air conditioning systems, furnishings and accessibility improvements, to the county administration building in Los Lunas in Valencia county;

381. ninety-seven thousand dollars (\$97,000) to purchase, equip and install an emergency generator at the county detention center in Los Lunas in Valencia county;

382. one hundred thirty-five thousand dollars (\$135,000) to purchase, equip and install a full-body x-ray scanner for the county detention center in Los Lunas in Valencia county;

383. fifty thousand dollars (\$50,000) to plan, design, construct, improve, furnish and equip administrative facilities in Peralta in Valencia county;

384. three hundred thousand dollars (\$300,000) to plan, design and construct a fire station in Peralta in Valencia county;

385. one hundred forty-two thousand five hundred dollars (\$142,500) to purchase vehicles and equipment for the public works department in Peralta in Valencia county;

386. three hundred thousand dollars (\$300,000) to purchase vehicles and equipment for the fire and police departments in Peralta in Valencia county;

387. three hundred fifty thousand dollars (\$350,000) to plan, design, construct, furnish and equip a recreation park in Peralta in Valencia county;

388. three hundred thousand dollars (\$300,000) to plan, design, construct, demolish, furnish and equip the city hall multipurpose complex, including fire suppression, security and safety improvements, in Rio Communities in Valencia county;

389. two hundred four thousand dollars (\$204,000) to purchase and equip a fire apparatus for the Rio Communities fire department in Rio Communities in Valencia county;

390. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, furnish and equip trails, parks and open spaces in Rio Communities in Valencia county;

391. one hundred thousand dollars (\$100,000) to acquire property and to plan, design, construct, purchase, renovate, furnish and equip buildings, including the historic jail site and other structures within the patented boundaries of the town of Tome land grant-merced, in Valencia county;

~~[392. five thousand five hundred sixty dollars (\$5,560) to plan, design, construct, purchase and install broadband communications equipment and infrastructure, including adding two fiber pairs comprising four strands, at the city hall in Espanola in Rio Arriba county;] LINE-ITEM VETO~~

393. twenty-eight thousand three hundred sixty dollars (\$28,360) to plan, design, construct and install communications equipment and infrastructure, including four-strand fiber terminations on existing lateral service off of the REDINet backbone, at the Rio Arriba empowerment center in Espanola in Rio Arriba county;

394. ninety-three thousand seven hundred fifty dollars (\$93,750) to plan, design and construct a micro fiber installation for five sites on the campus of a residential recovery facility in Velarde in Rio Arriba county; and

395. twenty thousand dollars (\$20,000) to plan, design and construct broadband connections for La Bajada community ditch and mutual domestic water association in Santa Fe county.

## **Chapter 138 Section 30 Laws 2021**

SECTION 30. DEPARTMENT OF MILITARY AFFAIRS PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the department of military affairs that the need exists for the issuance of the bonds, the following amounts are appropriated to the department of military affairs for the following purposes:

1. four hundred thousand dollars (\$400,000) to plan, design, construct, renovate and make improvements, including energy-efficient systems and infrastructure upgrades, at the Clovis armory in Curry county;

2. one million three hundred thousand dollars (\$1,300,000) to plan, design, construct, renovate and make improvements, including energy-efficient systems and infrastructure upgrades, at the Las Cruces armory in Dona Ana county; and

3. four hundred fifty thousand dollars (\$450,000) to plan, design, construct, renovate and make improvements, including energy-efficient systems and infrastructure upgrades, at the Ocate training center complex in Santa Fe county.

## **Chapter 138 Section 31 Laws 2021**

SECTION 31. DEPARTMENT OF PUBLIC SAFETY PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the department of public safety that the need exists for the issuance of the bonds, four hundred eighty-three thousand two hundred dollars (\$483,200) is appropriated to the department of public safety to purchase and equip a robot, including commissioning and training, for the department of public safety.

## **Chapter 138 Section 32 Laws 2021**

SECTION 32. SUPREME COURT PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the supreme court that the need exists for the issuance of the bonds, two hundred five thousand eight hundred seven dollars (\$205,807) is appropriated to the supreme court to plan, design, construct and renovate facilities, including removal, disposal, remediation and installation of carpet, at the supreme court building in Santa Fe in Santa Fe county.

## **Chapter 138 Section 33 Laws 2021**

SECTION 33. DEPARTMENT OF TRANSPORTATION PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the department of transportation that the need exists for the issuance of the bonds, the following amounts are appropriated to the department of transportation for the following purposes:

1. two million seven hundred eighty thousand dollars (\$2,780,000) to acquire rights of way and to plan, design and construct improvements to paseo del Volcan in Bernalillo and Sandoval counties;

2. two hundred thousand dollars (\$200,000) to acquire rights of way and to plan, design, construct and improve Second street NW from Osuna road to Los Ranchos road, including accessibility compliance, in Bernalillo county;
3. three hundred one thousand five hundred dollars (\$301,500) to acquire rights of way and to plan, design and construct road improvements on Ann avenue SW and on Armijo road SW in the Atrisco community, including storm drainage, and for other road projects in house district 14 in Bernalillo county;
4. twenty-five thousand dollars (\$25,000) to plan, design, construct and rehabilitate any county-maintained road and associated infrastructure, including Arenal road from Coors boulevard west to the end of county maintenance and the intersection of Rio Bravo boulevard and Second street extending north and east, in county commission district 2 in Bernalillo county;
5. one hundred twenty-five thousand dollars (\$125,000) to acquire rights of way and to plan, design and improve Atrisco Vista boulevard from Double Eagle airport to paseo del Norte boulevard NW in Bernalillo county;
6. fifty thousand dollars (\$50,000) to plan, design, construct, improve, replace, purchase, retrofit and install street lights and related equipment in county commission district 2 in Bernalillo county;
7. twenty-five thousand dollars (\$25,000) to plan, design, construct and install traffic calming devices, including speed humps, in county commission district 2 in Bernalillo county;
8. four hundred thousand dollars (\$400,000) to plan, design, construct and improve drainage in cooperation with the Albuquerque metropolitan arroyo flood control authority in the Mountainview neighborhood in county commission district 2 in Bernalillo county;

9. one million dollars (\$1,000,000) to plan, design, construct and improve Mountain Valley road in Bernalillo county;
10. three hundred thousand dollars (\$300,000) to acquire rights of way and to plan, design, construct and improve Neat lane SW in the Atrisco community, including storm drainage, and for other road projects in house district 14 in Bernalillo county;
11. three hundred fifty thousand dollars (\$350,000) to acquire rights of way and to plan, design, construct and improve Quiet lane SW in the Atrisco community, including storm drainage, and for other road projects in house district 14 in Bernalillo county;
12. two hundred fifty thousand dollars (\$250,000) to acquire rights of way and to plan, design, construct and improve San Ygnacio road SW and Tapia boulevard SW in the Atrisco community, including storm drainage, and for other road projects in house district 14 in Bernalillo county;
13. fifty-six thousand dollars (\$56,000) to acquire rights of way and to plan, design, construct and improve Shipman road SW and Canal street SW in the Atrisco community, including storm drainage, and for other road projects in house district 14 in Bernalillo county;
14. three hundred thousand dollars (\$300,000) to acquire rights of way and to plan, design, construct, equip and install traffic calming devices and pedestrian safety improvements on Twelfth street NW and Sawmill road NW in Albuquerque in Bernalillo county;
15. fifty thousand dollars (\$50,000) to plan, design, construct and renovate traffic signals at 98th street and Unser boulevard in Albuquerque in Bernalillo county;
16. sixty thousand dollars (\$60,000) to plan, design, construct and install street lights for city council district 3 in Albuquerque in Bernalillo county;



17. fifty thousand dollars (\$50,000) to plan, design, construct and improve median landscaping along streets in city council district 3 in Albuquerque in Bernalillo county;
18. five hundred sixty thousand dollars (\$560,000) to plan, design and construct a sound wall in the San Jose neighborhood in Albuquerque in Bernalillo county;
19. twenty-five thousand dollars (\$25,000) to plan, design, construct and improve Barcelona road SW from west of Sylvia road to the Isleta drain, including drainage, in Albuquerque in Bernalillo county;
20. twenty-five thousand dollars (\$25,000) to acquire rights of way and to plan, design, construct and improve roads and storm drains along Blake road SW from the Isleta drain to Isleta boulevard in Bernalillo county;
21. two hundred sixty-five thousand dollars (\$265,000) to plan, design, construct and improve Gibson boulevard SE in Albuquerque in Bernalillo county;
22. eighteen thousand dollars (\$18,000) to plan, design, construct, furnish and equip a covered bus stop and for accessibility improvements on southbound Golf Course road NW at Ellison drive in Albuquerque in Bernalillo county;
23. three hundred thousand dollars (\$300,000) to plan, design, construct and improve Lead avenue SE and Coal avenue SE, including safety features, in Albuquerque in Bernalillo county;
24. one hundred fifty thousand dollars (\$150,000) to acquire rights of way and to plan, design, construct and expand McMahan boulevard NW from Rockcliff drive to Anasazi Ridge avenue, including the purchase and installation of signal and safety improvements, in Albuquerque in Bernalillo county;

25. two million fifty thousand dollars (\$2,050,000) to acquire rights of way and to plan, design, construct, improve and expand paseo del Norte boulevard NW, including two lanes in each direction, a multi-use trail and bicycle lanes, between Rainbow boulevard and calle Nortena in Albuquerque in Bernalillo county;

26. sixty thousand dollars (\$60,000) to plan, design and construct improvements to the Silver avenue bicycle boulevard and to Lead avenue SE in Albuquerque in Bernalillo county;

27. one hundred thousand dollars (\$100,000) to plan, design, construct and improve county-maintained roads and associated infrastructure, including Tyler road northwest from Second street to the railroad tracks and Tyler road northeast from Edith boulevard to Tokay street, in county commission district 1 in Bernalillo county;

28. one hundred thousand dollars (\$100,000) to plan, design, construct and renovate a parking lot, including resurfacing, restriping, landscaping and vehicular access, for the New Mexico international school in the Albuquerque public school district in Bernalillo county;

29. two hundred fifty thousand dollars (\$250,000) to plan, design and construct road improvements to Fourth street NW from Pueblo Solano road NW to Ortega road NW in Los Ranchos de Albuquerque in Bernalillo county;

30. five hundred forty-four thousand dollars (\$544,000) to plan, design, construct and improve roads, including Criswell drive and Carmino road, in Tijeras in Bernalillo county;

31. two hundred thousand dollars (\$200,000) to acquire easements and rights of way and to plan, design and construct street improvements, including to Aberdeen street, in Hagerman in Chaves county;

32. eight hundred eighty-nine thousand dollars (\$889,000) to plan, design, construct and furnish a new bridge on north Garden avenue between east College boulevard and east Cherry street in Roswell in Chaves county;
33. one million five hundred thousand dollars (\$1,500,000) to plan, design, construct and improve Norris street in Clovis in Curry county;
34. five hundred thousand dollars (\$500,000) to plan, design, construct and improve Carver road in Dona Ana county;
35. three million one hundred twenty-five thousand dollars (\$3,125,000) to acquire property and to plan, design, construct and equip drainage channels to the Brahman diversion channel in Dona Ana county;
36. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, equip and install an aircraft hangar at the international jetport in Dona Ana county;
37. two hundred twenty-five thousand dollars (\$225,000) to acquire rights of way and to plan, design, construct, equip and install lighting, sidewalks and improvements to roads and to a multi-use trail in Dona Ana county;
38. four hundred twenty-five thousand dollars (\$425,000) to plan, design, construct and improve El Camino Real road in Dona Ana county;
39. three hundred fifty thousand dollars (\$350,000) to plan, design, construct, improve and replace portions of Lisa drive in Dona Ana county;
40. one hundred thousand dollars (\$100,000) to plan, design and construct street improvements and pedestrian access to Duffer lane, including drainage, sidewalks, curb and gutter, accessibility and safety street lighting, in Anthony in Dona Ana county;

41. four hundred thousand dollars (\$400,000) to plan, design, construct and equip drainage improvements, including drainage channels, detention ponds and culvert pipe replacements, in Dona Ana in Dona Ana county;

42. two hundred fifty thousand dollars (\$250,000) to plan, design, construct and improve sidewalks, street lighting and roads in Dona Ana in Dona Ana county;

43. fifty thousand dollars (\$50,000) to plan, design, construct and improve sidewalks and streets in La Union in Dona Ana county;

44. four hundred thousand dollars (\$400,000) to acquire rights of way and to plan, design and construct extensions, including utility and flood control infrastructure, on east Madrid avenue in Las Cruces in Dona Ana county;

45. four hundred fourteen thousand dollars (\$414,000) to acquire rights of way and to plan, design, construct and improve roads, including utilities and flood control, for the East Mesa area and for other road projects in Las Cruces in Dona Ana county;

46. one hundred eighty thousand dollars (\$180,000) to acquire easements and rights of way and to plan, design, construct and improve drainage along calle de Picacho in Mesilla in Dona Ana county;

47. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, purchase, equip and install lighting improvements for avenida de Mesilla, Veterans park and the town hall parking lot in Mesilla in Dona Ana county;

48. two hundred thousand dollars (\$200,000) to acquire rights of way and to plan, design, construct and improve Tres Caballos road from New Mexico highway 228 to Kirkpatrick avenue in the Mesquite area of Dona Ana county;

49. one hundred eighty thousand dollars (\$180,000) to plan, design, construct and improve county roads, including Tierra del Sol drive and calle de Lucero, in the area of San Miguel in Dona Ana county;

50. two million ninety-five thousand dollars (\$2,095,000) to plan, design, construct and improve roads, including Crawford road, Memorial Pines and roads in the Anapra neighborhood, in Sunland Park in Dona Ana county;

51. one million five hundred twenty-nine thousand dollars (\$1,529,000) to plan, design and construct phase 2 of a bypass road from United States highway 62 to United States highway 285 around Carlsbad in Eddy county;

52. five hundred thousand dollars (\$500,000) to plan, design and construct improvements to south Twenty-Sixth street between west Hermosa drive and west Grand avenue in Artesia in Eddy county;

53. five hundred thousand dollars (\$500,000) to plan, design and construct improvements to west Hermosa drive between south First street and south Thirteenth street in Artesia in Eddy county;

54. one million dollars (\$1,000,000) to plan, design, construct and improve Little Walnut road in Silver City in Grant county;

55. two hundred thousand dollars (\$200,000) to plan, design, construct and improve street and drainage infrastructure on Ridge road from Bob White drive to east Lance drive in Silver City in Grant county;

56. five hundred thousand dollars (\$500,000) to plan, design, construct, equip and install drainage improvements for the Glen Acres area in Hidalgo county;

57. eight hundred twenty-eight thousand dollars (\$828,000) to plan, design, construct, furnish and equip a citywide fiber and wireless network, including infrastructure, in Hobbs in Lea county;

58. two hundred thousand dollars (\$200,000) to plan, design and construct drainage improvements in the Palo Verde Slopes area of Lincoln county;

59. fifty thousand dollars (\$50,000) to plan, design and construct a storm drainage system for Corona in Lincoln county;
60. two hundred thousand dollars (\$200,000) to plan, design, construct, repair and replace bridges in Ruidoso in Lincoln county;
61. three hundred thousand dollars (\$300,000) to plan, design and construct street and drainage improvements along south Santa Barbara street in Deming in Luna county;
62. three hundred thousand dollars (\$300,000) to plan, design and construct county road 1 in McKinley county;
63. two hundred fifty thousand dollars (\$250,000) to plan, design and construct Old Church Rock Mine road and bridge in McKinley county;
64. fifty thousand dollars (\$50,000) to acquire easements and rights of way and to plan, design and construct Pine drive in the Pinedale chapter of the Navajo Nation in McKinley county;
65. one hundred twenty-five thousand dollars (\$125,000) to acquire easements and rights of way, to conduct environmental and archaeological studies and to plan, design and construct streets and improvements in the Red Lake chapter of the Navajo Nation in McKinley county;
66. two hundred twenty-five thousand dollars (\$225,000) to plan, design, construct and improve county road 51 in the Thoreau chapter of the Navajo Nation in McKinley county;
67. ten thousand dollars (\$10,000) to plan, design, construct and realign New Mexico highways 314, 45 and 317 at the Pueblo of Isleta in Bernalillo county;

68. three million five hundred thirty-four thousand four hundred eighty-one dollars (\$3,534,481) to plan, design and construct a bridge on Riata road, south of Pecos road, in Otero county;

69. one million dollars (\$1,000,000) to plan, design, construct, improve and replace a bridge on Suzy Ann street in the Boles Acres area of Otero county;

70. forty-five thousand dollars (\$45,000) to plan, design and construct improvements to White Mountain drive for the Mescalero Apache Tribe in Otero county;

71. ninety-four thousand dollars (\$94,000) to plan, design, construct and improve streets, including Maple drive, Blanca Vista way and Woodlands way, in Cloudcroft in Otero county;

72. two hundred fifty thousand dollars (\$250,000) to plan, design, construct and improve Cider Mill Farms road, including widening, demolition of asphalt and the addition of shoulders, for the Cider Mills Farms mutual domestic water consumers' association in High Rolls in Otero county;

73. four hundred fifty thousand dollars (\$450,000) to plan, design, construct and improve streets and bridges in Tularosa in Otero county;

74. three hundred eighty-eight thousand one hundred ninety dollars (\$388,190) to plan, design, construct and repair streets in Tucumcari in Quay county;

75. six hundred forty-five thousand dollars (\$645,000) to acquire property for and to plan, design, construct and expand Silkey way in Espanola in Rio Arriba county;

76. three hundred thousand dollars (\$300,000) to plan, design, construct and improve county roads, including caliche, chip seal, fog seal, polymer modified master seal, cape seal, micro seal, concrete and dirt roads, in Roosevelt county;

77. one million three hundred thousand eighty-eight dollars (\$1,300,088) to acquire easements and to plan, design, construct and improve infrastructure, including drainage, on Kilgore avenue in Portales in Roosevelt county;

78. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct improvements to county road 5500, including a chip seal overlay, in San Juan county;

79. two million four hundred thousand dollars (\$2,400,000) to plan, design and construct improvements to east Blanco boulevard, including bridge replacement and drainage, in Bloomfield in San Juan county;

80. one hundred fifty thousand dollars (\$150,000) to plan, design and construct a bridge over Largo wash in San Juan county;

81. one hundred thousand dollars (\$100,000) to plan, design, construct and equip street, pedestrian and plaza improvements along Main avenue in downtown Aztec in San Juan county;

82. one hundred thousand dollars (\$100,000) to plan, design, construct and improve a helipad access road for the Beclabito chapter of the Navajo Nation in San Juan county;

83. one hundred thousand dollars (\$100,000) to plan, design and construct a helipad in the Beclabito chapter of the Navajo Nation in San Juan county;

84. four hundred thousand dollars (\$400,000) to plan, design, construct and repair the Broadway avenue bridge in Farmington in San Juan county;

85. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, purchase and install solar streetlights at the main intersection of United States highway 491 and Navajo route 5001 in the Newcomb chapter of the Navajo Nation in San Juan county;



86. eighty thousand dollars (\$80,000) to plan, design and construct road safety improvements, including traffic lights and signage, for the intersection of New Mexico highway 134 and United States highway 491 in the Tooh Haltsooi chapter of the Navajo Nation in San Juan county;

87. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to Navajo route 367 in the Upper Fruitland chapter of the Navajo Nation in San Juan county;

88. six hundred fifty thousand dollars (\$650,000) to plan, design and construct flood control improvements to the Ivory channel within the Star Heights drainage basin for the southern Sandoval county arroyo flood control authority in Sandoval county;

89. fifty thousand dollars (\$50,000) to plan, design, construct, purchase and equip traffic signage in Corrales in Sandoval county;

90. one hundred thirty-nine thousand eight hundred thirty-three dollars (\$139,833) to plan, design, construct, replace, equip and install dark sky lighting for Jemez Springs in Sandoval county;

91. fifty thousand dollars (\$50,000) to plan and design a new bridge at the south end of Mooney boulevard in Jemez Springs in Sandoval county;

92. six hundred thousand dollars (\$600,000) to plan, design and construct intersection improvements at Idalia road and Loma Colorado boulevard in Rio Rancho in Sandoval county;

93. one hundred thousand dollars (\$100,000) to plan and design drainage improvements to Pine road in Rio Rancho in Sandoval county;

94. two hundred sixteen thousand dollars (\$216,000) to plan, design and construct sidewalks on Sara road from Meadowlark lane to state highway 528 in Rio Rancho in Sandoval county;

95. one hundred fifty thousand dollars (\$150,000) to plan, design and construct sidewalks for accessibility compliance in the Camino de Jacobo subdivision in Santa Fe county;

96. four hundred thousand dollars (\$400,000) to plan, design and construct a road noise mitigation project for United States highway 84/285 north of Santa Fe in Santa Fe county;

97. one hundred thousand dollars (\$100,000) to acquire easements and rights of way for and to plan, design, construct and extend Zafarano drive, including installation and extension of water and sewer lines and utilities, from Rufina street to Agua Fria street in Santa Fe county;

98. three hundred thousand dollars (\$300,000) to acquire rights of way and to plan, design, construct and improve pedestrian, bicycle and drainage infrastructure on Governor Miles road in Santa Fe in Santa Fe county;

99. two hundred seventy-five thousand dollars (\$275,000) to plan, design, construct and improve paseo de Las Vistas in Santa Fe in Santa Fe county;

100. three hundred fifty thousand dollars (\$350,000) to acquire rights of way and to plan, design, construct and improve pedestrian and bicycle infrastructure on key streets, including St. Michael's drive and Siringo road, in Santa Fe in Santa Fe county;

101. one hundred thousand dollars (\$100,000) to plan, design, construct, improve and repair a bridge on county road 29 in the area of Canada de la Cruz and Monticello in Sierra county;

102. one hundred thousand dollars (\$100,000) to plan, design, construct and improve drainage in Truth or Consequences in Sierra county;

103. one million two hundred thirty thousand dollars (\$1,230,000) to plan, design, construct, purchase and install a network of high-speed electric vehicle charging stations statewide;

104. one hundred fifty thousand dollars (\$150,000) to plan, design and construct safety improvements, including railings, and to purchase and install cameras at the Rio Grande gorge in Taos county;

105. three hundred thousand dollars (\$300,000) to plan, design, construct and improve Blueberry Hill road, including repaving, in El Prado in Taos county;

106. three hundred thousand dollars (\$300,000) to plan, design and construct improvements to Cabresto road in Questa in Taos county;

107. one hundred thousand dollars (\$100,000) to acquire rights of way and to design and improve Twining road in Taos Ski Valley in Taos county;

108. three hundred thousand dollars (\$300,000) to plan, design and construct McNabb road between New Mexico highway 41 and Lexco road, including signage, in Torrance county;

109. one hundred fifty thousand dollars (\$150,000) to plan, design and construct road improvements, including repaving and drainage, in Union county;

110. seven hundred fifty thousand dollars (\$750,000) to plan, design and construct improvements to Beech street, including paving, in Clayton in Union county;

111. four hundred fifty thousand dollars (\$450,000) to plan, design, construct and improve Don Luis Trujillo boulevard in Belen in Valencia county;

112. five hundred fifty thousand dollars (\$550,000) to plan, design and construct drainage and flood control systems in Peralta in Valencia county; and

113. five hundred thousand dollars (\$500,000) to plan, design and construct road improvements for Peralta in Valencia county.

## **Chapter 138 Section 34 Laws 2021**

SECTION 34. HIGHER EDUCATION DEPARTMENT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the higher education department that the need exists for the issuance of the bonds, the following amounts are appropriated to the higher education department for the following purposes:

1. two million dollars (\$2,000,000) to plan, design, construct, renovate, furnish and equip infrastructure improvements at central New Mexico community college campuses in Bernalillo and Sandoval counties;
2. two hundred sixteen thousand five hundred dollars (\$216,500) to plan, design, construct, furnish and equip capital projects and related infrastructure at the advanced technology center of central New Mexico community college in Bernalillo county;
3. two hundred thousand dollars (\$200,000) to plan, design, construct, furnish, replace and equip infrastructure improvements at the Joseph M. Montoya campus of central New Mexico community college in Albuquerque in Bernalillo county;
4. seventy thousand dollars (\$70,000) to plan, design and construct a robotics outreach learning laboratory, including the purchase and installation of related equipment, for the hackerspace program at central New Mexico community college in Albuquerque in Bernalillo county;
5. four hundred thirty thousand dollars (\$430,000) to plan, design, construct, improve, replace and equip infrastructure at the workforce training center of central New Mexico community college in Albuquerque in Bernalillo county;

6. nine hundred sixty thousand five hundred thirty-six dollars (\$960,536) to plan, design, renovate, construct and equip infrastructure improvements for building 105 at the southwestern Indian polytechnic institute in Albuquerque in Bernalillo county;

7. one million fifty thousand dollars (\$1,050,000) to plan, design, construct, upgrade, equip and install fire alarm and sprinkler systems at Clovis community college in Clovis in Curry county;

8. one hundred thirty thousand dollars (\$130,000) to plan, design, construct, purchase and install networking infrastructure and related equipment for Clovis community college in Clovis in Curry county;

9. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, renovate, furnish and equip the Mesa theater for Clovis community college in Clovis in Curry county;

10. one million seven hundred fifty thousand dollars (\$1,750,000) to plan, design, construct, renovate, equip and install infrastructure improvements, including vestibules, campuswide at New Mexico junior college in Hobbs in Lea county;

11. four hundred thousand dollars (\$400,000) to plan, design, construct, furnish and equip heating, ventilation and air conditioning system improvements, including air purification systems, to classroom facilities campuswide at Navajo technical university in Crownpoint in McKinley county;

12. twenty thousand dollars (\$20,000) to purchase, equip and install welding equipment for the welding program at the Mora campus of Luna community college in Mora county;

13. three hundred fifty thousand dollars (\$350,000) to plan, design, construct, furnish, equip and replace lighting controls and surrounding infrastructure at the Rio Rancho and westside campuses of central New Mexico community college in Bernalillo and Sandoval counties;

14. three hundred thousand dollars (\$300,000) to plan, design, construct, equip and install infrastructure improvements, including telecommunications, data, security and audiovisual networking, for San Juan college in Farmington in San Juan county;
15. three hundred twenty-five thousand dollars (\$325,000) to plan, design, construct, replace, purchase and install a heating, ventilation and air conditioning system in the gymnasium at the north Shiprock campus of Dine college in San Juan county;
16. one million one hundred thousand dollars (\$1,100,000) to plan, design, construct, renovate, furnish and equip an agricultural multipurpose center at the Shiprock campus of Dine college in San Juan county;
17. seven hundred thousand dollars (\$700,000) to plan, design and construct a fire truck access lane, including street lighting, at the Shiprock campus of Dine college in San Juan county;
18. one hundred three thousand five hundred dollars (\$103,500) to plan, design, construct, renovate, purchase, equip and install fire alarm systems campuswide at Luna community college in San Miguel county;
19. fifty thousand dollars (\$50,000) to purchase and equip vehicles for the law enforcement training center at Luna community college in Las Vegas in San Miguel county;
20. fifty thousand dollars (\$50,000) to purchase and equip vehicles for the maintenance department at Luna community college in Las Vegas in San Miguel county;
21. three hundred thirty-seven thousand three hundred thirty-three dollars (\$337,333) to plan, design, construct, renovate, furnish, equip and install emergency

management and fire suppression systems at Santa Fe community college in Santa Fe county;

22. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, purchase, furnish, equip and install improvements, including awnings and infrastructure, to outdoor learning and instructional spaces at Santa Fe community college in Santa Fe county;

23. two hundred thousand dollars (\$200,000) to plan, design, renovate, expand, construct and equip the research center to advance contemporary native arts and the museum studies department at the institute of American Indian arts in Santa Fe county;

24. fifty thousand dollars (\$50,000) to plan, design, renovate, expand, construct and equip a research center to advance contemporary native arts, including the relocation of the museum studies department, at the institute of American Indian arts in Santa Fe county; and

25. eight hundred twenty-five thousand dollars (\$825,000) to plan, design, construct, furnish, equip and make upgrades to the emergency management and fire suppression systems at Santa Fe community college in Santa Fe county.

## **Chapter 138 Section 35 Laws 2021**

SECTION 35. EASTERN NEW MEXICO UNIVERSITY PROJECTS-- SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of eastern New Mexico university that the need exists for the issuance of the bonds, the following amounts are appropriated to the board of regents of eastern New Mexico university for the following purposes:

1. sixty-five thousand dollars (\$65,000) to purchase and install equipment, including wheel alignment computers, press brakes and combo lifts, for the automotive

trades program at the Roswell campus of eastern New Mexico university in Chaves county;

2. one hundred thirty-five thousand dollars (\$135,000) to plan, design, construct and upgrade backbone fiber optic cables at the Roswell campus of eastern New Mexico university in Chaves county;

3. one hundred twenty-five thousand dollars (\$125,000) to purchase, equip and install 3G simulator manikens in the health science center for the Roswell campus of eastern New Mexico university in Chaves county;

4. twenty thousand dollars (\$20,000) to purchase and install laboratory equipment for the science program at the Roswell campus of eastern New Mexico university in Chaves county;

5. two million four hundred seventy-five thousand dollars (\$2,475,000) to plan, design, construct, renovate and equip sewer line improvements campuswide, including restroom renovations, at the Roswell branch campus of eastern New Mexico university in Chaves county;

6. twenty-five thousand dollars (\$25,000) to purchase, equip and install industrial sheet metal shears for the welding technologies program at the Roswell campus of eastern New Mexico university in Chaves county;

7. one hundred five thousand dollars (\$105,000) to plan, design, construct, improve, purchase and install infrastructure, including lighting and security measures, for parking areas, grounds and buildings at the Ruidoso community college campus of eastern New Mexico university in Lincoln county;

8. four hundred five thousand dollars (\$405,000) to plan, design, construct and equip infrastructure improvements campuswide at the Ruidoso branch campus of eastern New Mexico university in Lincoln county;



9. one million two hundred thousand dollars (\$1,200,000) to plan, design, construct, improve and equip infrastructure, including parking lots and sidewalks, at eastern New Mexico university in Portales in Roosevelt county;

~~[10. three hundred thousand dollars (\$300,000) to purchase equipment for the KENW public television studio at eastern New Mexico university in Portales in Roosevelt county;]~~ and *LINE-ITEM VETO*

11. two hundred ninety-five thousand dollars (\$295,000) to plan, design, construct and improve, including re-roofing, the theater building at eastern New Mexico university in Portales in Roosevelt county.

## **Chapter 138 Section 36 Laws 2021**

SECTION 36. NEW MEXICO HIGHLANDS UNIVERSITY PROJECTS-- SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of New Mexico highlands university that the need exists for the issuance of the bonds, the following amounts are appropriated to the board of regents of New Mexico highlands university for the following purposes:

1. one hundred five thousand dollars (\$105,000) to plan, design, construct, purchase, repair, renovate and improve athletic facilities, including purchasing and upgrading equipment, at New Mexico highlands university in Las Vegas in San Miguel county;

2. seven hundred fifty thousand dollars (\$750,000) to plan, design, construct, renovate, upgrade and equip fire, health and safety infrastructure improvements, including roof repairs and replacement on the Sala de Madrid building, at New Mexico highlands university in Las Vegas in San Miguel county; and

3. seventy-five thousand dollars (\$75,000) to plan, design, construct, purchase, equip, install and renovate a study and café area, including information

technology upgrades, for the legislative leadership fellows program at New Mexico highlands university in Las Vegas in San Miguel county.

### **Chapter 138 Section 37 Laws 2021**

SECTION 37. NEW MEXICO MILITARY INSTITUTE PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of New Mexico military institute that the need exists for the issuance of the bonds, eight hundred twenty-five thousand dollars (\$825,000) is appropriated to the board of regents of New Mexico military institute to plan, design, construct, repair and replace health and safety infrastructure campuswide, including sewer systems, at the New Mexico military institute in Roswell in Chaves county.

### **Chapter 138 Section 38 Laws 2021**

SECTION 38. NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of New Mexico institute of mining and technology that the need exists for the issuance of the bonds, the following amounts are appropriated to the board of regents of New Mexico institute of mining and technology for the following purposes:

1. two million five hundred twenty thousand dollars (\$2,520,000) to plan, design, construct, renovate and equip infrastructure improvements campuswide at the New Mexico institute of mining and technology in Socorro county;

2. three hundred fifty-one thousand dollars (\$351,000) to plan, design, construct, replace and equip a new building [for Kelly hall] at the New Mexico institute of mining and technology in Socorro in Socorro county; and *LINE-ITEM VETO*

3. one hundred fifty thousand dollars (\$150,000) to purchase and equip vehicles for the New Mexico institute of mining and technology in Socorro in Socorro county.

## **Chapter 138 Section 39 Laws 2021**

SECTION 39. NEW MEXICO STATE UNIVERSITY PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of New Mexico state university that the need exists for the issuance of the bonds, the following amounts are appropriated to the board of regents of New Mexico state university for the following purposes:

1. eight hundred eighty-seven thousand five hundred dollars (\$887,500) to plan, design, construct, repair and replace the roof at Martinez hall at the Grants campus of New Mexico state university in Cibola county;

2. seven hundred fifty thousand dollars (\$750,000) to plan, design, construct, renovate, furnish and equip improvements to classrooms and laboratories at the Dona Ana community college campuses of New Mexico state university in Dona Ana county;

~~[3. one million fifty thousand dollars (\$1,050,000) to plan, design, construct and renovate facilities, including demolition, for the New Mexico department of agriculture in Las Cruces in Dona Ana county;] *LINE-ITEM VETO*~~

4. two hundred seventy-five thousand dollars (\$275,000) to plan, design, construct, install and improve campus safety, including landscaping, sidewalks, lighting and bike storage shelters and access buttons for accessibility compliance, at New Mexico state university in Las Cruces in Dona Ana county;

5. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, furnish and equip the school of nursing skills and simulation center for the college of

health and social services at New Mexico state university in Las Cruces in Dona Ana county;

~~[6. — three hundred fifty thousand dollars (\$350,000) to plan, design, construct, renovate, improve and equip the basketball and volleyball arenas at the Pan American center, including signs, guardrails and seating areas and for accessibility improvements, at New Mexico state university in Las Cruces in Dona Ana county;] *LINE-ITEM VETO*~~

7. one hundred two thousand dollars (\$102,000) to purchase and equip police vehicles and video cameras for the police department at New Mexico state university in Las Cruces in Dona Ana county;

8. three million dollars (\$3,000,000) to plan, design, construct and repair utility tunnel systems at New Mexico state university in Las Cruces in Dona Ana county;

9. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, furnish and equip, including appliances ~~[and xeriscape landscaping]~~, veteran housing for New Mexico state university in Dona Ana county; *LINE-ITEM VETO*

~~[10. — eight hundred eleven thousand dollars (\$811,000) to plan, design, construct, renovate, furnish and equip a water research and education laboratory and a desalination laboratory at the college of engineering at New Mexico state university in Las Cruces in Dona Ana county;~~

~~11. — four hundred thousand dollars (\$400,000) to plan, design, construct, renovate, furnish and equip improvements to buildings and infrastructure, including information technology upgrades, at the Carlsbad campus of New Mexico state university in Eddy county;] *LINE-ITEM VETO*~~

12. one hundred ten thousand dollars (\$110,000) to plan, design and construct improvements to a building in the western Mora soil and water conservation district in Mora county;

13. six hundred fifty thousand dollars (\$650,000) to plan, design, construct, renovate, repair and equip infrastructure improvements, including duct work and boiler feed lines, in classroom buildings at the Alamogordo campus of New Mexico state university in Otero county;

14. five hundred thousand dollars (\$500,000) to plan, design, construct, equip and furnish an office building and garage, including parking[, landscaping] and an outdoor classroom, for the San Juan soil and water conservation district in San Juan county; *LINE-ITEM VETO*

15. one million five hundred thousand dollars (\$1,500,000) to plan, design, construct, renovate, furnish and equip improvements, including abatement and demolition, at New Mexico state university agricultural science centers statewide; and

16. seventy-five thousand dollars (\$75,000) to purchase and equip a brush chipper for the Claunch-Pinto soil and water conservation district in Torrance county.

## **Chapter 138 Section 40 Laws 2021**

SECTION 40. NORTHERN NEW MEXICO STATE SCHOOL PROJECTS-- SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of northern New Mexico state school that the need exists for the issuance of the bonds, the following amounts are appropriated to the board of regents of northern New Mexico state school for the following purposes:

1. one million dollars (\$1,000,000) to plan, design, construct, equip and install infrastructure improvements to heating, ventilation and air conditioning systems and controls at [~~the El Rito and Espanola campuses of~~] the northern New Mexico state school in Rio Arriba county; *LINE-ITEM VETO*

2. fifty thousand dollars (\$50,000) to plan, design, construct and renovate space for a math center of excellence in the Ben Lujan library at the Espanola campus of northern New Mexico state school in Rio Arriba county; and

3. one hundred thousand dollars (\$100,000) to plan, design, [~~construct,~~] furnish and equip an electronic sports student [~~facility and~~] program at the Espanola campus of northern New Mexico state school in Rio Arriba county. *LINE-ITEM VETO*

## **Chapter 138 Section 41 Laws 2021**

SECTION 41. UNIVERSITY OF NEW MEXICO PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of the university of New Mexico that the need exists for the issuance of the bonds, the following amounts are appropriated to the board of regents of the university of New Mexico for the following purposes:

1. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, equip and install improvements, including roof repair, to the alumni chapel at the university of New Mexico in Albuquerque in Bernalillo county;

2. one hundred thousand dollars (\$100,000) to plan, design, purchase, equip and construct improvements to the baseball facilities at the university of New Mexico in Albuquerque in Bernalillo county;

3. three hundred thousand dollars (\$300,000) to plan, design, construct, purchase and equip improvements to basketball facilities at the university of New Mexico in Albuquerque in Bernalillo county;

4. three hundred eighty thousand dollars (\$380,000) to plan, design, construct and renovate biology laboratory A at the university of New Mexico in Albuquerque in Bernalillo county;

5. four hundred five thousand dollars (\$405,000) to plan, design, construct, renovate and make improvements to biology laboratory B at the university of New Mexico in Albuquerque in Bernalillo county;

6. three hundred ninety-five thousand dollars (\$395,000) to plan, design, construct, purchase, furnish, equip and install improvements, including audiovisual equipment, information technology and related equipment, for the Chicana and Chicano studies department and the southwest Hispanic research institute at the university of New Mexico in Albuquerque in Bernalillo county;

7. three million dollars (\$3,000,000) to plan, design, construct, improve, renovate and equip facilities and to expand the radiation oncology suites and good manufacturing process laboratories at the comprehensive cancer center at the university of New Mexico in Albuquerque in Bernalillo county;

~~[8. two million two hundred eight thousand one hundred dollars (\$2,208,100) to plan, design, construct and improve infrastructure at the center for the arts facility, including roof replacement and installation of perimeter access controls, at the university of New Mexico in Albuquerque in Bernalillo county;] *LINE-ITEM VETO*~~

9. fifty-five thousand dollars (\$55,000) to plan, design, construct, equip, purchase and install facility improvements, including safety and security upgrades and accessibility improvements, at the university of New Mexico in Albuquerque in Bernalillo county;

10. two million dollars (\$2,000,000) to plan, design, construct, renovate, equip and install fire alarm and fire suppression systems campuswide, including at the Reginald Heber Fitz hall and the biomedical research facility, at the university of New Mexico in Albuquerque in Bernalillo county;

11. six hundred fifteen thousand dollars (\$615,000) to plan, design, construct, improve and replace roofing at the center for high technology materials at the university of New Mexico in Albuquerque in Bernalillo county;

12. two hundred twenty thousand dollars (\$220,000) to plan, design, construct, purchase, install and equip safety and accessibility improvements to library facilities, including library turnstiles, at the university of New Mexico in Albuquerque in Bernalillo county;

13. four hundred thirty-four thousand dollars (\$434,000) to plan, design, purchase, equip, renovate and improve the Maxwell museum at the university of New Mexico in Albuquerque in Bernalillo county;

14. eighty thousand dollars (\$80,000) to plan, design, construct, equip and renovate mechanical engineering facilities at the university of New Mexico in Albuquerque in Bernalillo county;

15. three hundred seventy-five thousand dollars (\$375,000) to plan, design, construct, purchase, equip and renovate improvements to heating, ventilation and air conditioning systems at Northrup hall at the university of New Mexico in Albuquerque in Bernalillo county;

~~[16. four hundred thirty-five thousand dollars (\$435,000) to plan, design, construct, furnish and equip an olympic sports training facility at the university of New Mexico in Albuquerque in Bernalillo county;] LINE-ITEM VETO~~

17. five hundred sixty thousand dollars (\$560,000) to plan, design, construct, purchase, equip, repair and improve facilities at Popejoy hall at the university of New Mexico in Albuquerque in Bernalillo county;

18. one hundred twenty thousand dollars (\$120,000) to plan, design, construct, improve and equip the Predock center for design and research at the university of New Mexico in Albuquerque in Bernalillo county;

19. one hundred twenty-seven thousand five hundred dollars (\$127,500) to purchase, equip and install safety lighting at the university of New Mexico in Albuquerque in Bernalillo county;



20. two hundred thousand dollars (\$200,000) to plan, design, construct, purchase, install and equip safety and security improvements at the intersection of Yale boulevard SE and Central avenue SE at the university of New Mexico in Albuquerque in Bernalillo county;

21. eight hundred thousand dollars (\$800,000) to plan, design, construct, improve and equip infrastructure campuswide, including safety, security and energy-efficiency improvements, at the Los Alamos campus of the university of New Mexico in Los Alamos county;

22. eight hundred thousand dollars (\$800,000) to plan, design, construct, improve, repair and equip infrastructure campuswide, including fire suppression and elevator upgrades, at the Gallup campus of the university of New Mexico in McKinley county;

23. one million nine hundred thousand dollars (\$1,900,000) to plan, design, construct, renovate, improve, purchase and install information technology and equipment for simulations laboratories at the university of New Mexico in Albuquerque in Bernalillo county and in Rio Rancho in Sandoval county;

24. one million eight hundred seventy-five thousand dollars (\$1,875,000) to plan, design, construct, repair, equip and install infrastructure improvements campuswide at the Klauer campus of the Taos branch of the university of New Mexico in Taos county;

25. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase and equip improvements, including heating, ventilation and air conditioning systems, at the Harwood museum for the Taos branch of the university of New Mexico in Taos county; and

26. three hundred thousand dollars (\$300,000) to plan, design, construct, improve, renovate, equip and furnish the learning commons at the Valencia campus of the university of New Mexico in Valencia county.

## **Chapter 138 Section 42 Laws 2021**

SECTION 42. WESTERN NEW MEXICO UNIVERSITY PROJECTS-- SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of western New Mexico university that the need exists for the issuance of the bonds, the following amounts are appropriated to the board of regents of western New Mexico university for the following purposes:

1. one hundred thousand dollars (\$100,000) to plan, design, construct, demolish, renovate[, landscape] and improve the Centennial and Ritch hall parking lot area at western New Mexico university in Silver City in Grant county; *LINE-ITEM VETO*
2. one hundred thousand dollars (\$100,000) to purchase and install a scoreboard and sound system at Altamirano field at western New Mexico university in Silver city in Grant county; and
3. three million five hundred thousand dollars (\$3,500,000) to plan, design, construct, demolish, furnish and equip phase 2 of a learning center for the Deming campus of western New Mexico university in Luna county.

## **Chapter 138 Section 43 Laws 2021**

SECTION 43. VETERANS' SERVICES DEPARTMENT PROJECT-- SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the veterans' services department that the need exists for the issuance of the bonds, two million three hundred thousand dollars (\$2,300,000) is appropriated to the veterans' services department to plan, design, construct, improve, repair, furnish and equip and make improvements, including safety and security infrastructure, at veteran cemeteries and monuments statewide.

## **Chapter 138 Section 44 Laws 2021**

SECTION 44. ADMINISTRATIVE OFFICE OF THE COURTS PROJECT--GENERAL FUND.--Twenty-two thousand dollars (\$22,000) is appropriated from the general fund to the administrative office of the courts for expenditure in fiscal years 2021 through 2025, unless otherwise provided in Section 2 of this act, for a feasibility study to determine a new location for the magistrate court in Union county.

## **Chapter 138 Section 45 Laws 2021**

SECTION 45. AGING AND LONG-TERM SERVICES DEPARTMENT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the aging and long-term services department for expenditure in fiscal years 2021 through 2025, unless otherwise provided in Section 2 of this act, for the following purposes:

1. one hundred seventy-five thousand dollars (\$175,000) to plan, design and construct improvements to a senior center, including lighting, parking, entry, garage, patio, bathrooms, kitchen and roof repair and replacement, and to purchase and equip vehicles for the senior center in the Pueblo of Cochiti in Sandoval county;
2. three hundred seventy-five thousand dollars (\$375,000) to plan, design, construct, improve, furnish and equip a senior center in the Pueblo of Nambe in Santa Fe county; and
3. seven hundred fifty thousand dollars (\$750,000) to purchase and equip vehicles and to purchase and install kitchen and other equipment, including for repair, replacement and installation on an emergency basis and for immediate code compliance, at senior centers statewide.

## **Chapter 138 Section 46 Laws 2021**

SECTION 46. CAPITAL PROGRAM FUND PROJECT--GENERAL FUND.--One million five hundred thousand dollars (\$1,500,000) is appropriated from the general fund to the capital program fund for expenditure in fiscal years 2021 through 2025, unless otherwise provided in Section 2 of this act, to plan, design, construct, renovate, equip, purchase and install infrastructure improvements, including roofing replacement, at the Harriet Sammons building in Farmington in San Juan county.

## **Chapter 138 Section 47 Laws 2021**

SECTION 47. HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT PROJECT--GENERAL FUND.--One hundred thirty-eight thousand dollars (\$138,000) is appropriated from the general fund to the homeland security and emergency management department for expenditure in fiscal years 2021 through 2025, unless otherwise provided in Section 2 of this act, to plan, design, construct, repair and replace the roof at the homeland security and emergency management department building in Santa Fe in Santa Fe county.

## **Chapter 138 Section 48 Laws 2021**

SECTION 48. INDIAN AFFAIRS DEPARTMENT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the Indian affairs department for expenditure in fiscal years 2021 through 2025, unless otherwise provided in Section 2 of this act, for the following purposes:

1. nine hundred thousand dollars (\$900,000) to plan, design, construct, furnish and equip an environmental resources center for the Pueblo of Picuris in Taos county;

2. one hundred thousand dollars (\$100,000) to acquire rights of way and to plan, design and construct a sewer lagoon in the Pueblo Pintado chapter of the Navajo Nation in McKinley county;
3. one hundred fifty thousand dollars (\$150,000) to acquire easements and rights of way and to plan, design and construct a powerline extension in the Smith Lake chapter of the Navajo Nation in McKinley county;
4. two hundred thousand dollars (\$200,000) to plan, design and construct water system improvements, including a waterline to connect the Albuquerque system to the To'hajiilee chapter system, for the To'hajiilee chapter of the Navajo Nation in Bernalillo county;
5. five hundred thousand dollars (\$500,000) to plan, design, construct and improve the westside wastewater treatment plant, including a sequencing batch reactor, in the Pueblo of Isleta in Bernalillo county;
6. two hundred thousand dollars (\$200,000) to acquire easements and rights of way and to purchase, plan, design and construct a regional supervisory control and data acquisition system to serve the Baca, Thoreau, Mariano Lake and Smith Lake chapters of the Navajo Nation in McKinley county;
7. two hundred thousand dollars (\$200,000) to plan, design, construct, furnish and equip residential bathroom additions in the Baca chapter of the Navajo Nation in McKinley county;
8. one hundred thousand dollars (\$100,000) to plan, design and construct bathroom additions at the Casamero Lake chapter of the Navajo Nation in McKinley county;
9. two hundred thousand dollars (\$200,000) to plan, design, construct and equip bathroom additions in the Church Rock chapter of the Navajo Nation in McKinley county;

10. two hundred thousand dollars (\$200,000) to plan, design and construct a water system, including waterlines and water storage, for the Green Knoll and Split Mesa areas in the Crystal chapter of the Navajo Nation in McKinley county;
11. one hundred thousand dollars (\$100,000) to plan, design and construct bathroom additions for the Nahodishgish chapter of the Navajo Nation in McKinley county;
12. fifty thousand dollars (\$50,000) to acquire easements and rights of way and to plan, design, construct and equip a public safety complex, including hazardous materials abatement and demolition, in the Tohatchi chapter of the Navajo Nation in McKinley county;
13. one hundred thousand dollars (\$100,000) to acquire easements and rights of way and to plan, design and construct wiring and powerlines to homes in the Tsa-Ya-Toh chapter of the Navajo Nation in McKinley county;
14. seventy-five thousand dollars (\$75,000) to acquire property, easements and rights of way and to plan, design and construct powerlines, including housewiring, in the Tse'ii'ahi chapter of the Navajo Nation in McKinley county;
15. two hundred thousand dollars (\$200,000) to plan, design, construct, equip and furnish a warehouse for the Bahastl'ah chapter (Twin Lakes chapter) of the Navajo Nation in McKinley county;
16. one hundred thousand dollars (\$100,000) to plan, design, construct and equip bathroom additions in the Whitehorse Lake chapter of the Navajo Nation in McKinley county;
17. five hundred sixty-eight thousand nine hundred dollars (\$568,900) to plan, design, construct and install a sewer main line extension on Shalako drive in the Pueblo of Zuni in McKinley county;

18. twenty-six thousand two hundred dollars (\$26,200) to acquire easements and rights of way and to plan, design and construct water system improvements to the regional Beacon Bisti N9 lateral water project for the Little Water chapter of the Navajo Nation in McKinley and San Juan counties;

19. one hundred forty-six thousand dollars (\$146,000) to purchase and equip equipment for the game and fish department of the Jicarilla Apache Nation in Rio Arriba county;

20. five hundred thousand dollars (\$500,000) to plan, design, construct, furnish and equip an outdoor health and educational facility in Ohkay Owingeh in Rio Arriba county;

21. two hundred thousand dollars (\$200,000) to plan, design, construct and improve the water system in the Huerfano chapter of the Navajo Nation in San Juan county;

22. one hundred fifty-seven thousand dollars (\$157,000) to acquire easements and rights of way and to plan, design and construct a water system and water system improvements in the Lake Valley chapter of the Navajo Nation in San Juan county;

23. one hundred fifty thousand dollars (\$150,000) to plan, design and construct scattered powerline extensions in the White Rock chapter of the Navajo Nation in San Juan county;

24. one hundred fifty thousand dollars (\$150,000) to plan, design, improve, equip and furnish a multipurpose facility at the Pueblo of Cochiti in Sandoval county;

25. fifty thousand dollars (\$50,000) to plan, design and construct water system improvements for the Pueblo of Cochiti in Sandoval county;

26. three hundred thousand dollars (\$300,000) to plan, design and construct water system improvements, including a source-to-storage waterline, for the Pueblo of Tesuque in Santa Fe county;
27. six hundred twenty-five thousand dollars (\$625,000) to plan, design and construct improvements to the water system, including a supply and delivery system and infrastructure, for the Pueblo of Nambe in Santa Fe county;
28. ninety thousand dollars (\$90,000) to plan, design, construct, purchase, equip and furnish an addition to the Nambe Pueblo wellness center, including aerobics, cardio and weight rooms, a receptionist area, an intake room and a lobby, at the Pueblo of Nambe in Santa Fe county;
29. forty thousand dollars (\$40,000) to plan, design and construct a drinking water delivery and fire protection system for the Pueblo of Tesuque in Santa Fe county;
30. fifty thousand dollars (\$50,000) to purchase and equip heavy equipment for water and wastewater systems in the Pueblo of Tesuque in Santa Fe county;
31. one hundred sixty thousand dollars (\$160,000) to purchase and equip a backhoe for the Pueblo of Tesuque in Santa Fe county;
32. one hundred eighty-five thousand dollars (\$185,000) to purchase and equip a combination vactor and jetter truck to clean and maintain sewer mains in the Pueblo of Tesuque in Santa Fe county;
33. one hundred fifty thousand dollars (\$150,000) to acquire land and to plan, design and construct water wells in the Alamo chapter of the Navajo Nation in Socorro county;
34. five hundred twenty-five thousand dollars (\$525,000) to plan, design, construct, renovate and restore an historic cultural village at the Pueblo of Taos in Taos county;



35. five hundred thousand dollars (\$500,000) to plan, design, construct, furnish and equip a wellness center for the Pueblo of Taos in Taos county; and

36. five million dollars (\$5,000,000) to continue the construction of a regional middle-mile education network employing fiber-optic construction, point-to-point wireless and leased dark fiber, where appropriate, for an internet exchange, network, security and data operation center that connects tribes and educational entities through a wide area network at the Santa Fe Indian School in Santa Fe in Santa Fe county.

### **Chapter 138 Section 49 Laws 2021**

SECTION 49. PUBLIC SCHOOL FACILITIES AUTHORITY PROJECT--GENERAL FUND.--Eight hundred fifty thousand dollars (\$850,000) is appropriated from the general fund to the public school facilities authority for expenditure in fiscal years 2021 through 2025, unless otherwise provided in Section 2 of this act, to plan, design and construct infrastructure and facilities that fall outside of the statewide adequacy standards developed pursuant to Subsection C of Section 22-24-5 NMSA 1978 at an elementary school project in the Grants-Cibola county school district. The public school capital outlay council shall not require a local match or apply any offsets for this appropriation pursuant to Subsection B of Section 22-24-5 NMSA 1978.

### **Chapter 138 Section 50 Laws 2021**

SECTION 50. OFFICE OF THE SECRETARY OF STATE PROJECT--GENERAL FUND.--Two hundred thousand dollars (\$200,000) is appropriated from the general fund to the office of the secretary of state for expenditure in fiscal years 2021 through 2025, unless otherwise provided in Section 2 of this act, to plan, design and program office space to house the office of the secretary of state in Santa Fe in Santa Fe county.

## **Chapter 138 Section 51 Laws 2021**

SECTION 51. DEPARTMENT OF TRANSPORTATION PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the department of transportation for expenditure in fiscal years 2021 through 2025, unless otherwise provided in Section 2 of this act, for the following purposes:

1. one hundred thousand dollars (\$100,000) to plan, design and construct an access road to a sewage lagoon in the Baahaali chapter of the Navajo Nation in McKinley county; and
2. five hundred thousand dollars (\$500,000) to plan, design and construct infrastructure, including utility and road extensions, for a justice center and wellness center in the Pueblo of Taos in Taos county.

## **Chapter 138 Section 52 Laws 2021**

SECTION 52. HIGHER EDUCATION DEPARTMENT PROJECT--GENERAL FUND.--Six hundred fifty thousand dollars (\$650,000) is appropriated from the general fund to the higher education department for expenditure in fiscal years 2021 through 2025, unless otherwise provided in Section 2 of this act, to plan, design, construct, furnish and equip a [new] facility for the welding program at San Juan college in Farmington in San Juan county. *LINE-ITEM VETO*

## **Chapter 138 Section 53 Laws 2021**

~~[SECTION 53. UNIVERSITY OF NEW MEXICO PROJECT--GENERAL FUND.--Four hundred thousand dollars (\$400,000) is appropriated from the general fund to the board of regents of the university of New Mexico for expenditure in fiscal years 2021 through 2025, unless otherwise provided in Section 2 of this act, to plan, design, construct, renovate and equip a press box for athletic facilities at the university of New Mexico in Albuquerque in Bernalillo county.] *LINE-ITEM VETO*~~

## **Chapter 138 Section 54 Laws 2021**

SECTION 54. PUBLIC EDUCATION DEPARTMENT PROJECT--  
APPROPRIATION FROM THE PUBLIC SCHOOL CAPITAL OUTLAY FUND.--Three million four hundred ninety-two thousand dollars (\$3,492,000) is appropriated from the public school capital outlay fund to the public education department for expenditure in fiscal years 2021 through 2025, unless otherwise provided in Section 3 of this act, contingent upon approval of the public school capital outlay council, to purchase, replace and equip school buses for school districts statewide.

## **Chapter 138 Section 55 Laws 2021**

SECTION 55. PUBLIC SCHOOL FACILITIES AUTHORITY PROJECT--  
APPROPRIATION FROM THE PUBLIC SCHOOL CAPITAL OUTLAY FUND.--Four million dollars (\$4,000,000) is appropriated from the public school capital outlay fund to the public school facilities authority for expenditure in fiscal years 2021 through 2025, unless otherwise provided in Section 3 of this act, to plan, design, construct, renovate and equip infrastructure improvements for pre-kindergarten facilities statewide.

## **Chapter 138 Section 56 Laws 2021**

SECTION 56. DEPARTMENT OF GAME AND FISH PROJECT--  
APPROPRIATION FROM THE HABITAT MANAGEMENT FUND.--One million dollars (\$1,000,000) is appropriated from the habitat management fund to the department of game and fish for expenditure in fiscal years 2021 through 2025, unless otherwise provided in Section 3 of this act, for wildlife and riparian habitat restoration and for improvements at properties owned by the state game commission statewide.

## **Chapter 138 Section 57 Laws 2021**

SECTION 57. DEPARTMENT OF GAME AND FISH PROJECT--  
APPROPRIATION FROM THE SIKES ACT ACCOUNT OF THE GAME PROTECTION

FUND.--Two million five hundred thousand dollars (\$2,500,000) is appropriated from the Sikes Act account of the game protection fund to the department of game and fish for expenditure in fiscal years 2022 through 2025, unless otherwise provided in Section 3 of this act, for fish habitat restoration statewide.

### **Chapter 138 Section 58 Laws 2021**

SECTION 58. DEPARTMENT OF GAME AND FISH PROJECT--  
APPROPRIATION FROM THE GAME AND FISH BOND RETIREMENT FUND.--Five hundred thousand dollars (\$500,000) is appropriated from the game and fish bond retirement fund to the department of game and fish for expenditure in fiscal years 2021 through 2025, unless otherwise provided in Section 3 of this act, to plan, design, construct, renovate and equip infrastructure improvements at hatcheries owned by the state game commission statewide.

### **Chapter 138 Section 59 Laws 2021**

SECTION 59. HOMELAND SECURITY AND EMERGENCY MANAGEMENT  
DEPARTMENT PROJECT--APPROPRIATION FROM THE FIRE PROTECTION  
FUND.--Notwithstanding the provisions of the Fire Protection Fund Law to the contrary, five hundred thousand dollars (\$500,000) is appropriated from the fire protection fund to the homeland security and emergency management department for expenditure in fiscal years 2021 through 2025, unless otherwise provided in Section 3 of this act, to plan, design, construct and equip a burn building for the homeland security and emergency management department in Socorro in Socorro county.

### **Chapter 138 Section 60 Laws 2021**

SECTION 60. EDUCATIONAL RETIREMENT BOARD PROJECT--  
APPROPRIATION FROM THE EDUCATIONAL RETIREMENT FUND.--Five million dollars (\$5,000,000) is appropriated from the educational retirement fund to the educational retirement board for expenditure in fiscal years 2021 through 2025, unless

otherwise provided in Section 3 of this act, to plan, design, construct, furnish, equip and make site improvements for a new educational retirement board facility in Santa Fe in Santa Fe county.

### **Chapter 138 Section 61 Laws 2021**

SECTION 61. DEPARTMENT OF GAME AND FISH PROJECT--  
APPROPRIATION FROM THE BIG GAME ENHANCEMENT ACCOUNT OF THE  
GAME PROTECTION FUND.--One million five hundred thousand dollars (\$1,500,000)  
is appropriated from the big game enhancement account of the game protection fund to  
the department of game and fish for expenditure in fiscal years 2021 through 2025,  
unless otherwise provided in Section 3 of this act, for fisheries renovation, wildlife and  
riparian habitat restoration and improvements at properties owned by the state game  
commission statewide.

### **Chapter 138 Section 62 Laws 2021**

#### SECTION 62. ENVIRONMENTAL MITIGATION TRUST--CONTINGENT

AUTHORIZATION--BUDGET INCREASE REQUEST FOR SCHOOL BUSES.--If,  
pursuant to the environmental mitigation trust agreement for state beneficiaries entered  
into pursuant to the partial consent decrees entered in In re: Volkswagen "Clean Diesel"  
Marketing, Sales Practices, and Products Liability Litigation, MDL No. 2672 CRB (JSC)  
(Dkt. No. 2103-1), the trustee approves the expenditure of funds to allow the public  
education department to replace school-district-owned buses statewide that are used to  
transport students to and from school pursuant to the Public School Finance Act, the  
public education department is authorized to request budget increases for that purpose  
totaling three million four hundred ninety-two thousand dollars (\$3,492,000) in fiscal  
years 2022 through 2024, if that amount is approved by the trustee, or any other  
amount that is authorized by the trustee for the same purpose. The authorization  
provided pursuant to this section is in addition to the contingent authorizations for the

public education department to request budget increases that are applicable for fiscal years:

1. 2019 through 2022, as provided pursuant to Laws 2018, Chapter 80, Section 57, to replace school-district-owned buses statewide that are used to transport students to and from school pursuant to the Public School Finance Act; and

2. 2021 through 2024, as provided pursuant to Laws 2020, Chapter 81, Section 96, to provide infrastructure for fueling and charging stations for alternatively fueled school buses statewide pursuant to the Public School Finance Act.

### **Chapter 138 Section 63 Laws 2021**

SECTION 63. PROJECT SCOPE--EXPENDITURES.--If an appropriation for a project authorized in this act is not sufficient to complete all the purposes specified, the appropriation may be expended for any portion of the purposes specified in the appropriation. Expenditures shall not be made for purposes other than those specified in the appropriation.

### **Chapter 138 Section 64 Laws 2021**

SECTION 64. ART IN PUBLIC PLACES.--Pursuant to Section 13-4A-4 NMSA 1978 and where applicable, the appropriations authorized in this act include one percent for the art in public places fund.

### **Chapter 138 Section 65 Laws 2021**

SECTION 65. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

# LAWS 2021, CHAPTER 139

HTRC/House Bill 296, aa, w/ec, partial veto  
Approved April 9, 2021

AN ACT

RELATING TO CAPITAL EXPENDITURES; REAUTHORIZING OR REAPPROPRIATING BALANCES, EXPANDING OR CHANGING PURPOSES, EXTENDING EXPENDITURE PERIODS, CLARIFYING PROJECT LOCATIONS, CHANGING AGENCIES AND ESTABLISHING CONDITIONS FOR THE REVERSION OR TRANSFER OF UNEXPENDED BALANCES OF APPROPRIATIONS MADE BY THE LEGISLATURE IN PRIOR YEARS; DECLARING AN EMERGENCY.

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

## Chapter 139 Section 1 Laws 2021

### SECTION 1. SEVERANCE TAX BONDS--REVERSION OF PROCEEDS.--

A. Except as otherwise provided in another section of this act:

(1) the unexpended balance from the proceeds of severance tax bonds issued for a project that has been reauthorized in this act shall revert to the severance tax bonding fund:

(a) at the end of the expenditure period as set forth in this act, if the expenditure period is changed in this act; or

(b) if the expenditure period is not changed in this act, pursuant to the time frame set forth in the law that originally authorized the severance tax bonds

or the time frame set forth in any law that has previously reauthorized the expenditure of the proceeds, whichever is later; and

(2) all remaining balances from the proceeds of severance tax bonds issued for a project that has been reauthorized in this act shall revert to the severance tax bonding fund three months after the reversion date for the unexpended balances.

B. For the purpose of this section, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses covered by binding written obligations to third parties.

## **Chapter 139 Section 2 Laws 2021**

### **SECTION 2. GENERAL FUND AND OTHER FUND APPROPRIATIONS-- REVERSIONS.--**

A. Except as otherwise provided in another section of this act:

(1) the unexpended balance of an appropriation from the general fund or other state fund that has been changed in this act shall revert:

(a) at the end of the expenditure period as set forth in this act, if the expenditure period is changed in this act; or

(b) if the expenditure period is not changed in this act, pursuant to the time frame set forth in the law in which the original appropriation was made or the time frame set forth in any law that has previously changed the appropriation, whichever is later; and

(2) all remaining balances of an appropriation from the general fund or other state fund that has been changed in this act shall revert three months after the reversion date for the unexpended balance.



B. Except as provided in Subsection C of this section, the balance of an appropriation made from the general fund or other state fund shall revert pursuant to Subsection A of this section to the originating fund.

C. The balance of an appropriation made from the general fund or other state fund to the Indian affairs department or the aging and long-term services department for a project located on lands of an Indian nation, tribe or pueblo shall revert pursuant to Subsection A of this section to the tribal infrastructure project fund.

D. For the purpose of this section, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses covered by binding written obligations to third parties.

### **Chapter 139 Section 3 Laws 2021**

SECTION 3. PASEO DEL VOLCAN UNSER BOULEVARD BYPASS RIGHTS OF WAY ACQUISITION AND CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of transportation project originally authorized in Subsection 54 of Section 36 of Chapter 226 of Laws 2013 and reauthorized in Laws 2015, Chapter 147, Section 62 and for which the time of expenditure was extended in Laws 2017, Chapter 133, Section 69 and again in Laws 2019, Chapter 280, Section 66 to acquire rights of way and to plan, design and construct a paseo del Volcan loop bypass to run from Unser boulevard to interstate highway 40 in Bernalillo and Sandoval counties is extended through fiscal year 2023.

### **Chapter 139 Section 4 Laws 2021**

SECTION 4. PASEO DEL VOLCAN RIGHTS OF WAY ACQUISITION FROM UNSER BOULEVARD TO THE BERNALILLO COUNTY LINE IN SANDOVAL COUNTY--CHANGE TO ACQUIRE RIGHTS OF WAY AND TO CONSTRUCT PASEO DEL VOLCAN--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of transportation originally authorized in

Subsection 57 of Section 33 of Chapter 3 of Laws 2015 (1st S.S.) and reauthorized in Laws 2019, Chapter 280, Section 83 to purchase rights of way for paseo del Volcan from Unser boulevard to the Bernalillo-Sandoval county line shall not be expended for the original purpose but is changed to acquire rights of way and to plan, design and construct paseo del Volcan in Bernalillo and Sandoval counties. The time of expenditure is extended through fiscal year 2023.

## **Chapter 139 Section 5 Laws 2021**

SECTION 5. ATRISCO HERITAGE HIGH SCHOOL ACCESS ROAD CONSTRUCTION--EXPAND PURPOSE--CHANGE AGENCY--GENERAL FUND.--The department of transportation project in Subsection 25 of Section 40 of Chapter 277 of Laws 2019 to plan, design and construct an access road to Atrisco heritage high school, including modifications to Senator Dennis Chavez boulevard, 118th street and 98th street, in Albuquerque in Bernalillo county is appropriated to the local government division for that purpose and may include planning, design, repair and construction of driveways, trail connections, sidewalks and signal modifications to Senator Dennis Chavez boulevard and to 118th street, for the Atrisco heritage academy high school in Bernalillo county.

## **Chapter 139 Section 6 Laws 2021**

SECTION 6. BERNALILLO COUNTY AMISTAD YOUTH CRISIS CENTER IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project originally authorized in Subsection 4 of Section 28 of Chapter 3 of Laws 2015 (1st S.S.) and reauthorized in Laws 2019, Chapter 280, Section 4 to plan, design, construct, furnish and equip improvements to the Amistad youth crisis center in the South Valley area of Bernalillo county is extended through fiscal year 2023.

## **Chapter 139 Section 7 Laws 2021**

SECTION 7. BERNALILLO COUNTY COMMUNITY DEVELOPMENT AGENCY EQUIPMENT PURCHASE--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project in Subsection 4 of Section 34 of Chapter 277 of Laws 2019 to purchase and install furniture and equipment, including a forklift, a shredder and sanitation equipment, for facilities and programs at a community development and assistance agency in Bernalillo county is extended through fiscal year 2023.

## **Chapter 139 Section 8 Laws 2021**

SECTION 8. BERNALILLO COUNTY DITCH ACCESS CONTROL GATE IMPROVEMENTS--CHANGE TO SOUTH VALLEY DITCH ACCESS GATE IMPROVEMENTS--CHANGE AGENCY--GENERAL FUND.--The unexpended balance of the appropriation to the interstate stream commission in Subsection 1 of Section 34 of Chapter 81 of Laws 2020 to purchase, replace and install access control gates for ditches and acequias in Bernalillo county shall not be expended for the original purpose but is appropriated to the local government division to purchase, deliver and install materials and equipment and to plan, design, construct, improve and equip existing and new access control gates for ditches and acequias in the South Valley area of Bernalillo county.

## **Chapter 139 Section 9 Laws 2021**

SECTION 9. SOUTH VALLEY DITCH ACCESS CONTROL GATES CONSTRUCTION--CHANGE TO CONSTRUCT AND IMPROVE ACCESS CONTROL GATE--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 20 of Section 34 of Chapter 277 of Laws 2019 to plan, design, purchase, construct and install access control gates for ditches and acequias in the South Valley area of Bernalillo county shall not be expended for the original purpose but is changed to purchase, deliver and install materials and equipment

and to plan, design, construct, improve and equip existing and new access control gates for ditches and acequias in the South Valley.

### **Chapter 139 Section 10 Laws 2021**

SECTION 10. MIDDLE RIO GRANDE CONSERVANCY DISTRICT ALAMEDA DRAIN TRAIL SECURITY SYSTEMS--CHANGE AGENCY--SEVERANCE TAX BONDS.--The agency for the office of the state engineer project originally authorized in Subsection 1 of Section 25 of Chapter 82 of Laws 2020 for fencing and security systems along the Alameda drain trail for the middle Rio Grande conservancy district in Bernalillo county is changed to the local government division.

### **Chapter 139 Section 11 Laws 2021**

SECTION 11. TWENTY-FIRST CENTURY PUBLIC ACADEMY CHARTER SCHOOL EQUIPMENT PURCHASE--CHANGE TO HEATING, VENTILATION AND AIR CONDITIONING SYSTEM IMPROVEMENTS--GENERAL FUND.--The unexpended balance of the appropriation to the public education department in Subsection 27 of Section 63 of Chapter 81 of Laws 2020 to acquire security systems, fencing and related equipment for the Twenty-First Century public academy charter school in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, construct, renovate, furnish and equip buildings and grounds and to purchase and install heating, ventilation and air conditioning and air filtration systems and related equipment and to purchase and install information technology, including related equipment, furniture and infrastructure, and for wiring and fencing for the Twenty-First Century public academy charter school.

### **Chapter 139 Section 12 Laws 2021**

SECTION 12. ALBUQUERQUE FAMILY SERVICES VEHICLES PURCHASE--EXPAND PURPOSE--EXTEND TIME--GENERAL FUND.--The local government division project in Subsection 54 of Section 34 of Chapter 277 of Laws 2019 to

purchase and equip a vehicle and to upgrade facilities and purchase equipment for a specialized family services program in Albuquerque in Bernalillo county may include the purchase and installation of information technology, including related equipment, furniture and infrastructure. The time of expenditure is extended through fiscal year 2023.

### **Chapter 139 Section 13 Laws 2021**

SECTION 13. CENTRAL NEW MEXICO COMMUNITY COLLEGE BLOCK CHAIN CENTER CONSTRUCTION--CHANGE TO BLOCK CHAIN CENTER DEVELOPMENT, CONSTRUCTION AND EQUIPMENT--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the higher education department in Subsection 2 of Section 39 of Chapter 81 of Laws 2020 to plan, design and construct a block chain center at central New Mexico community college in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to conduct feasibility studies, to design, develop, acquire, build, improve, furnish and equip information technology and to install a distributed ledger technology system at central New Mexico community college.

### **Chapter 139 Section 14 Laws 2021**

SECTION 14. NEW MEXICO STATE FAIR AFRICAN AMERICAN PERFORMING ARTS CENTER EXHIBIT IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the state fair commission project in Subsection 2 of Section 27 of Chapter 277 of Laws 2019 to plan, design, purchase and install exhibits and artifacts and to equip and furnish the African American performing arts center at the New Mexico state fairgrounds in Albuquerque in Bernalillo county is extended through fiscal year 2023.

## **Chapter 139 Section 15 Laws 2021**

SECTION 15. INTERSTATE HIGHWAY 40 AND PASEO DEL VOLCAN INTERCHANGE RIGHTS OF WAY ACQUISITION--CHANGE TO ACQUIRE RIGHTS OF WAY AND CONSTRUCT PASEO DEL VOLCAN--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of transportation originally authorized in Subsection 8 of Section 33 of Chapter 3 of Laws 2015 (1st S.S.) and reauthorized in Laws 2019, Chapter 280, Section 21 to acquire rights of way for construction of the interstate highway 40 and paseo del Volcan interchange in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to acquire rights of way for and to plan, design and construct paseo del Volcan. The time of expenditure is extended through fiscal year 2023.

## **Chapter 139 Section 16 Laws 2021**

SECTION 16. SOUTHWEST AERONAUTICS, MATHEMATICS AND SCIENCE ACADEMY CHARTER SCHOOL IMPROVEMENTS--CHANGE TO BUILDING AND GROUNDS RENOVATION--GENERAL FUND.--The unexpended balance of the appropriation to the public education department in Subsection 18 of Section 20 of Chapter 277 of Laws 2019 to plan, design, construct, renovate, furnish and equip the buildings and grounds, including bathroom improvements to comply with the federal Americans with Disabilities Act of 1990, fencing, information technology, wiring and infrastructure, at SAMS academy charter school in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, construct, renovate, furnish and equip buildings and grounds and to purchase and install related equipment, information technology, wiring and security infrastructure for the SAMS academy charter school.

## **Chapter 139 Section 17 Laws 2021**

SECTION 17. SOUTHWESTERN INDIAN POLYTECHNIC INSTITUTE FIRE ALARM IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of

expenditure for the higher education department project originally authorized in Subsection 2 of Section 34 of Chapter 3 of Laws 2015 (1st S.S.) and reauthorized in Laws 2019, Chapter 280, Section 25 for fire alarm improvements campuswide at southwestern Indian polytechnic institute in Albuquerque in Bernalillo county is extended through fiscal year 2023.

### **Chapter 139 Section 18 Laws 2021**

~~[SECTION 18. ALBUQUERQUE SPORTS AND CULTURAL CENTER PHASE 1 CONSTRUCTION--CHANGE TO JOAN JONES COMMUNITY CENTER PHASE 2 CONSTRUCTION--SEVERANCE TAX BONDS.--Twenty four percent of the unexpended balance of the appropriation to the local government division in Subsection 116 of Section 35 of Chapter 81 of Laws 2020 to acquire land for and to plan, design and construct phase 1 of a sports and cultural center, including art exhibits, public outdoor spaces, retail and dining facilities and playing fields, in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design and construct phase 2 of the Joan Jones community center in Albuquerque in Bernalillo county.]~~ *LINE ITEM VETO*

### **Chapter 139 Section 19 Laws 2021**

SECTION 19. ALBUQUERQUE ATRISCO AREA BICYCLE RECYCLING CENTER EQUIPMENT PURCHASE--CHANGE TO EQUIP THE SCHOOL ON WHEELS--CHANGE AGENCY--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 32 of Section 34 of Chapter 277 of Laws 2019 to purchase tools and equipment for a community bicycle recycling program in the Atrisco community and southwest area of Albuquerque in Bernalillo county shall not be expended for the original purpose but is appropriated to the public education department to plan, design, construct, purchase, equip and furnish outdoor benches and shade structures for the School on Wheels in the Albuquerque public school district in Bernalillo county. The time of expenditure is extended through fiscal year 2023.

## **Chapter 139 Section 20 Laws 2021**

SECTION 20. LOS RANCHOS DE ALBUQUERQUE VETERAN AGRICULTURAL EQUIPMENT PURCHASE--CHANGE TO AGRICULTURAL EQUIPMENT AND VEHICLE PURCHASE--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 59 of Section 26 of Chapter 80 of Laws 2018 to purchase and install equipment and a greenhouse for a veteran agricultural and job training program in Los Ranchos de Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to purchase and equip vehicles and to purchase and install equipment for the Agri-Nature center in Los Ranchos de Albuquerque.

## **Chapter 139 Section 21 Laws 2021**

SECTION 21. HOBSON ROAD ROSWELL DETENTION POND IMPROVEMENTS--CHANGE TO HOBSON ROAD PAVING IMPROVEMENTS--GENERAL FUND.--The unexpended balance of the appropriation to the department of transportation in Subsection 44 of Section 40 of Chapter 277 of Laws 2019 to plan, design, replace, construct and install culverts for the Hobson road detention pond and to plan, design and construct improvements, including paving, for Hobson road from Hummingbird lane to Baker road in Roswell in Chaves county shall not be expended for the original purpose but is changed to plan, design and construct culverts for the detention pond and to plan, design and construct paving improvements, including asphalt, micro-surfacing, slurries, overlays, concrete turnouts, soil stabilization and intersection repairs, on Hobson road from United States highway 285 to Menominee road in Chaves county.

## **Chapter 139 Section 22 Laws 2021**

SECTION 22. ACOMA PUEBLO WASTEWATER TREATMENT FACILITY IMPROVEMENTS--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The agency for the department of environment project originally authorized in



Subsection 6 of Section 18 of Chapter 81 of Laws 2016 to plan, design and construct expansions and upgrades to the North Acoma wastewater treatment facility at the Pueblo of Acoma in Cibola county and reauthorized in Laws 2020, Chapter 82, Section 31 is changed to the Indian affairs department. The time of expenditure is extended through fiscal year 2023.

### **Chapter 139 Section 23 Laws 2021**

SECTION 23. ANTHONY WATER AND SANITATION DISTRICT DESERT AIRE WASTEWATER SYSTEM DESIGN--CHANGE TO VEHICLE PURCHASE--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 8 of Section 20 of Chapter 80 of Laws 2018 to plan, design and construct a sewer collection and lift station and a force main system in the Desert Aire area for the Anthony water and sanitation district in Dona Ana county shall not be expended for the original purpose but is changed to purchase and equip vehicles for the Anthony water and sanitation district.

### **Chapter 139 Section 24 Laws 2021**

SECTION 24. DONA ANA COUNTY SPRING CANYON ARROYO DAM LAND ACQUISITION AND CONSTRUCTION--CLARIFYING INTENT--SEVERANCE TAX BONDS.--The office of the state engineer project in Subsection 5 of Section 25 of Chapter 81 of Laws 2020 is to plan, design, acquire property for, construct and equip a flood control dam on the lower Spring canyon arroyo in Dona Ana county.

### **Chapter 139 Section 25 Laws 2021**

SECTION 25. SUNLAND PARK HYDROPONIC SYSTEM CONSTRUCTION--CHANGE TO LA UNION WATERSHED DISTRICT FACILITIES IMPROVEMENTS--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 214 of Section 34 of Chapter 277 of Laws 2019 to plan, design, construct, purchase, equip and install hydroponic systems based on

geothermal heat in Sunland Park and the surrounding areas in Dona Ana county shall not be expended for the original purpose but is changed to acquire property and buildings and to plan, design, renovate, improve, furnish and equip an administrative and central operations building for La Union watershed district in Dona Ana county.

### **Chapter 139 Section 26 Laws 2021**

SECTION 26. DELORES WRIGHT PARK IMPROVEMENTS--CHANGE TO CHAPARRAL LIBRARY CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the office of the state engineer originally authorized in Subsection 4 of Section 18 of Chapter 3 of Laws 2015 (1st S.S.) and reauthorized to the local government division in Laws 2019, Chapter 280, Section 39 to plan, design and construct improvements to Delores Wright park in Chaparral in Dona Ana county shall not be expended for the original or reauthorized purpose but is changed to plan, design and construct a library in Chaparral in Dona Ana county. The time of expenditure is extended through fiscal year 2023.

### **Chapter 139 Section 27 Laws 2021**

SECTION 27. CHAPARRAL LIBRARY AND HEALTH COMPLEX STUDY--CHANGE TO LIBRARY CONSTRUCTION--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 298 of Section 34 of Chapter 277 of Laws 2019 to conduct a feasibility study to site, plan and develop a schedule for construction of a library and health and wealth multiplex in Chaparral in Dona Ana or Otero county shall not be expended for the original purpose but is changed to plan, design and construct a library in Chaparral in Dona Ana county.

### **Chapter 139 Section 28 Laws 2021**

SECTION 28. DELORES WRIGHT PARK SPORTS COMPLEX FEASIBILITY STUDY--CHANGE TO BICYCLE MOTOCROSS TRACK CONSTRUCTION--GENERAL FUND.--The unexpended balance of the appropriation to the local government division

in Subsection 185 of Section 34 of Chapter 277 of Laws 2019 to conduct a feasibility study and to develop an implementation schedule to plan, design and construct a sports complex, including the replacement of existing fields and the addition of basketball courts, a dirt bike track and a splash pad, at Delores Wright park in Chaparral in Dona Ana county shall not be expended for the original purpose but is changed to plan, design and construct a dirt bicycle motocross track at Delores Wright park.

### **Chapter 139 Section 29 Laws 2021**

SECTION 29. DONA ANA COUNTY SAVANNAH PARK IMPROVEMENTS--CHANGE TO LA MESA COMMUNITY CENTER IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 193 of Section 35 of Chapter 81 of Laws 2020 for improvements to Savannah park in Dona Ana county shall not be expended for the original purpose but is changed to plan, design, construct, purchase, install and equip improvements, including a recreation room addition and signage, to La Mesa community center in Dona Ana county.

### **Chapter 139 Section 30 Laws 2021**

SECTION 30. LAS CRUCES CINEMATIC INFRASTRUCTURE CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project originally authorized in Subsection 114 of Section 28 of Chapter 3 of Laws 2015 (1st S.S.) and reauthorized in Laws 2019, Chapter 280, Section 42 to plan, design, construct, furnish and equip a facility and related infrastructure to be owned by Las Cruces in Dona Ana county for film, digital media and entertainment arts production is extended through fiscal year 2023.

### **Chapter 139 Section 31 Laws 2021**

SECTION 31. INTERSTATE HIGHWAYS 10 AND 25 INTERSECTION IMPROVEMENTS--CHANGE TO LAS CRUCES STREET MEDIAN IMPROVEMENTS--

EXTEND TIME--SEVERANCE TAX BONDS.--The department of transportation project in Subsection 29 of Section 32 of Chapter 80 of Laws 2018 to plan, design, construct, purchase and install landscaping and drainage improvements at the interchange of interstate 10 and interstate 25 in Las Cruces in Dona Ana county is changed to plan, design, construct, purchase and install park improvements, landscaping and drainage improvements to street medians in Las Cruces in Dona Ana county. The time of expenditure is extended through fiscal year 2023.

### **Chapter 139 Section 32 Laws 2021**

SECTION 32. LAS CRUCES VILLA MORA DAM AREA IMPROVEMENTS--CHANGE AGENCY--SEVERANCE TAX BONDS.--The agency for the office of the state engineer project originally authorized in Subsection 6 of Section 25 of Chapter 81 of Laws 2020 to plan, design, construct, equip, purchase and install improvements to the Villa Mora dam area, including trails, parking and lighting, in Las Cruces in Dona Ana county is changed to the local government division.

### **Chapter 139 Section 33 Laws 2021**

~~[SECTION 33. NEW MEXICO STATE UNIVERSITY KRWG TV EQUIPMENT PURCHASE--EXTEND TIME--GENERAL FUND.--The time of expenditure for the board of regents of New Mexico state university project in Subsection 10 of Section 46 of Chapter 277 of Laws 2019 to purchase, equip and install cameras and information technology for KRWG TV at New Mexico state university in Las Cruces in Dona Ana county is extended through fiscal year 2023.] LINE ITEM VETO~~

### **Chapter 139 Section 34 Laws 2021**

SECTION 34. SUNLAND PARK PUBLIC WORKS DEPARTMENT VEHICLES AND EQUIPMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project in Subsection 216 of Section 34 of Chapter 277 of

Laws 2019 to purchase and equip vehicles and heavy equipment for the public works department in Sunland Park in Dona Ana county is extended through fiscal year 2023.

### **Chapter 139 Section 35 Laws 2021**

SECTION 35. CARLSBAD LIFT STATION GENERATOR PURCHASE--EXPAND PURPOSE--GENERAL FUND.--The department of environment project in Subsection 34 of Section 26 of Chapter 277 of Laws 2019 to plan, design, purchase, equip and install a generator for a sewer lift station in Carlsbad in Eddy county may include planning and the purchase, installation and equipping of backup generators for sewer lift stations throughout Carlsbad.

### **Chapter 139 Section 36 Laws 2021**

~~[SECTION 36. LOVINGTON AMBULANCE PURCHASE--CHANGE TO WATER AND SEWER SYSTEM IMPROVEMENTS--CHANGE AGENCY--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 255 of Section 34 of Chapter 277 of Laws 2019 to purchase and equip an ambulance for Lovington in Lea county shall not be expended for the original purpose but is appropriated to the department of environment to plan, design and construct water and sewer system improvements, including water mains, water lines and water and sanitary sewer equipment, in Lovington in Lea county. The time of expenditure is extended through fiscal year 2023.]~~ *LINE ITEM VETO*

### **Chapter 139 Section 37 Laws 2021**

SECTION 37. TATUM WATER STORAGE TANK IMPROVEMENTS--CHANGE TO TATUM WATER SYSTEM IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 22 of Section 20 of Chapter 80 of Laws 2018 to repair and make improvements to the main water storage tank in Tatum in Lea county shall not be expended for the original purpose but is changed to plan, design and construct water

system improvements in Tatum. The time of expenditure is extended through fiscal year 2023.

### **Chapter 139 Section 38 Laws 2021**

SECTION 38. TATUM WATER TOWER IMPROVEMENTS--CHANGE TO TATUM WATER SYSTEM IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 36 of Section 26 of Chapter 81 of Laws 2020 to plan, design and construct improvements, including lead paint removal and painting, for the water tower in Tatum in Lea county shall not be expended for the original purpose but is changed to plan, design and construct improvements to the water distribution system and water storage facility, including the water tank, in Tatum. [~~The time of expenditure is extended through fiscal year 2023.~~] *LINE ITEM VETO*

### **Chapter 139 Section 39 Laws 2021**

SECTION 39. MEXICAN SPRINGS CHAPTER REGIONAL SAN JUAN LATERAL WATER PROJECT--CHANGE AGENCY--GENERAL FUND.--The agency for the department of environment project originally authorized in Subsection 12 of Section 66 of Chapter 81 of Laws 2020 to acquire easements and rights of way and to plan, design and construct water system improvements, including surveying and archaeological and environmental studies, for the regional San Juan lateral water project for the Mexican Springs chapter of the Navajo Nation in McKinley county is changed to the Indian affairs department.

### **Chapter 139 Section 40 Laws 2021**

SECTION 40. NAVAJO NATION REGIONAL SUPERVISORY CONTROL AND DATA ACQUISITION SYSTEM--CHANGE AGENCY--SEVERANCE TAX BONDS.--The agency for the department of environment project originally authorized in Subsection 44 of Section 26 of Chapter 81 of Laws 2020 to acquire rights of way and to plan, design,

purchase, construct and install a regional supervisory control and data acquisition system to benefit the Baca, Thoreau, Mariano Lake and Smith Lake chapters of the Navajo Nation in McKinley county is changed to the Indian affairs department.

### **Chapter 139 Section 41 Laws 2021**

SECTION 41. TSE'II'AHÍ' CHAPTER WATERLINE EXTENSIONS--CHANGE AGENCY--SEVERANCE TAX BONDS.--The agency for the department of environment project originally authorized in Subsection 53 of Section 26 of Chapter 81 of Laws 2020 to acquire land, easements and rights of way for and to plan, design and construct waterline extensions, including archaeological and environmental studies and clearances, in the Tse'ii'ahi' chapter of the Navajo Nation in McKinley county is changed to the Indian affairs department.

### **Chapter 139 Section 42 Laws 2021**

SECTION 42. TSE'II'AHÍ' CHAPTER BEACON BISTI N9 LATERAL WATER PROJECT CONNECTION--CHANGE AGENCY--SEVERANCE TAX BONDS.--The agency for the department of environment project originally authorized in Subsection 52 of Section 26 of Chapter 81 of Laws 2020 to acquire easements and rights of way and to plan, design and construct water system improvements for the regional Beacon Bisti N9 lateral water project for the Tse'ii'ahi' chapter of the Navajo Nation in McKinley county is changed to the Indian affairs department.

### **Chapter 139 Section 43 Laws 2021**

SECTION 43. BACA/PREWITT CHAPTER BACKHOE AND EQUIPMENT PURCHASE--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 21 of Section 31 of Chapter 277 of Laws 2019 to purchase and equip a maintenance backhoe for the Baca/Prewitt chapter of the Navajo Nation in McKinley county is extended through fiscal year 2023.

## **Chapter 139 Section 44 Laws 2021**

SECTION 44. IYANBITO CHAPTER WATER AND DRAINAGE SYSTEM CONSTRUCTION--CHANGE AGENCY--SEVERANCE TAX BONDS.--The agency for the department of environment project originally authorized in Subsection 49 of Section 26 of Chapter 81 of Laws 2020 to perform environmental studies and to plan, design and construct a community water and drainage system for the Iyanbito chapter of the Navajo Nation in McKinley county is changed to the Indian affairs department.

## **Chapter 139 Section 45 Laws 2021**

SECTION 45. SMITH LAKE CHAPTER WATER SYSTEM IMPROVEMENTS--CHANGE AGENCY--SEVERANCE TAX BONDS.--The agency for the department of environment project originally authorized in Subsection 50 of Section 26 of Chapter 81 of Laws 2020 to plan, design and construct water system improvements in the Smith Lake chapter of the Navajo Nation in McKinley county is changed to the Indian affairs department.

## **Chapter 139 Section 46 Laws 2021**

SECTION 46. BAAHAALI-CHICHILTAH REGIONAL SOLID WASTE TRANSFER STATION IMPROVEMENTS--CHANGE AGENCY--SEVERANCE TAX BONDS.--The agency for the department of environment project originally authorized in Subsection 46 of Section 26 of Chapter 81 of Laws 2020 to plan, design, construct, improve and equip the Baahaali/Chichiltah regional solid waste collection and recycling center in Vanderwagen for the Baahaali chapter of the Navajo Nation in McKinley county is changed to the Indian affairs department.

## **Chapter 139 Section 47 Laws 2021**

SECTION 47. CHICHILTAH CHAPTER VANDERWAGEN WATER SYSTEM--CHANGE AGENCY--SEVERANCE TAX BONDS.--The agency for the department of



environment project originally authorized in Subsection 47 of Section 26 of Chapter 81 of Laws 2020 to plan, design and construct a water system to serve the Vanderwagen community of the Chichiltah chapter of the Navajo Nation in McKinley county is changed to the Indian affairs department.

### **Chapter 139 Section 48 Laws 2021**

SECTION 48. WHITE ROCK CHAPTER BEACON BISTI N9 LATERAL WATER PROJECT CONNECTION--CHANGE AGENCY--SEVERANCE TAX BONDS.--The agency for the department of environment project originally authorized in Subsection 58 of Section 26 of Chapter 81 of Laws 2020 to acquire easements and rights of way and to plan, design and construct water system improvements for the regional Beacon Bisti N9 lateral water project for the White Rock chapter of the Navajo Nation in McKinley and San Juan counties is changed to the Indian affairs department.

### **Chapter 139 Section 49 Laws 2021**

SECTION 49. THOREAU VETERANS SERVICE CENTER CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the Indian affairs department project originally authorized in Subsection 23 of Section 25 of Chapter 3 of Laws 2015 (1st S.S.) and reauthorized in Laws 2016, Chapter 83, Section 63 and again in Laws 2019, Chapter 280, Section 54 to construct, equip and furnish a veterans service center in the Thoreau chapter of the Navajo Nation in McKinley county is extended through fiscal year 2023.

### **Chapter 139 Section 50 Laws 2021**

SECTION 50. OTERO COUNTY EMERGENCY OPERATIONS CENTER EQUIPMENT PURCHASE--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project in Subsection 300 of Section 34 of Chapter 277 of Laws 2019 to purchase and install equipment for an emergency operations center in Otero county is extended through fiscal year 2023.

## **Chapter 139 Section 51 Laws 2021**

SECTION 51. SAN JON WATER STORAGE TANK REPAIRS--CHANGE TO WATER STORAGE SYSTEM IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 60 of Section 26 of Chapter 81 of Laws 2020 to plan, design, construct and repair water ground storage tanks for San Jon in Quay county shall not be expended for the original purpose but is changed to plan, design and construct water storage system improvements, including the rehabilitation of water storage tanks, for San Jon.

## **Chapter 139 Section 52 Laws 2021**

SECTION 52. MESALANDS COMMUNITY COLLEGE ROBOTICS AND COMPUTER PROGRAMMING EQUIPMENT--CHANGE TO NURSE'S AIDE AND PHLEBOTOMY PROGRAM FACILITIES RENOVATION--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the higher education department in Subsection 9 of Section 39 of Chapter 81 of Laws 2020 to purchase and install equipment for computer programming and robotics at Mesalands community college in Tucumcari in Quay county shall not be expended for the original purpose but is changed to plan, design and construct renovations to the nurse's aide and phlebotomy program facilities at Mesalands community college.

## **Chapter 139 Section 53 Laws 2021**

SECTION 53. MESALANDS COMMUNITY COLLEGE GYMNASIUM FLOOR RENOVATION--CHANGE TO SOLAR AND WIND ENERGY PROGRAM EQUIPMENT PURCHASE--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the higher education department in Subsection 7 of Section 39 of Chapter 81 of Laws 2020 to plan, design, construct and renovate a floor for Mesalands community college in Tucumcari in Quay county shall not be expended for the original purpose but is changed to plan, design, construct, purchase and install equipment

improvements, including a microgrid controller, storage battery array, transformers, solar panels and generators, at Mesalands community college.

### **Chapter 139 Section 54 Laws 2021**

SECTION 54. ACEQUIA DE LAS CANOVAS CONSTRUCTION--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The interstate stream commission project originally authorized in Subsection 9 of Section 27 of Chapter 3 of Laws 2015 (1st S.S.) and reauthorized in Laws 2019, Chapter 280, Section 74 to plan, design and construct improvements to the acequia de las Canovas, including installing piping, in Servilleta Plaza in Rio Arriba county may include design and construction of a diversion dam. The time of expenditure is extended through fiscal year 2023.

### **Chapter 139 Section 55 Laws 2021**

SECTION 55. ACEQUIA DE LAS CANOVAS IMPROVEMENTS--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The interstate stream commission project in Subsection 10 of Section 27 of Chapter 3 of Laws 2015 (1st S.S.) and reauthorized in Laws 2019, Chapter 280, Section 75 to plan and design improvements to the acequia de las Canovas in Servilleta Plaza in Rio Arriba county may include construction of improvements to the acequia and design and construction of a diversion dam. The time of expenditure is extended through fiscal year 2023.

### **Chapter 139 Section 56 Laws 2021**

SECTION 56. ECONOMIC DEVELOPMENT PROJECT FOR AN OUTDOOR STAGE AND BUILDINGS RENOVATION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the appropriation to the local government division originally authorized in Subsection 313 of Section 34 of Chapter 277 of Laws 2019 and appropriated to the economic development department in Laws 2020, Chapter 82, Section 65 for an economic development project to build an outdoor stage and renovate

buildings at the Embudo Valley library in Rio Arriba county is extended through fiscal year 2023.

### **Chapter 139 Section 57 Laws 2021**

SECTION 57. TSE ALNAOZTI'I' CHAPTER REGIONAL SAN JUAN LATERAL WATER PROJECT--CHANGE AGENCY--SEVERANCE TAX BONDS.--The agency for the department of environment project originally authorized in Subsection 86 of Section 26 of Chapter 81 of Laws 2020 to acquire easements and rights of way and to plan, design and construct, including surveying and archaeological and environmental studies, water system improvements for the regional San Juan lateral water project in the Tse Alnaozti'i' chapter of the Navajo Nation in San Juan county is changed to the Indian affairs department.

### **Chapter 139 Section 58 Laws 2021**

SECTION 58. TWO GREY HILLS CHAPTER REGIONAL SAN JUAN LATERAL WATER PROJECT--CHANGE AGENCY--SEVERANCE TAX BONDS.--The agency for the department of environment project originally authorized in Subsection 90 of Section 26 of Chapter 81 of Laws 2020 to acquire easements and rights of way, to perform surveying, archaeological and environmental studies and to plan, design and construct water system improvements for the regional San Juan lateral water project in the Two Grey Hills chapter of the Navajo Nation in San Juan county is changed to the Indian affairs department.

### **Chapter 139 Section 59 Laws 2021**

SECTION 59. EAST AZTEC ARTERIAL ROUTE CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of transportation project originally authorized in Subsection 54 of Section 33 of Chapter 3 of Laws 2015 (1st S.S.) and reauthorized in Laws 2019, Chapter 280, Section 77 to

construct the east Aztec arterial route in Aztec in San Juan county is extended through fiscal year 2023.

### **Chapter 139 Section 60 Laws 2021**

SECTION 60. LAKE VALLEY CHAPTER YELLOW POINT ROCK WATER LINE CONSTRUCTION--CHANGE TO WATER SYSTEM IMPROVEMENTS--CHANGE AGENCY--GENERAL FUND.--The unexpended balance of the appropriation to the department of environment in Subsection 13 of Section 66 of Chapter 81 of Laws 2020 for archaeological and environmental studies, to purchase easements and rights of way and to plan, design and construct the Yellow Point Rock water line in the Lake Valley chapter of the Navajo Nation in San Juan county shall not be expended for the original purpose but is appropriated to the Indian affairs department to plan, design and construct water system improvements for the Lake Valley chapter.

### **Chapter 139 Section 61 Laws 2021**

SECTION 61. NASCHITTI CHAPTER REGIONAL SAN JUAN LATERAL WATER PROJECT CONSTRUCTION--CHANGE AGENCY--SEVERANCE TAX BONDS.--The agency for the department of environment project in Subsection 84 of Section 26 of Chapter 81 of Laws 2020 to acquire easements and rights of way and to plan, design and construct, including surveying and archaeological and environmental studies, water system improvements for the regional San Juan lateral water project in the Naschitti chapter of the Navajo Nation in San Juan county is changed to the Indian affairs department.

### **Chapter 139 Section 62 Laws 2021**

SECTION 62. SHEEPSPRINGS CHAPTER SCATTERED WATER LINE EXTENSION--CHANGE AGENCY--SEVERANCE TAX BONDS.--The agency for the department of environment project originally authorized in Subsection 87 of Section 26 of Chapter 81 of Laws 2020 to acquire rights of way, to perform archaeological and

environmental studies and to plan, design, construct and extend scattered water lines for the Sheepsprings chapter of the Navajo Nation in San Juan county is changed to the Indian affairs department.

### **Chapter 139 Section 63 Laws 2021**

SECTION 63. SHIPROCK CHAPTER WATER AND WASTEWATER LINES CONSTRUCTION--CHANGE AGENCY--SEVERANCE TAX BONDS.--The agency for the department of environment project originally authorized in Subsection 88 of Section 26 of Chapter 81 of Laws 2020 to plan, design and construct water and wastewater lines on the south side of Shiprock in the Shiprock chapter of the Navajo Nation in San Juan county is changed to the Indian affairs department.

### **Chapter 139 Section 64 Laws 2021**

SECTION 64. SHIPROCK CHAPTER WASTEWATER SYSTEM AND EXTENSION CONSTRUCTION--CHANGE AGENCY--SEVERANCE TAX BONDS.-- The agency for the department of environment project originally authorized in Subsection 59 of Section 18 of Chapter 81 of Laws 2016 and reauthorized in Laws 2020, Chapter 82, Section 74 to acquire rights of way and easements and to plan, design and construct a wastewater system and extension south of Shiprock in the Navajo Nation in San Juan county is changed to the Indian affairs department.

### **Chapter 139 Section 65 Laws 2021**

SECTION 65. TSE'DAA'KAAN CHAPTER WATER LINE EXTENSION--CHANGE AGENCY--SEVERANCE TAX BONDS.--The agency for the department of environment project originally authorized in Subsection 89 of Section 26 of Chapter 81 of Laws 2020 to acquire easements and rights of way for and to plan, design and construct, including archaeological and environmental studies, a water line extension for the Tse'Daa'Kaan chapter of the Navajo Nation in San Juan county is changed to the Indian affairs department.

## **Chapter 139 Section 66 Laws 2021**

SECTION 66. COUNSELOR CHAPTER LYBROOK WATER SYSTEM IMPROVEMENTS--CHANGE AGENCY--SEVERANCE TAX BONDS.--The agency for the department of environment project originally authorized in Subsection 109 of Section 26 of Chapter 81 of Laws 2020 to plan, design and construct improvements to the Lybrook water system for the Counselor chapter of the Navajo Nation in Sandoval county is changed to the Indian affairs department.

## **Chapter 139 Section 67 Laws 2021**

SECTION 67. SAN ANTONIO DE LAS HUERTAS LAND GRANT-MERCED SIREN INSTALLATION--CHANGE TO RURAL HEALTH CLINIC RENOVATION--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 380 of Section 34 of Chapter 277 of Laws 2019 to plan, design, purchase, construct and install alert sirens for the San Antonio de las Huertas land grant-merced in Sandoval county shall not be expended for the original purpose but is changed to plan, design, construct, purchase, renovate, furnish and equip a community building for a rural health clinic for the San Antonio de las Huertas land grant-merced.

## **Chapter 139 Section 68 Laws 2021**

SECTION 68. SAN FELIPE PUEBLO WELLNESS AND MULTIPURPOSE CENTER PLANNING AND DESIGN--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the Indian affairs department project originally authorized in Subsection 50 of Section 25 of Chapter 3 of Laws 2015 (1st S.S.) and reauthorized in Laws 2019, Chapter 280, Section 86 to plan and design a wellness and multipurpose center at the Pueblo of San Felipe in Sandoval county is extended through fiscal year 2023.

## **Chapter 139 Section 69 Laws 2021**

SECTION 69. AGUA FRIA COMMUNITY WATER SYSTEM ASSOCIATION PERIMETER WALL CONSTRUCTION--CHANGE TO IMPROVE OFFICE AND MAINTENANCE BUILDINGS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 376 of Section 35 of Chapter 81 of Laws 2020 to plan, design and construct a perimeter wall for the Agua Fria community water system association in Santa Fe county shall not be expended for the original purpose but is changed to purchase and install solar panels and for improvements to the association's office and maintenance buildings in Santa Fe county.

## **Chapter 139 Section 70 Laws 2021**

SECTION 70. EL GUICU COMMUNITY DITCH IMPROVEMENTS--CHANGE TO EL GUICU DITCH IMPROVEMENTS AND MATERIALS PURCHASE--GENERAL FUND.--The unexpended balance of the appropriation to the interstate stream commission in Subsection 58 of Section 33 of Chapter 277 of Laws 2019 to plan, design, construct, purchase, equip and make improvements, including watershed restoration and fire protection, to El Guicu community ditch in Santa Fe county shall not be expended for the original purpose but is changed to purchase and install piping for the main irrigation ditch and to plan, design, construct, repair, equip and improve El Guicu ditch.

## **Chapter 139 Section 71 Laws 2021**

~~[SECTION 71. MILAGRO MIDDLE SCHOOL LIBRARY RESOURCES PURCHASE--EXTEND TIME--GENERAL FUND.--The time of expenditure for the public education department project in Subsection 253 of Section 20 of Chapter 277 of Laws 2019 to purchase resources for the library at Milagro middle school in the Santa Fe public school district in Santa Fe county is extended through fiscal year 2023.]~~ *LINE ITEM VETO*



## **Chapter 139 Section 72 Laws 2021**

SECTION 72. SAN ILDEFONSO PUEBLO WASTEWATER SYSTEM AND TREATMENT PLANT PHASE 4 CONSTRUCTION--CHANGE TO DEVELOP A LAND USE PLAN--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 52 of Section 22 of Chapter 80 of Laws 2018 to design and construct phase 4 of a wastewater collection system and treatment plant in the Pueblo of San Ildefonso in Santa Fe county shall not be expended for the original purpose but is changed to plan and develop a comprehensive land use plan. The time of expenditure is extended through fiscal year 2023.

## **Chapter 139 Section 73 Laws 2021**

SECTION 73. SAN ILDEFONSO PUEBLO MUSEUM AND CULTURAL CENTER CONSTRUCTION--CHANGE TO TEWA CENTER RENOVATION--GENERAL FUND.--Up to four hundred thousand dollars (\$400,000) of the unexpended balance of the appropriation to the Indian affairs department in Subsection 130 of Section 31 of Chapter 277 of Laws 2019 to plan, design and construct a museum and cultural center for the Pueblo of San Ildefonso in Santa Fe county shall not be expended for the original purpose but is changed to plan, design, construct and renovate the Tewa center in the Pueblo of San Ildefonso.

## **Chapter 139 Section 74 Laws 2021**

SECTION 74. ELDORADO FIRE STATION 4 TRAILHEAD AND EXTERIOR IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project originally authorized in Subsection 193 of Section 22 of Chapter 81 of Laws 2016 and reauthorized in Laws 2019, Chapter 280, Section 89 to make improvements to comply with the federal Americans with Disabilities Act of 1990 and to plan, design and construct improvements and

restorations to the exterior and surrounding areas, including parking lots and trailheads, at fire station 4 in Eldorado in Santa Fe county is extended through fiscal year 2023.

### **Chapter 139 Section 75 Laws 2021**

SECTION 75. SAN ILDEFONSO PUEBLO MUSEUM AND CULTURAL CENTER CONSTRUCTION--CHANGE TO RENOVATE GYMNASIUM--GENERAL FUND.--Up to three hundred fifty thousand dollars (\$350,000) of the unexpended balance of the appropriation to the Indian affairs department in Subsection 130 of Section 31 of Chapter 277 of Laws 2019 to plan, design and construct a museum and cultural center for the Pueblo of San Ildefonso in Santa Fe county shall not be expended for the original purpose but is changed to plan, design, construct, repair and renovate a gymnasium for the Pueblo of San Ildefonso.

### **Chapter 139 Section 76 Laws 2021**

SECTION 76. STATE LAND OFFICE ELECTRICAL DISTRIBUTION SYSTEM REPLACEMENT--EXTEND TIME--STATE LANDS MAINTENANCE FUND.--The time of expenditure for the state land office project originally authorized in Subsection 2 of Section 81 of Chapter 3 of Laws 2015 (1st S.S.) and reauthorized in Laws 2019, Chapter 280, Section 96 to replace the electrical distribution system at the state land office in Santa Fe in Santa Fe county is extended through fiscal year 2023.

### **Chapter 139 Section 77 Laws 2021**

SECTION 77. STATE LAND OFFICE PARKING LOT, SIDEWALK AND GROUNDS IMPROVEMENTS--EXTEND TIME--STATE LANDS MAINTENANCE FUND.--The time of expenditure for the state land office project originally authorized in Subsection 2 of Section 48 of Chapter 66 of Laws 2014 and reauthorized in Laws 2017, Chapter 133, Section 111 and for which the time of expenditure was extended in Laws 2018, Chapter 68, Section 125 and again in Laws 2019, Chapter 280, Section 97 to plan, design, excavate, replace and construct the parking lot and sidewalks and to

maintain and improve the grounds at the state land office in Santa Fe in Santa Fe county is extended through fiscal year 2023.

### **Chapter 139 Section 78 Laws 2021**

SECTION 78. TESUQUE PUEBLO SUPERVISORY CONTROL AND DATA ACQUISITION SYSTEM PURCHASE--CHANGE AGENCY--SEVERANCE TAX BONDS.--The agency for the department of environment project originally authorized in Subsection 121 of Section 26 of Chapter 81 of Laws 2020 to purchase, equip and install a supervisory control and data acquisition system, including real-time data and remote operations, for the drinking water system for the Pueblo of Tesuque in Santa Fe county is changed to the Indian affairs department.

### **Chapter 139 Section 79 Laws 2021**

SECTION 79. SPACEPORT AMERICA IMPROVEMENTS--EXPAND PURPOSE--GENERAL FUND.--The spaceport authority project in Laws 2019, Chapter 277, Section 38 for expenditure in fiscal years 2020 through 2023 to plan, design, construct and make improvements at spaceport America in Sierra county may include funding for operating expenses of up to one million seven hundred fifty thousand dollars (\$1,750,000), notwithstanding any restrictions otherwise limiting the use of these funds for indirect costs.

### **Chapter 139 Section 80 Laws 2021**

SECTION 80. DEPARTMENT OF PUBLIC SAFETY STATE POLICE FLEET WAREHOUSE IMPROVEMENTS--EXPAND PURPOSE--GENERAL FUND.--The capital program fund project in Subsection 1 of Section 7 of Chapter 277 of Laws 2019 to plan, design, construct, purchase, equip and install improvements to the state police fleet warehouse in Albuquerque in Bernalillo county may include planning, design, construction, renovation, equipping and furnishing department of public safety facilities statewide.

## **Chapter 139 Section 81 Laws 2021**

SECTION 81. DEPARTMENT OF PUBLIC SAFETY ROSWELL STATE POLICE OFFICE AND FACILITIES IMPROVEMENTS STATEWIDE--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the capital program fund project originally authorized in Subsection 5 of Section 7 of Chapter 81 of Laws 2016 to plan, design, construct, renovate, furnish and equip the state police district office in Roswell in Chaves county and reauthorized in Laws 2020, Chapter 82, Section 107 to include planning, designing, constructing, renovating, equipping and furnishing department of public safety facilities statewide is extended through fiscal year 2022.

## **Chapter 139 Section 82 Laws 2021**

SECTION 82. TEXICO PORT OF ENTRY AND DEPARTMENT OF PUBLIC SAFETY FACILITIES IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.-The time of expenditure for the capital program fund project originally authorized in Subsection 12 of Section 7 of Chapter 81 of Laws 2016 and reauthorized in Laws 2020, Chapter 82, Section 106 to purchase easements and to plan, design, construct, equip and furnish the relocation of the Texico port of entry in Texico in Curry county, including planning, designing, constructing, renovating, equipping and furnishing department of public safety facilities statewide, is extended through fiscal year 2022.

## **Chapter 139 Section 83 Laws 2021**

SECTION 83. DEPARTMENT OF INFORMATION TECHNOLOGY CENTRAL TELEPHONE SYSTEM UPGRADE--CHANGE TO PUBLIC SAFETY RADIO EQUIPMENT UPGRADE--EQUIPMENT REPLACEMENT REVOLVING FUNDS.--Up to one million five hundred thousand dollars (\$1,500,000) of the unexpended balance of the appropriation to the department of information technology in Laws 2019, Chapter 277, Section 61 for infrastructure to improve or replace the central telephone system statewide shall not be expended for the original purpose but is changed to purchase, install, replace and upgrade public safety radio equipment statewide.

## **Chapter 139 Section 84 Laws 2021**

SECTION 84. DON FERNANDO DE TAOS LAND GRANT BUILDING CONSTRUCTION--CHANGE TO ACQUISITION OF LAND AND BUILDINGS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 414 of Section 35 of Chapter 81 of Laws 2020 to acquire land and to plan, design, construct and equip an administrative building for the Don Fernando de Taos land grant-merced in Taos county shall not be expended for the original purpose but is changed to acquire land and buildings and to plan, design, construct, renovate, remodel, furnish and equip an administrative multipurpose facility for the Don Fernando de Taos land grant-merced.

## **Chapter 139 Section 85 Laws 2021**

SECTION 85. DON FERNANDO DE TAOS BUILDING CONSTRUCTION--CHANGE TO ACQUISITION OF LAND AND BUILDINGS--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 428 of Section 34 of Chapter 277 of Laws 2019 to acquire land for and to plan, design, construct and equip a building for the Don Fernando de Taos land grant-merced in Taos county shall not be expended for the original purpose but is changed to acquire land and buildings and to plan, design, construct, renovate, furnish and equip an administrative multipurpose facility for the Don Fernando de Taos land grant-merced.

## **Chapter 139 Section 86 Laws 2021**

SECTION 86. DON FERNANDO DE TAOS LAND GRANT BUILDING CONSTRUCTION--CHANGE TO ACQUISITION OF LAND AND BUILDINGS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 412 of Section 35 of Chapter 81 of Laws 2020 to acquire land for and to plan, design, construct and equip a building for the Don Fernando de Taos land grant-merced in Taos county shall not be expended for the original purpose but is changed to acquire land and buildings and to plan, design,

construct, renovate, remodel, furnish and equip an administrative multipurpose facility in the Don Fernando de Taos land grant-merced.

### **Chapter 139 Section 87 Laws 2021**

SECTION 87. TAOS GUNSIGHT SPRINGS WATER SYSTEM CONSTRUCTION--CHANGE TO TAOS SKI VALLEY WATER BOOSTER STATION CONSTRUCTION--GENERAL FUND.--The unexpended balance of the appropriation to the department of environment in Subsection 128 of Section 26 of Chapter 277 of Laws 2019 to plan, design, construct, equip and install corresponding distribution network infrastructure to develop Gunsight springs as a supplemental supply source for the water system in Taos in Taos county shall not be expended for the original purpose but is changed to plan, design, construct and equip a water booster station to provide water to the Kachina water tank for Taos ski valley in Taos county.

### **Chapter 139 Section 88 Laws 2021**

SECTION 88. MANZANO LAND GRANT ESTANCIA VALLEY HERITAGE CENTER CONSTRUCTION--CHANGE TO ACQUIRE PROPERTY, RENOVATE A MULTIPURPOSE BUILDING AND PURCHASE HEAVY EQUIPMENT--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 426 of Section 35 of Chapter 81 of Laws 2020 to plan, design and construct the Estancia Valley heritage center for La Merced del Manzano land grant-merced in Torrance county shall not be expended for the original purpose but is changed to acquire property and to plan, design, construct, renovate and equip a multipurpose building and to purchase and equip heavy equipment for La Merced del Manzano land grant-merced.

### **Chapter 139 Section 89 Laws 2021**

SECTION 89. TORRANCE COUNTY ROAD DEPARTMENT SHOP AND YARD CONSTRUCTION--CLARIFYING PROJECT LOCATION--SEVERANCE TAX BONDS.--

The local government division project in Subsection 432 of Section 35 of Chapter 81 of Laws 2020 is to plan, design, construct and equip a shop and yard for the Torrance county road department in Torrance county.

### **Chapter 139 Section 90 Laws 2021**

SECTION 90. FOLSOM EMERGENCY MEDICAL SERVICES BUILDING--CHANGE TO UNION COUNTY EMERGENCY MEDICAL SERVICES, LAW ENFORCEMENT AND PUBLIC SAFETY EQUIPMENT--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 440 of Section 35 of Chapter 81 of Laws 2020 to plan, design, construct, equip and furnish a building for the Folsom emergency medical services in Union county shall not be expended for the original purpose but is changed to purchase equipment and vehicles for public safety, law enforcement and emergency medical services in Union county.

### **Chapter 139 Section 91 Laws 2021**

SECTION 91. CLAYTON SOLID WASTE TRUCK PURCHASE--EXPAND PURPOSE--EXTEND TIME--GENERAL FUND.--The department of environment project in Subsection 137 of Section 26 of Chapter 277 of Laws 2019 to purchase and equip a solid waste truck for Clayton in Union county may include the purchase of new dumpsters fabricated to fit the solid waste truck. The time of expenditure is extended through fiscal year 2023.

### **Chapter 139 Section 92 Laws 2021**

SECTION 92. MIDDLE RIO GRANDE CONSERVANCY DISTRICT PEDESTRIAN BRIDGE--CHANGE AGENCY--SEVERANCE TAX BONDS.--The agency for the office of the state engineer project originally authorized in Subsection 13 of Section 25 of Chapter 81 of Laws 2020 to plan, design and construct a pedestrian bridge to improve access to the Rio Grande bosque near the Peralta riverside drain for

the middle Rio Grande conservancy district in Valencia county is changed to the local government division.

### **Chapter 139 Section 93 Laws 2021**

SECTION 93. RIO COMMUNITIES PUBLIC SAFETY EQUIPMENT--CHANGE TO FIRE APPARATUS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 456 of Section 35 of Chapter 81 of Laws 2020 to plan, design, construct, purchase and install public safety equipment for Rio Communities in Valencia county shall not be expended for the original purpose but is changed to purchase and equip fire apparatus for Rio Communities.

### **Chapter 139 Section 94 Laws 2021**

SECTION 94. RIO COMMUNITIES SOLAR STREET LIGHTING EQUIPMENT--CHANGE TO SAFETY STREET LIGHTING--GENERAL FUND.--The department of transportation project in Subsection 151 of Section 40 of Chapter 277 of Laws 2019 to plan, design, purchase, equip and install solar-powered light-emitting diode street lights in Rio Communities in Valencia county is changed to plan, design, purchase, equip and install safety street lighting in Rio Communities.

### **Chapter 139 Section 95 Laws 2021**

SECTION 95. MANUELITO CHAPTER MOTOR GRADER PURCHASE--CHANGE TO PURCHASE VEHICLES--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 34 of Section 31 of Chapter 277 of Laws 2019 to purchase and equip a motor grader for the Manuelito chapter of the Navajo Nation in McKinley county shall not be expended for the original purpose but is changed to purchase and equip vehicles for the Manuelito chapter of the Navajo Nation. The time of expenditure is extended through fiscal year 2023.



## **Chapter 139 Section 96 Laws 2021**

SECTION 96. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

## **LAWS 2021, CHAPTER 140**

**SFC/Senate Bill 377, aa, w/cc, partial veto  
Approved April 9, 2021**

AN ACT

MAKING GENERAL APPROPRIATIONS AND AUTHORIZING EXPENDITURES.

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

### **Chapter 140 Section 1 Laws 2021**

SECTION 1. LEGISLATIVE FISCAL YEAR 2021 APPROPRIATIONS.—

A. The following amounts are appropriated from legislative cash balances to the legislature for expenditure in fiscal years 2021 and 2022, and unexpended [~~or unencumbered~~] balances remaining at the end of fiscal year 2022 shall revert to legislative cash balances: *LINE ITEM VETO*

- (1) one million dollars (\$1,000,000) for redistricting expenses;
- (2) one hundred fifty thousand dollars (\$150,000) for the capitol buildings planning commission; and
- (3) three hundred thousand dollars (\$300,000) for the citizen redistricting committee, contingent on enactment of Senate Rules Committee Substitute

for Senate Bills 15 and 199 or similar legislation of the first session of the fifty-fifth legislature.

B. Five hundred thousand dollars (\$500,000) is appropriated from the state capitol maintenance fund to the legislature for expenditure in fiscal years 2021 and 2022 for capitol security and building upgrades, and the unexpended [~~or unencumbered~~] balance remaining at the end of fiscal year 2022 shall revert to the state capitol maintenance fund. *LINE ITEM VETO*

C. One hundred thousand dollars (\$100,000) is appropriated from the general fund to the legislative council service for expenditure in fiscal years 2021 and 2022 for a task force to consider a moratorium on private detention facilities, and any unexpended [~~or unencumbered~~] balance remaining at the end of fiscal year 2022 shall revert to the general fund. *LINE ITEM VETO*

## **Chapter 140 Section 2 Laws 2021**

### SECTION 2. JUDICIAL FISCAL YEAR 2021 APPROPRIATIONS.--

A. The appropriations in this section are from the general fund for expenditure in fiscal years 2021 and 2022 for the purposes specified. Unless otherwise indicated, the unexpended [~~or unencumbered~~] balance of an appropriation in this section at the end of fiscal year 2022 shall revert to the general fund. *LINE ITEM VETO*

B. To the administrative office of the courts, the following amounts are appropriated for the following purposes:

(1) two hundred forty-seven thousand six hundred dollars (\$247,600) for courthouse security equipment and personnel, expenses related to the coronavirus disease 2019, case backlog, alternative dispute resolution and settlement programs, updating electronic records and data entry statewide;

(2) fifty thousand dollars (\$50,000) for the Children's Code reform task force, contingent on the enactment of Senate Bill 196 or similar legislation of the first session of the fifty-fifth legislature; and

~~[(3) fifty thousand dollars (\$50,000) to contract with a nonprofit community development corporation to study the state's judicial foreclosure process and the effects of alternative lending options and to recommend statutory and policy changes to protect neighborhood and community stability, prevent unnecessary or improper foreclosures, support judicial processes and support owner-occupancy.]~~ *LINE ITEM VETO*

C. To the fifth judicial district court, fifty thousand dollars (\$50,000) is appropriated for the supervised visitation and safe exchange program in Hobbs in Lea county.

D. To the fifth judicial district court, fifty thousand dollars (\$50,000) is appropriated for services for victims of child sexual violence in Lea and Eddy counties.

E. To the thirteenth judicial district attorney, ninety-seven thousand six hundred dollars (\$97,600) is appropriated for victim advocate services in Sandoval county.

## **Chapter 140 Section 3 Laws 2021**

### **SECTION 3. GENERAL CONTROL FISCAL YEAR 2021 APPROPRIATIONS.--**

A. The appropriations in this section are from the general fund for expenditure in fiscal years 2021 and 2022 for the purposes specified. Unless otherwise indicated, the unexpended [~~or unencumbered~~] balance of an appropriation in this section remaining at the end of fiscal year 2022 shall revert to the general fund. *LINE ITEM VETO*

~~[B. — To the taxation and revenue department, one hundred thousand dollars (\$100,000) is appropriated to study the effects of eliminating state income tax on military retirement pay.] LINE ITEM VETO~~

C. To the local government division of the department of finance and administration, the following amounts are appropriated for the following projects:

(1) in Bernalillo county:

(a) one hundred twenty-five thousand dollars (\$125,000) to contract with a community organization to expand business incubation in the Rancho de Atrisco community and southwest quadrant of Albuquerque;

(b) fifty thousand dollars (\$50,000) for the tipping points for creatives initiative of Albuquerque;

(c) fifty thousand dollars (\$50,000) for a youth success management, entrepreneurial development and job training program in Albuquerque;

(d) sixty thousand dollars (\$60,000) for growth and development in the Albuquerque biopark's camp biopark, pollinator conservation and gardening education programs;

(e) seventy-five thousand dollars (\$75,000) for the it takes a village mentorship program for struggling and high-risk youth in Albuquerque; and

(f) fifty thousand dollars (\$50,000) for improvements to the Bernalillo county sheriff's office shooting range;

(2) in Chaves county:

(a) fifty-seven thousand five hundred dollars (\$57,500) to purchase and equip police vehicles for the Roswell police department;

(b) eighty-seven thousand six hundred dollars (\$87,600) to purchase and equip sheriff vehicles for the Chaves county sheriff's office;

(c) ninety thousand dollars (\$90,000) to purchase and equip four-by-four sheriff's patrol pickup trucks for the Chaves county sheriff's office; and

(d) seventy-five thousand dollars (\$75,000) for a local resource directory, referral technology platform and integrated website to provide public access to resource information for a coordinated referral process for persons in need of health and social services;

(3) in Cibola county:

(a) ninety-seven thousand six hundred dollars (\$97,600) to purchase personal protective equipment, body armor and protective gear for first responders and public safety and detention officers; and

(b) one hundred twenty-five thousand dollars (\$125,000) for improvements to Kearns park in Milan;

(4) in De Baca county, fifty thousand dollars (\$50,000) to purchase and equip sheriff vehicles for the De Baca county sheriff's office;

(5) in Dona Ana county:

(a) fifty thousand dollars (\$50,000) for public safety equipment, including speed awareness monitors and trailers, for the Anthony police department;

(b) seventy-five thousand dollars (\$75,000) to furnish and equip a library at the Dolores Wright community center in Chaparral; and

~~[(c) fifty thousand dollars (\$50,000) to study the incorporation of Chaparral;]~~ *LINE ITEM VETO*

(6) in Eddy county, two hundred thirty thousand dollars (\$230,000) to purchase information technology for the 911 center;

(7) in Grant county:

(a) sixty-five thousand dollars (\$65,000) for hiking trail projects;  
and

(b) fifty thousand dollars (\$50,000) to design and construct a veterans memorial;

(8) in Hidalgo county, seventy-five thousand dollars (\$75,000) for a memorial in honor of state police officer Darian Jarrott;

(9) in Lea county:

(a) fifty thousand dollars (\$50,000) for the veterans memorial park; and

(b) seventy-five thousand dollars (\$75,000) for youth sports programs, including first tee, in Hobbs and in Lea county;

(10) in Lincoln county, one hundred fifteen thousand dollars (\$115,000) for maintenance and repairs and improvements at the Ruidoso village hall;

(11) in Luna county, one hundred sixty-five thousand six hundred dollars (\$165,600) to purchase body armor and protective gear for law enforcement and detention officers;

(12) in McKinley county:

(a) seventy-five thousand dollars (\$75,000) for a redevelopment plan for the purpose of economic development reuse of the old Alpine property; and

~~[(b) fifty thousand dollars (\$50,000) for a targeted industry study for Carbon Coal Road industrial park;] LINE ITEM VETO~~

(13) in Rio Arriba county:

(a) one hundred fifty-five thousand dollars (\$155,000) for contractual services for grant writing and planning to leverage funding for county projects and programs; and

(b) fifty thousand dollars (\$50,000) to plan, purchase and install water meters in Chama;

(14) in Roosevelt county:

(a) one hundred thousand dollars (\$100,000) to purchase and equip police vehicles for the Portales police department;

(b) sixty thousand dollars (\$60,000) for vehicles for traveling health care providers; and

(c) fifty thousand dollars (\$50,000) to develop and maintain a medical assistance treatment program within the detention center to create a more advanced and comprehensive substance abuse program;

(15) in San Juan county:

(a) seventy-five thousand dollars (\$75,000) to purchase and equip police vehicles for the Bloomfield police department;

(b) one hundred thousand dollars (\$100,000) to purchase and equip police vehicles for the Farmington police department;

(c) one hundred seventy-five thousand dollars (\$175,000) for improvements and maintenance at the Farmington youth sports complexes;

(d) seventy-five thousand dollars (\$75,000) for waterline repairs to a recreational park in Kirtland; and

(e) ninety-two thousand six hundred dollars (\$92,600) for behavioral health services in the San Juan county jail;

(16) in Sandoval county:

(a) fifty thousand dollars (\$50,000) for parks in Bernalillo;

(b) fifty thousand dollars (\$50,000) for parks and recreation in Corrales;

(c) fifty thousand dollars (\$50,000) to improve drainage and irrigation for Las Acequias de Placitas;

(d) fifty-five thousand dollars (\$55,000) for officer protective gear, including ballistic plates and helmets, respirators and rifle replacements, for the Rio Rancho police department;

(e) fifty-five thousand dollars (\$55,000) to replace a wildland fire truck pump and for a youth fire safety program at the Rio Rancho fire department;

(f) fifty thousand dollars (\$50,000) for public safety measures in the county; and

(g) one hundred thousand dollars (\$100,000) for body cameras for the Sandoval county sheriff's office;

(17) in Santa Fe county:



(a) one hundred fifty-one thousand one hundred dollars (\$151,100) to construct the Echo Ridge park in Edgewood; and

(b) fifty thousand dollars (\$50,000) for community and youth programs in Edgewood;

(18) in Sierra county, fifty-seven thousand dollars (\$57,000) to purchase body armor and protective gear for law enforcement and detention officers;

(19) in Socorro county, fifty thousand dollars (\$50,000) to purchase personal protective equipment, body armor and protective gear for first responders and public safety and detention officers;

(20) in Torrance county:

(a) fifty thousand dollars (\$50,000) for community and youth programs in Moriarty; and

(b) one hundred thousand dollars (\$100,000) for the emergency operations center;

(21) in Valencia county:

(a) one hundred seventy-seven thousand six hundred dollars (\$177,600) to provide abatement for identified abandoned buildings that pose potential risks to the public;

(b) fifty thousand dollars (\$50,000) to purchase, plan, design, furnish, equip and install information technology and body cameras for the Belen police department;

(c) fifty thousand dollars (\$50,000) for protective equipment, body armor and protective gear for first responders and public safety and detention officers in Bosque Farms;

(d) fifty thousand dollars (\$50,000) to plan, design, purchase, furnish, equip and install information technology and body cameras for the Bosque Farms police department;

(e) fifty thousand dollars (\$50,000) to plan, design, purchase, furnish, equip and install information technology and body cameras for the Los Lunas police department;

(f) seventy-five thousand dollars (\$75,000) for community and youth programs for Rio Communities; and

(g) two hundred ninety-five thousand dollars (\$295,000) to provide interoperable communication equipment upgrades and body cameras for the Valencia county sheriff's office; and

(22) one hundred thousand dollars (\$100,000) for the commercial property assessed clean energy program for local governments that have passed an ordinance pursuant to Laws 2009, Chapter 270.

D. To the general services department, the following amounts are appropriated for the following purposes:

(1) ninety-seven thousand six hundred dollars (\$97,600) for the facilities management division to conduct appraisals of state properties;

(2) one hundred thousand dollars (\$100,000) to plan, design, improve and equip facilities to preserve historic forts owned by the department; and

(3) seventy-five thousand dollars (\$75,000) to assess, plan, design, repair and install water wells owned by the department on the Los Lunas campus.

E. To the secretary of state, two hundred

ninety-seven thousand six hundred dollars (\$297,600) is appropriated for the campaign reporting system fund and shall not revert.

## **Chapter 140 Section 4 Laws 2021**

### **SECTION 4. COMMERCE AND INDUSTRY FISCAL YEAR 2021 APPROPRIATIONS.--**

A. The appropriations in this section are from the general fund for expenditure in fiscal years 2021 and 2022 for the purposes specified. Unless otherwise indicated, the unexpended [~~or unencumbered~~] balance of an appropriation in this section remaining at the end of fiscal year 2022 shall revert to the general fund. *LINE ITEM VETO*

B. To the economic development department, the following amounts are appropriated for the following purposes:

(1) eighty-two thousand seven hundred dollars (\$82,700) for a bicycle race in Silver City and the surrounding area to promote outdoor recreation and tourism in Grant county;

(2) two hundred seventy-two thousand six hundred dollars (\$272,600) to the outdoor equity grant program fund to carry out the purposes of the fund and shall not revert;

(3) ninety-six thousand dollars (\$96,000) to promote renewable energy as a source of income for the state; and

(4) two hundred ninety-seven thousand six hundred dollars (\$297,600) for the New Mexico outdoor recreation division to provide funding for the construction of shelters, restroom facilities, drinking water infrastructure and other needed trail infrastructure on the Rio Grande trail.

C. To the office of superintendent of insurance, five hundred seventy-five thousand dollars (\$575,000) is appropriated to establish an advisory council; seek technical advice and assistance; and research and design a system of comprehensive health coverage for New Mexico, including innovative coverage options.

## **Chapter 140 Section 5 Laws 2021**

### **SECTION 5. AGRICULTURE, ENERGY AND NATURAL RESOURCES FISCAL YEAR 2021 APPROPRIATIONS.--**

A. The appropriations in this section are from the general fund for expenditure in fiscal years 2021 and 2022 for the purposes specified. Unless otherwise indicated, the unexpended [~~or unencumbered~~] balance of an appropriation in this section remaining at the end of fiscal year 2022 shall revert to the general fund. *LINE ITEM VETO*

B. To the cultural affairs department, one hundred ninety-seven thousand six hundred dollars (\$197,600) is appropriated to provide, improve and enhance educational programs offered at the New Mexico museum of space history and to provide museum improvements in the development of those programs.

C. To the horse shelter rescue fund, administered by the New Mexico livestock board, one hundred fifty thousand dollars (\$150,000) is appropriated to carry out the purposes of the fund and shall not revert.

D. To the energy, minerals and natural resources department, the following amounts are appropriated for the following purposes:

(1) one hundred twenty-five thousand dollars (\$125,000) to plan, design and implement watershed restoration and community wildfire protection improvements, including forest thinning statewide;

(2) fifty-one thousand six hundred dollars (\$51,600) for the grid modernization program;

(3) to the state parks division, the following amounts are appropriated for the following purposes:

(a) seventy-five thousand dollars (\$75,000) to repair, improve and expand educational programs and to repair and improve the historic Oliver Lee ranch house at Oliver Lee memorial state park;

(b) seventy-two thousand six hundred dollars (\$72,600) to renovate and upgrade the existing facility and to improve the energy efficiency and maximize the solar equipment at the visitor center at Living Desert state park;

(c) sixty-five thousand dollars (\$65,000) to plan, design and complete improvements to park access, boat ramps, parking and campsites at Heron Lake state park; and

(d) sixty thousand dollars (\$60,000) to plan, design and complete improvements to park access, boat ramps, parking and campsites at El Vado Lake state park; and

(4) fifty thousand dollars (\$50,000) for set-up and administration of a database for the energy storage system income tax credit, contingent on the enactment of House Bill 262 or similar legislation of the first session of the fifty-fifth legislature.

## Chapter 140 Section 6 Laws 2021

### SECTION 6. HEALTH, HUMAN SERVICES AND HOSPITALS FISCAL YEAR 2021 APPROPRIATIONS.--

A. The appropriations in this section are from the general fund for expenditure in fiscal years 2021 and 2022 for the purposes specified. Unless otherwise indicated, the unexpended [~~or unencumbered~~] balance of an appropriation in this section remaining at the end of fiscal year 2022 shall revert to the general fund. *LINE ITEM VETO*

B. To the Indian affairs department, the following amounts are appropriated for the following purposes:

(1) one hundred thousand dollars (\$100,000) for entrepreneur training programs for Native Americans, including financial literacy, business technology, business plan development, access to capital and attracting investors;

(2) ninety-seven thousand six hundred dollars (\$97,600) to contract for critical resources for Native Americans living in urban and rural areas, including access to behavioral health resources and emergency services during the coronavirus disease 2019 pandemic;

(3) ninety thousand dollars (\$90,000) for an empowerment program for Pueblo women;

(4) fifty-seven thousand six hundred dollars (\$57,600) for the missing and murdered indigenous women initiative and related work;

(5) one hundred thousand dollars (\$100,000) for coordination with Indian education experts for research and development regarding the native language program unit in the state equalization guarantee distribution; and

(6) seventy-five thousand dollars (\$75,000) to support policy and youth leadership programs at the Santa Fe Indian school.

C. To the early childhood education and care department, fifty thousand dollars (\$50,000) is appropriated for the southwest region council of governments community partnership for children that serves Grant county and surrounding areas for continued services to early childhood education centers, home-based care, home visiting and the family, infant, toddler program.

D. To the aging and long-term services department, the following amounts are appropriated for the following purposes:

(1) fifty thousand dollars (\$50,000) to plan, improve and supply the community garden program at the Edgewood senior center in Santa Fe county;

(2) fifty-eight thousand dollars (\$58,000) for a senior citizen program, including maintenance and repair of facilities, in Jal in Lea county;

(3) fifty-eight thousand dollars (\$58,000) for a senior citizen program, including maintenance and repair of facilities, in Eunice in Lea county; and

(4) fifty-nine thousand dollars (\$59,000) for a senior citizen program, including maintenance and repair of facilities, in Lovington in Lea county.

E. To the human services department, the following amounts are appropriated for the following purposes:

(1) one hundred thousand dollars (\$100,000) for planning and development of behavioral health quality measures;

(2) two hundred seventy-five thousand dollars (\$275,000) to develop and implement a comprehensive plan to address hunger and food insecurity and to strengthen food systems in the state in partnership with other

agencies and stakeholders in the agriculture, food and  
hunger-alleviation sectors;

(3) one hundred fifty thousand dollars (\$150,000) for shelter and transitional living programs and services to the homeless and special populations in Espanola in Santa Fe county;

(4) two hundred twenty-two thousand six hundred dollars (\$222,600) for operational support for a homeless shelter and supportive housing program in Santa Fe in Santa Fe county; and

(5) fifty-seven thousand dollars (\$57,000) for rural outreach to persons with substance use disorder and co-occurring disorders, as well as homeless outreach through evidence-based peer support used by peer-driven services in Taos county.

F. To the department of health, the following amounts are appropriated for the following purposes:

(1) one hundred fifty thousand dollars (\$150,000) for a family success laboratory initiative to address poverty in the state that uses integrated administrative data for research and analysis;

(2) ninety-seven thousand six hundred dollars (\$97,600) to contract with a program that provides youth development to reduce risk factors and promote resiliency through programming for youth;

~~[(3) fifty thousand dollars (\$50,000) for a social worker availability and need study;]~~ *LINE ITEM VETO*

(4) seventy-five thousand dollars (\$75,000) for operations of El Centro community health centers;



(5) sixty-five thousand dollars (\$65,000) for a program administered by the department that provides shelter and health care services to homeless people in Albuquerque in Bernalillo county;

(6) fifty thousand dollars (\$50,000) for mental health treatment services in Lea county;

(7) fifty thousand dollars (\$50,000) for psycho-educational development skills for adolescents on the Pueblo of Sandia in Sandoval county; and

(8) one hundred seventy-five thousand dollars (\$175,000) for operations of the Socorro county health clinic in Veguita.

G. To the department of environment, the following amounts are appropriated for the following purposes:

(1) seventy-five thousand dollars (\$75,000) for maintenance and repairs in the Sambrito mutual domestic water consumers association in San Juan county; and

(2) one hundred thousand dollars (\$100,000) to plan and design a water system for the Chapelle mutual domestic water association in San Miguel county.

H. To the children, youth and families department, the following amounts are appropriated for the following purposes:

(1) seventy-five thousand dollars (\$75,000) for coronavirus disease 2019-related expenses and expanded services at child advocacy centers resulting from the pandemic;

(2) one hundred fifteen thousand dollars (\$115,000) for sexual assault service providers for coronavirus disease 2019 emergency response;

(3) fifty thousand dollars (\$50,000) for contractual services for a nonprofit organization that provides young people with a safe place and programming to help them reach their full potential in Hobbs in Lea county;

(4) fifty thousand dollars (\$50,000) for homeless youth shelter services to assist in the care of disadvantaged or abandoned youth in San Juan county;

(5) seventy-five thousand dollars (\$75,000) for a summer youth program in Santa Fe county; and

(6) fifty thousand dollars (\$50,000) for supports for at-risk families in Socorro county.

## **Chapter 140 Section 7 Laws 2021**

### SECTION 7. TRANSPORTATION 2021 FISCAL YEAR APPROPRIATIONS.--

A. The following amounts are appropriated from the general fund to the department of transportation for expenditure in fiscal years 2021 and 2022 for the following purposes:

(1) one hundred seventy-two thousand six hundred dollars (\$172,600) to install traffic safety enhancements at the intersection of New Mexico state highway 200 and United States 62/180;

(2) one hundred seventy-five thousand dollars (\$175,000) for road safety and improvements in state transportation commission district two; and

(3) one hundred thousand dollars (\$100,000) to plan, design and improve drainage in the Mountain View neighborhood in Bernalillo county commission district two, in cooperation with the Albuquerque metropolitan arroyo flood control authority.

B. The unexpended or unencumbered balance of an appropriation in this section remaining at the end of fiscal year 2022 shall revert to the general fund.

## **Chapter 140 Section 8 Laws 2021**

### **SECTION 8. OTHER EDUCATION FISCAL YEAR 2021 APPROPRIATIONS.--**

A. The following amounts are appropriated from the general fund to the public education department for expenditure in fiscal years 2021 and 2022 for the following purposes:

(1) fifty thousand dollars (\$50,000) to contract with a nonprofit youth development program dedicated to helping at-risk young people graduate from high school and make successful transitions to post-secondary education or meaningful employment;

(2) one hundred thousand dollars (\$100,000) to contract with an organization to address long-term economic development throughout the state through increased college and career readiness programming;

(3) two hundred twenty-five thousand dollars (\$225,000) for the biliteracy and oral language development framework working group, contingent on enactment of House Bill 219 or similar legislation of the first session of the fifty-fifth legislature;

(4) one hundred twenty-five thousand dollars (\$125,000) to convene a task force to conduct an asset mapping and gap analysis of public school students' access to culturally appropriate social services statewide, contingent on enactment of House Bill 287 or similar legislation of the first session of the fifty-fifth legislature;

(5) two hundred thousand dollars (\$200,000) to purchase one or more activity buses for the Grants-Cibola county school district;

(6) two hundred sixty-two thousand six hundred dollars (\$262,600) for career technical education programs in the Rio Rancho public school district;

(7) one hundred twenty-five thousand dollars (\$125,000) for the reframe program at Rio Rancho middle school in the Rio Rancho public school district;

(8) fifty thousand dollars (\$50,000) for planning and design of a health center for the West Las Vegas public school district;

(9) seventy-five thousand dollars (\$75,000) for KANW public radio in Albuquerque in Bernalillo county and New Mexico highlands university in Las Vegas in San Miguel county;

(10) one hundred twenty-five thousand dollars (\$125,000) to expand extended learning summer programs for low-income students with socioemotional learning and year-round family involvement in Bernalillo county; and

(11) fifty thousand dollars (\$50,000) for Desert Trail, Sunrise and Yucca Heights elementary schools and after-school science programs in the Gadsden independent school district.

B. Unless otherwise indicated, the unexpended [~~or unencumbered~~] balance of an appropriation in this section remaining at the end of fiscal year 2022 shall revert to the general fund. *LINE ITEM VETO*

## **Chapter 140 Section 9 Laws 2021**

### SECTION 9. HIGHER EDUCATION FISCAL YEAR 2021 APPROPRIATIONS.--

A. The appropriations in this section are from the general fund for the purposes specified. Unless otherwise indicated, the appropriation may be expended in fiscal years 2021 and 2022. Unless otherwise indicated, the unexpended [~~or~~

unencumbered] balance of an appropriation in this section remaining at the end of the expenditure period shall revert to the general fund. *LINE ITEM VETO*

B. To the higher education department, the following amounts are appropriated for the following purposes:

(1) one hundred thousand dollars (\$100,000) to the lottery tuition fund, administered by the department, for tuition scholarships pursuant to the Legislative Lottery Tuition Scholarship Act and shall not revert;

(2) one hundred thousand dollars (\$100,000) to develop and implement a comprehensive pilot project to address hunger on New Mexico college campuses;

(3) one hundred twenty thousand dollars (\$120,000) to central New Mexico community college for expenditure through fiscal year 2024 to develop and operate intensive, short-term boot camp training for unemployed and underemployed workers; and

(4) two hundred thousand dollars (\$200,000) to San Juan college for supplemental funding for information systems for computer science programs.

C. To the board of regents of the university of New Mexico, the following amounts are appropriated for the following purposes at the health sciences center:

(1) two hundred ninety-seven thousand six hundred dollars (\$297,600) for the office of diversity, equity and inclusion for government and leadership training at the health sciences center; and

(2) ninety-seven thousand six hundred dollars (\$97,600) to purchase equipment for the health sciences center speech and language therapy clinic.

D. To the board of regents of New Mexico state university, the following amounts are appropriated for the following purposes:

(1) four hundred twenty-two thousand six hundred dollars (\$422,600) for the state climatologist to expand the weather station network throughout the state;

(2) sixty thousand dollars (\$60,000) to enable the nursing program to develop new methods of teaching due to the coronavirus disease 2019, including providing new, innovative methods for teaching and learning processes that will provide a meaningful clinical learning opportunity for students;

(3) seventy-five thousand dollars (\$75,000) to equip campus police vehicles with video cameras;

(4) fifty thousand dollars (\$50,000) for a youth organization in San Juan county to promote child development;

(5) for the New Mexico department of agriculture:

(a) one hundred seventy-five thousand dollars (\$175,000) to be divided equally among future farmers of America programs at Roswell, Goddard, Carlsbad and Artesia high schools and Dexter and Hagerman public schools;

(b) one hundred seventy-five thousand dollars (\$175,000) to be divided equally among future farmers of America programs at Roswell and Goddard high schools and Capitan, Corona, Carrizozo and Hondo public schools;

(c) fifty thousand dollars (\$50,000) to advance and expand locally grown food products in retail markets to spur demand and assist in replenishing supply chains impacted by the coronavirus disease 2019; and

~~[(d) seventy five thousand dollars (\$75,000) for a mobile livestock slaughter system feasibility study;] LINE ITEM VETO~~

~~[(6) — one hundred seventy-five thousand dollars (\$175,000) for the cooperative extension service to study ground water resources; and] *LINE ITEM VETO*~~

(7) seventy-five thousand dollars (\$75,000) for the agricultural experiment station for the Farmington science center.

E. To the board of regents of eastern New Mexico university, one hundred fifty thousand one hundred dollars (\$150,100) is appropriated for scholarships, tuition fees, books, supplies and tools for adult education and youth challenge students to gain additional workforce training at the Roswell branch campus.

F. To the board of regents of the New Mexico institute of mining and technology, one hundred seventy-five thousand dollars (\$175,000) is appropriated for the chemical engineering department's costs associated with the department and its new graduate programs in Jones hall.

## **Chapter 140 Section 10 Laws 2021**

### SECTION 10. JUDICIAL FISCAL YEAR 2022 APPROPRIATIONS.--

A. The appropriations in this section are appropriated from the general fund to the following judicial agencies for expenditure in fiscal year 2022. Unless otherwise indicated, the unexpended [~~or unencumbered~~] balance of an appropriation in this section remaining at the end of fiscal year 2022 shall revert to the general fund. *LINE ITEM VETO*

B. To the second judicial district court, one hundred forty-eight thousand eight hundred dollars (\$148,800) is appropriated for the foreclosure settlement program.

C. To the eleventh judicial district court, the following amounts are appropriated for the following purposes:

and (1) two hundred thousand dollars (\$200,000) for operating expenses;

(2) seventy thousand dollars (\$70,000) for pretrial services in San Juan county.

D. To the first judicial district attorney, ninety thousand dollars (\$90,000) is appropriated for the pre-prosecution diversion program in Rio Arriba county.

E. To the ninth judicial district attorney, fifty thousand dollars (\$50,000) is appropriated for personal services and employee benefits.

F. To the eleventh judicial district attorney, division one in San Juan county, the following amounts are appropriated for the following purposes:

(1) one hundred twenty-seven thousand six hundred dollars (\$127,600) for an assistant district attorney; and

(2) one hundred thirty thousand dollars (\$130,000) for operating expenses.

G. To the twelfth judicial district attorney, fifty thousand dollars (\$50,000) is appropriated for expenses related to jury trials.

H. To the public defender department, fifty thousand dollars (\$50,000) is appropriated to pay for representation in rural areas of the state.

## **Chapter 140 Section 11 Laws 2021**

SECTION 11. GENERAL CONTROL FISCAL YEAR 2022 APPROPRIATIONS.--



A. The appropriations in this section are from the general fund for expenditure in fiscal year 2022 for the purposes specified. Unless otherwise indicated, the unexpended [~~or unencumbered~~] balance of an appropriation in this section remaining at the end of fiscal year 2022 shall revert to the general fund. *LINE ITEM VETO*

B. To the department of finance and administration, the following amounts are appropriated for the following purposes:

(1) one hundred fifty thousand dollars (\$150,000) for land grant council programs;

(2) fifty thousand dollars (\$50,000) to hire or contract with a surveyor and attorney who specializes in real estate law to assist land grants in defining and defending their common lands; and

(3) two hundred thousand dollars (\$200,000) to implement the Grants Administration Act, contingent on enactment of House Bill 14 or similar legislation of the first session of the fifty-fifth legislature.

C. To the local government division of the department of finance and administration, the following amounts are appropriated for the following purposes:

(1) one hundred forty-eight thousand eight hundred dollars (\$148,800) to the civil legal services fund, administered by the division, for the foreclosure defense program and shall not revert; and

(2) four hundred twenty-two thousand six hundred dollars (\$422,600) to the civil legal services fund for civil legal services contracts and shall not revert.

## Chapter 140 Section 12 Laws 2021

### SECTION 12. COMMERCE AND INDUSTRY FISCAL YEAR 2022 APPROPRIATIONS.--

A. The appropriations in this section are from the general fund for expenditure in fiscal year 2022 for the purposes specified. Unless otherwise indicated, the unexpended [~~or unencumbered~~] balance of an appropriation in this section remaining at the end of fiscal year 2022 shall revert to the general fund. *LINE ITEM VETO*

B. To the tourism department, one hundred thousand dollars (\$100,000) is appropriated for the special olympics.

C. To the economic development department, the following amounts are appropriated for the following purposes:

(1) one hundred thousand dollars (\$100,000) to program support for base budget operating expenses;

(2) fifty thousand dollars (\$50,000) to the economic development division for base budget operating expenses;

(3) one hundred thousand dollars (\$100,000) for a healthy food program;

(4) seventy-five thousand dollars (\$75,000) for the solo-worker program; and

(5) one hundred twenty-five thousand dollars (\$125,000) for implementation and costs associated with administering the workforce and economic

prosperity council, including full-time-equivalent positions, contingent on enactment of House Bill 297 or similar legislation of the first session of the fifty-fifth legislature.

D. To the Cumbres and Toltec scenic railroad commission, one hundred one thousand dollars (\$101,000) is appropriated for marketing and promotion.

E. To the office of military base planning and support, fifty thousand dollars (\$50,000) is appropriated for administrative support of the military base planning commission.

## **Chapter 140 Section 13 Laws 2021**

### **SECTION 13. AGRICULTURE, ENERGY AND NATURAL RESOURCES FISCAL YEAR 2022 APPROPRIATIONS.--**

A. The appropriations in this section are from the general fund for expenditure in fiscal year 2022 for the purposes specified. Unless otherwise indicated, the unexpended [~~or unencumbered~~] balance of an appropriation in this section remaining at the end of fiscal year 2022 shall revert to the general fund. *LINE ITEM VETO*

B. To the energy, minerals and natural resources department, the following amounts are appropriated for the following purposes:

- (1) one hundred thousand dollars (\$100,000) for program support; and
- (2) one hundred thousand dollars (\$100,000) for personnel services and employee benefits.

C. To the office of the state engineer, one hundred thousand dollars (\$100,000) is appropriated for a full-time acequia capital projects manager and associated costs.

## Chapter 140 Section 14 Laws 2021

### SECTION 14. HEALTH, HUMAN SERVICES AND HOSPITALS FISCAL YEAR 2022 APPROPRIATIONS.--

A. The appropriations in this section are from the general fund for expenditure in fiscal year 2022 for the purposes specified. Unless otherwise indicated, the unexpended [~~or unencumbered~~] balance of an appropriation in this section remaining at the end of fiscal year 2022 shall revert to the general fund. *LINE ITEM VETO*

B. To the commission for deaf and hard-of-hearing persons, one hundred thousand dollars (\$100,000) is appropriated for the deaf and deaf-blind support services provider program.

C. To the Indian affairs department, one hundred fifty thousand dollars (\$150,000) is appropriated for suicide prevention in tribal communities.

D. To the aging and long-term services department, the following amounts are appropriated for the following purposes:

(1) ninety-seven thousand six hundred dollars (\$97,600) for operating expenses;

(2) ninety-seven thousand six hundred dollars (\$97,600) for New Mexico-grown fruits and vegetables in senior meals programs; and

(3) fifty thousand dollars (\$50,000) for senior meal sites.

E. To the developmental disabilities planning council, two hundred fifty thousand dollars (\$250,000) is appropriated for a statewide special education ombuds

program, contingent on enactment of House Bill 222 or similar legislation of the first session of the fifty-fifth legislature.

F. To the department of health, the following amounts are appropriated for the following purposes:

(1) fifty-seven thousand six hundred dollars (\$57,600) for a statewide perinatal service program;

(2) one hundred thousand dollars (\$100,000) for youth and teen mental health education and awareness and suicide prevention classes and professional development training for adults working with youth and teens;

(3) one hundred fifty-one thousand dollars (\$151,000) for a statewide dance program in public schools for low-income and at-risk students;

(4) two hundred fifty thousand dollars (\$250,000) for school-based health centers; and

(5) one hundred thousand dollars (\$100,000) to expand comprehensive primary care health career regional training programs administered by the public health division in northwest New Mexico.

G. To the department of environment, the following amounts are appropriated for the following purposes:

(1) two hundred ninety-seven thousand six hundred dollars (\$297,600) for the water protection program;

(2) one hundred thousand dollars (\$100,000) for the contractual services category of the environmental protection division for the air quality bureau; and

(3) one hundred forty-seven thousand six hundred dollars (\$147,600) for core-function operational expenses, including staffing.

H. To the veterans' services department, the following amounts are appropriated for the following purposes:

(1) ninety-seven thousand six hundred dollars (\$97,600) to provide outreach and services to homeless veterans; and

(2) ninety-seven thousand six hundred dollars (\$97,600) to support disabled veterans.

I. To the children, youth and families department, fifty thousand dollars (\$50,000) is appropriated to support child sexual assault victims.

## **Chapter 140 Section 15 Laws 2021**

### SECTION 15. OTHER EDUCATION FISCAL YEAR 2022 APPROPRIATIONS.--

A. The appropriations in this section are from the general fund for expenditure in fiscal year 2022 for the purposes specified. Unless otherwise indicated, the unexpended [~~or unencumbered~~] balance of an appropriation in this section remaining at the end of fiscal year 2022 shall revert to the general fund. *LINE ITEM VETO*

B. To the public education department, the following amounts are appropriated for the following purposes:

(1) one hundred thousand dollars (\$100,000) to increase the number of school nurses;

(2) ninety thousand six hundred dollars (\$90,600) to provide academically integrated out-of-school and summer programs statewide;

(3) one hundred fifty thousand dollars (\$150,000) to implement the provisions of the Black Education Act, contingent on the enactment of House Bill 43 or similar legislation of the first session of the fifty-fifth legislature;

(4) one hundred fifty thousand dollars (\$150,000) for the best buddies program to foster friendships between students with and students without intellectual and developmental disabilities; and

(5) seventy-five thousand dollars (\$75,000) for a secondary computer science teacher license endorsement.

## **Chapter 140 Section 16 Laws 2021**

### SECTION 16. HIGHER EDUCATION FISCAL YEAR 2022 APPROPRIATIONS.--

A. The appropriations in this section are from the general fund for expenditure in fiscal year 2022 for the purposes specified. Unless otherwise indicated, the unexpended [~~or unencumbered~~] balance of an appropriation in this section remaining at the end of fiscal year 2022 shall revert to the general fund. *LINE ITEM VETO*

B. To the higher education department, the following amounts are appropriated for the following purposes:

(1) one hundred sixty thousand dollars (\$160,000) for an assistant secretary of Hispanic education, contingent on enactment of House Bill 131 or similar legislation of the first session of the fifty-fifth legislature;

(2) one hundred twenty-five thousand dollars (\$125,000) to Clovis community college for the early college dual credit program;

(3) ninety-seven thousand six hundred dollars (\$97,600) to New Mexico junior college to provide non-credit workforce training and development classes and services; and

(4) two hundred fifty thousand dollars (\$250,000) to restore funding reductions to Santa Fe community college for small business development centers.

C. To the board of regents of the university of New Mexico, the following amounts are appropriated for the following purposes:

(1) two hundred forty-seven thousand six hundred dollars (\$247,600) to provide mental health and wellness services for student athletes;

(2) one hundred fifty thousand dollars (\$150,000) for the graduation reality and dual-role skills program;

(3) one hundred forty-seven thousand six hundred dollars (\$147,600) for high school mock trials and forensics programs;

(4) fifty thousand dollars (\$50,000) for the Chicana and Chicano studies department to build a higher education pipeline through community-engaged curriculum and programming;

(5) one hundred twenty-five thousand dollars (\$125,000) for the Chicana and Chicano studies department;

(6) one hundred thousand dollars (\$100,000) for the American Indian summer bridge program;



(7) fifty thousand dollars (\$50,000) for the African American student services summer bridge academy;

(8) fifty thousand dollars (\$50,000) for graduate assistantships and faculty research in the Native American studies program;

(9) one hundred thousand dollars (\$100,000) for operational expenses of the university of New Mexico press;

(10) one hundred thousand dollars (\$100,000) for the environmental database at natural heritage New Mexico in the museum of southwestern biology;

(11) one hundred twenty-five thousand dollars (\$125,000) for research in the economics department; and

(12) for the health sciences center, the following amounts are appropriated for the following purposes:

(a) one hundred twenty-five thousand dollars (\$125,000) for operations of the New Mexico poison and drug information center;

(b) fifty thousand six hundred dollars (\$50,600) for the office of diversity, equity and inclusion for student support; and

(c) seventy-five thousand dollars (\$75,000) for the office of diversity, equity and inclusion for the community cares program.

D. To the board of regents of New Mexico state university, the following amounts are appropriated for the following purposes:

(1) fifty thousand dollars (\$50,000) to provide mental health and wellness services for student athletes;

(2) one hundred thousand dollars (\$100,000) for the migrant college assistance program;

(3) to the New Mexico department of agriculture, one hundred twenty-five thousand dollars (\$125,000) for the agricultural workforce development program;

(4) fifty thousand dollars (\$50,000) for the healthy soils program;

(5) to the cooperative extension service, seventy-five thousand dollars (\$75,000) to support programs, including 4-H, agricultural workforce development and environmental best practices;

(6) one hundred thousand dollars (\$100,000) to provide, improve and enhance educational programs offered at the Sunspot solar observatory;

(7) three hundred ninety-seven thousand six hundred dollars (\$397,600) for the Anna, age eight institute;

(8) fifty thousand dollars (\$50,000) for workforce development programs, including automotive technology, welding and allied health services, at the Alamogordo branch campus;

(9) one hundred twenty thousand dollars (\$120,000) to expand the nursing education program, including supplies and equipment, at the Carlsbad branch campus; and

(10) fifty thousand dollars (\$50,000) for instruction and general purposes and workforce development activities at the Grants branch campus.

E. To the board of regents of New Mexico highlands university, the following amounts are appropriated for the following purposes:

(1) fifty thousand dollars (\$50,000) to improve retention and completion of underserved students; and

(2) fifty thousand dollars (\$50,000) for the Native American social work studies institute.

F. To the board of regents of western New Mexico university, the following amounts are appropriated for the following purposes:

(1) one hundred fifty thousand dollars (\$150,000) for athletic programs; and

(2) one hundred seventy-five thousand dollars (\$175,000) for instruction and general purposes at the Deming campus.

## **Chapter 140 Section 17 Laws 2021**

### **SECTION 17. BROADBAND APPROPRIATIONS.--**

A. The appropriations in this section are from the general fund or public education reform fund as specified in fiscal years 2021 through 2026 for the purposes specified. Unless otherwise indicated, the unexpended or unencumbered balance of an appropriation shall revert to the general fund or public education reform fund from which an appropriation is made at the end of fiscal year 2026.

B. To the connect New Mexico fund, the following amounts are appropriated for the following purposes:

(1) seventy million dollars (\$70,000,000) from the general fund to plan, design, engineer, construct, purchase and equip broadband infrastructure statewide; provided that no more than seven million dollars (\$7,000,000) shall be expended until the department of information technology submits an expenditure plan to the legislative

finance committee. The appropriation is contingent on enactment of House Bill 10 or similar legislation in the first session of the fifty-fifth legislature creating the fund. The appropriation includes five hundred thousand dollars (\$500,000) to create a broadband division or office at the department of information technology, contingent on enactment of Senate Bill 93 or similar legislation in the first session of the fifty-fifth legislature establishing the division or office, and one hundred thousand dollars (\$100,000) for a broadband position in the governor's office;

(2) five million dollars (\$5,000,000) from the general fund for grants to local governments, tribes, electric cooperatives and telephone cooperatives for strategic planning and grant writing support for broadband service in unserved areas; provided that no more than five hundred thousand dollars (\$500,000) shall be expended until the department of information technology submits an expenditure plan to the legislative finance committee. The appropriation is contingent on enactment of House Bill 10 or similar legislation in the first session of the fifty-fifth legislature creating the fund. The department of information technology shall coordinate with the department of finance and administration in developing criteria for distributing the funds; and

(3) twenty-five million dollars (\$25,000,000) from the public education reform fund to plan, design, engineer, construct, purchase and equip broadband infrastructure for public schools statewide; provided that no more than two million five hundred thousand dollars (\$2,500,000) shall be expended until the department of information technology submits an expenditure plan to the legislative finance committee. The appropriation is contingent on enactment of House Bill 10 or similar legislation in the first session of the fifty-fifth legislature creating the fund.

C. To the economic development department, ten million dollars (\$10,000,000) is appropriated from the general fund for projects that support emerging broadband technology pursuant to the Local Economic Development Act.

## **Chapter 140 Section 18 Laws 2021**

### **SECTION 18. UNEMPLOYMENT INSURANCE APPROPRIATION.--**

A. One hundred million dollars (\$100,000,000) is appropriated from the general fund to the workforce solutions department to repay federal unemployment trust fund loans pursuant to 42 U.S.C. Section 1321-1324 in fiscal year 2021. Any unexpended or unencumbered balance remaining at the end of fiscal year 2021 shall revert to the general fund.

B. If a determination by both the secretary of finance and administration and the secretary of workforce solutions is made that no eligible federal assistance exists either through federal loan forgiveness for unemployment trust fund loans or federal coronavirus disease 2019 pandemic aid directed to the state is available to forgive or to repay any outstanding federal unemployment loans pursuant to 42 U.S.C. Section 1321-1324 in fiscal year 2021 or fiscal year 2022, the state board of finance may authorize up to two hundred million dollars (\$200,000,000) from the general fund operating reserve to repay federal unemployment loans in fiscal year 2022.

## **Chapter 140 Section 19 Laws 2021**

### **SECTION 19. TRIBAL EDUCATION APPROPRIATIONS.--**

A. The following amounts are appropriated from the public education reform fund to the public education department for expenditure in fiscal years 2021 through 2023 for the following purposes:

(1) four million five hundred thousand dollars (\$4,500,000) for tribal education departments in each of New Mexico's twenty-three nations, tribes and pueblos to develop and implement education blueprints and governance structures, engage in collaborations with school districts and plan and deliver community-based education programs and social support services for Native American students; and

(2) four million five hundred thousand dollars (\$4,500,000) for tribal libraries in each of New Mexico's twenty-three nations, tribes and pueblos to develop and staff culturally and linguistically relevant after-school student services and community-based summer programs.

B. One million six hundred fifteen thousand seven hundred dollars (\$1,615,700) is appropriated from the general fund to the public education department for tribally based Native American language programs to plan and develop programs; recruit, train and certify language teachers; coordinate curriculum and materials development; and develop culturally and linguistically appropriate student, teacher and program assessments and evaluations.

C. Any remaining balances from these appropriations at the end of fiscal year 2023 shall revert to the public education reform fund or the general fund, as applicable."



# **LAWS 2021, HOUSE JOINT RESOLUTION 14**

## **A JOINT RESOLUTION**

**AUTHORIZING THE GENERAL SERVICES DEPARTMENT TO GRANT EASEMENTS FOR A ROAD OVER SEVEN PARCELS OF LAND CONSISTING OF 32.2076 ACRES OF LAND, MORE OR LESS, TO THE VILLAGE OF LOS LUNAS FOR THE USE OF AN EAST-WEST TRAFFIC RELIEF CORRIDOR AND INTERCHANGE WITH INTERSTATE 25.**

WHEREAS, Section 13-6-2 NMSA 1978 authorizes state agencies to donate real property to other state agencies, local public bodies, school districts or state educational institutions; and

WHEREAS, Section 13-6-3 NMSA 1978 provides in pertinent part that any sale, trade or lease of state real property for consideration of one hundred thousand dollars (\$100,000) or more shall be subject to the ratification and approval of the state legislature prior to the sale, trade or lease becoming effective; and

WHEREAS, in 1.5.23.7 NMAC, the state board of finance defines "sale, trade or lease" as any disposition of real property, including donation by one governmental entity to another governmental entity; and

WHEREAS, approximately 32.2076 acres of land, more or less, within the village of Los Lunas that is currently held by the general services department comprises seven parcels of land along Morris road and interstate 25 in an area that has been planned for a highway interchange and an east-west traffic relief corridor for the village of Los Lunas; and



WHEREAS, the general services department supports the acquisition by the village of Los Lunas of permanent easements over the 32.2076 acres of land, more or less, described herein for the use of an east-west traffic corridor and interchange with interstate highway 25; and

WHEREAS, the general services department and the village of Los Lunas agree that easements for a road over the lands described herein are worth more than one hundred thousand dollars (\$100,000); and

WHEREAS, on March 11, 2021, the secretary of general services and the village of Los Lunas entered into a memorandum of agreement regarding the sale of permanent easements over the seven parcels of property described herein at a price to be established by an appraisal conducted by a New Mexico licensed appraiser; and

WHEREAS, parcel number one is described as:

"PROPERTY DESCRIPTION

PCN A300961

2-3

State of New Mexico (Property Control Division, Department of Finance and Administration and its Successors)

A certain parcel of land situated in Projected Section 31, Township 7 North, Range 2 East, New Mexico Principal Meridian, Valencia County, New Mexico, in the San Clemente Grant, in land as described in Quitclaim Deed, filed in the office of the County Clerk of Valencia County, New Mexico on April 3, 1980, in Book 263, Page 1015 and being more particularly described by New Mexico State Plane Grid Bearings (Central Zone) and ground distances as follows:

BEGINNING at the northwesterly corner of said parcel, said point also being a point on the present (2020) Right of Way line of Interstate 25, and being 776.90 feet right of the Los Lunas East-West Corridor Survey/Construction Centerline P.O.T Sta. 21+79.85, NMP# A300961/PCN A300961, Valencia County, State of New Mexico, WHENCE a found 3.25" BHI Control Aluminum Cap on a #5 rebar stamped "BHI 1937401" bears North 18°49'15" East a distance of 1763.07 feet;

THENCE leaving said present (2020) Right of Way line of Interstate 25 North 89° 27' 58" East a distance of 163.89 feet to the northeasterly corner of said parcel;

THENCE along the arc of a curve to the right, having a central angle of 04° 16' 50", having a radius of 1628.00 feet, a chord bearing of South 30° 42' 57" West a distance of 121.60 feet and an arc distance of 121.63 feet to a point of reverse curvature;

THENCE along the arc of a curve to the left, having a central angle of 04° 47' 05", having a radius of 2390.59 feet, a chord bearing of South 30° 50' 48" West a distance of 199.57 feet and an arc distance of 199.63 feet to a point of compound curvature;

THENCE along the arc of a curve to the left, having a central angle of 08° 44' 04", having a radius of 3658.04 feet, a chord bearing of South 24° 05' 14" West a distance of 557.10 feet and an arc distance of 557.64 feet to a point of tangency;

THENCE South 19° 43' 12" West a distance of 54.46 feet to the southeasterly corner of said parcel;

THENCE North 70° 16' 48" West a distance of 49.64 feet to the southwesterly corner of the parcel herein described, said point also being a point on said present (2020) Right of Way line of Interstate 25;

THENCE North 19° 43' 17" East a distance of 868.40 feet to the POINT OF BEGINNING.

Parcel contains ± 1.6605 acres (72,330 Sq. Ft.), more or less."; and

WHEREAS, parcel number 2 is described as:

"PROPERTY DESCRIPTION

PCN A300961

4-2

State of New Mexico (Property Control Division, Department of Finance and Administration and its Successors)

A certain parcel of land situated in Projected Section 31, Township 7 North, Range 2 East, New Mexico Principal Meridian, Valencia County, New Mexico, in the San Clemente Grant, comprising a portion of Tract 2A of the M.R.G.C.D. Map No. 74. Said parcel of land also referenced in Quitclaim Deed, filed in the office of the County Clerk of Valencia County, New Mexico on April 3, 1980, in Book 263, Page 1014 and in Quitclaim Deed, filed on April 3, 1980, in Book 263, Page 1016 being more particularly described by New Mexico State Plane Grid Bearings (Central Zone) and ground distances as follows:

BEGINNING at the western-most corner of said parcel, said point also being a point on the southerly boundary of Tract 3, Subdivision Plat of Rancho Valencia, filed in the office of the County Clerk of Valencia County, New Mexico on October 25, 2006, in Cabinet J, Page 734, Document Number 200621008, and being 150.00 feet right of the Los Lunas East-West Corridor Survey/Construction Centerline P.O.T Sta. 33+75.73, NMP# A300961/PCN A300961, Valencia County, State of New Mexico, WHENCE a

found 3.25" BHI Control Aluminum Cap on a #5 rebar stamped "BHI 1937401" bears North 22°06'58" West a distance of 1788.52 feet;

THENCE along said southerly boundary of Tract 3 and the present (2020) southerly Right of Way line of Morris road North 89° 20' 23" East a distance of 1389.36 feet to a point on the present (2020) westerly Right of Way line of M.R.G.C.D. New Belen Acequia;

THENCE along said present (2020) westerly Right of Way line of M.R.G.C.D. New Belen Acequia South 17° 49' 57" West a distance of 0.71 feet to an angle point;

THENCE South 15° 23' 27" West a distance of 126.39 feet;

THENCE North 74° 10' 44" West a distance of 309.54 feet;

THENCE North 43° 12' 40" West a distance of 7.39 feet;

THENCE North 89° 38' 50" West a distance of 157.19 feet;

THENCE South 42° 33' 18" West a distance of 40.15 feet;

THENCE South 89° 32' 49" West a distance of 725.75 feet;

THENCE along the arc of a curve to the right, having a central angle of 07° 33' 01", having a radius of 1150.00 feet, a chord bearing of North 70° 16' 55" West a distance of 151.44 feet and an arc distance of 151.55 feet to the POINT OF BEGINNING.

Parcel contains ± 1.7030 acres (74,184 Sq. Ft.), more or less."; and

WHEREAS, parcel number 3 is described as:

## "PROPERTY DESCRIPTION

PCN A300961

4-2A

State of New Mexico (Property Control Division, Department of Finance and Administration and its Successors)

A certain parcel of land situated in Projected Section 32, Township 7 North, Range 2 East, New Mexico Principal Meridian, Valencia County, New Mexico, in the San Clemente Grant, comprising a portion of Tract 47A1 of the M.R.G.C.D. Map No. 75. Said parcel of land also referenced in Quitclaim Deed, filed in the office of the County Clerk of Valencia County, New Mexico on April 3, 1980, in Book 263, Page 1016 and in Quitclaim Deed, filed on April 3, 1980, in Book 263, Page 1016 and being more particularly described by New Mexico State Plane Grid Bearings (Central Zone) and ground distances as follows:

BEGINNING at the northwesterly corner of said parcel, said point also being a point on the present (2020) southerly right-of-way of Morris Road, and being 62.36 feet left of the Los Lunas East-West Corridor Survey/Construction Centerline P.O.C. Sta. 47+92.32, NMP# A300961/PCN A300961, Valencia County, State of New Mexico, WHENCE a found 3.25" BHI Control Aluminum Cap on a #5 rebar stamped "BHI 1937401" bears North 52° 37' 33" West a distance of 2701.64 feet;

THENCE along said present (2020) southerly right-of-way of Morris Road North 89° 20' 23" East a distance of 142.40 feet;

THENCE along said present (2020) southerly right-of-way of Morris Road South 67° 57' 32" East a distance of 1050.95 feet to the present (2020) right-of-way of the M.R.G.C.D. Los Lunas Ditch;

THENCE along said present (2020) right-of-way of the M.R.G.C.D. Los Lunas Ditch South 19° 18' 29" West a distance of 204.37 feet;

THENCE along said present (2020) right-of-way of the M.R.G.C.D. Los Lunas Ditch North 88° 32' 37" East a distance of 23.70 feet;

THENCE along said present (2020) right-of-way of the M.R.G.C.D. Los Lunas Ditch along the arc of a curve to the left, having a central angle of 18° 31' 08", having a radius of 125.49 feet, a chord bearing of South 18° 11' 57" East a distance of 40.38 feet and an arc distance of 40.56 feet;

THENCE along the arc of a curve to the right, having a central angle of 05° 33' 49", having a radius of 3125.00 feet, a chord bearing of North 70° 38' 17" West a distance of 303.32 feet and an arc distance of 303.44 feet;

THENCE along the arc of a curve to the left, having a central angle of 03° 25' 36", having a radius of 1875.00 feet, a chord bearing of North 69° 34' 11" West a distance of 112.12 feet and an arc distance of 112.14 feet;

THENCE North 15° 23' 27" East a distance of 161.85 feet;

THENCE North 17° 49' 57" East a distance of 25.76 feet to the POINT OF BEGINNING.

Parcel contains ± 6.4028 acres (278,906 Sq. Ft.), more or less."; and

WHEREAS, parcel number 4 is described as:

"PROPERTY DESCRIPTION

PCN A300961

State of New Mexico (Property Control Division, Department of Finance and Administration and its Successors)

A certain parcel of land situated in Projected Section 32, Township 7 North, Range 2 East, New Mexico Principal Meridian, Valencia County, New Mexico, in the San Clemente Grant, comprising a portion of Tract 38 and Tract 39A1 of the M.R.G.C.D. Map No. 75 and a portion of Tract 3 of the Plat Showing Lands of General American Life Insurance Co. "Harlan Ranches", as the same is shown and designated in the plat recorded in the office of the County Clerk of Valencia County, New Mexico on January 7, 1938, being drawing number C-15-64. Said parcel also referenced in Quitclaim Deed, Filed in the office of the County Clerk of Valencia County, New Mexico on April 3, 1980, in Book 263, Page 1002; Quitclaim Deed, filed on April 3, 1980 in Book 263, Page 1017 and Quitclaim Deed, filed on April 3, 1980 on Book 263, Page 1025 and being more Particularly described by New Mexico State Plane Grid Bearings (Central Zone) and ground distances as follows:

BEGINNING at the northwest corner of the parcel herein described, and being 93.93 feet right of the Los Lunas East-West Corridor Survey/Construction Centerline P.O.T. Sta. 60+70.49, NMP# A300961/PCN A300961, Valencia County, State of New Mexico, WHENCE a found 3.25" BHI Control Aluminum Cap on a #5 rebar stamped "BHI 1937401" bears North 55° 40' 47" West a distance of 3988.60 feet;

THENCE along the northerly line of the parcel herein described the following three (3) courses:

1. North 88° 32' 37" East a distance of 322.38 feet;
2. THENCE South 87° 04' 23" East a distance of 433.01 feet;

3. THENCE South  $75^{\circ} 56' 28''$  East a distance of 1083.52 feet to the northeast corner of the parcel herein described, and a point along the present (2020) westerly right-of-way of M.R.G.C.D. Los Chavez Drain;

THENCE along the easterly line of the parcel herein described and along the said present (2020) westerly right-of-way of M.R.G.C.D. Los Chavez Drain, South  $44^{\circ} 34' 32''$  West a distance of 56.59 feet to the southeast corner of the parcel herein described;

THENCE leaving said present (2020) westerly right-of-way of M.R.G.C.D. Los Chaves Drain and along the southerly line of the parcel herein described the following two (2) courses:

1. North  $81^{\circ} 33' 54''$  West a distance of 1409.95 feet;

2. THENCE 354.13 feet along the arc of a curve to the right, having a central angle of  $06^{\circ} 29' 34''$ , having a radius of 3125.00 feet, a chord bearing of North  $78^{\circ} 19' 06''$  West a distance of 353.94 feet to the southwest corner of the parcel herein described and a point along the present (2020) easterly right-of-way line of M.R.G.C.D. Los Lunas Ditch;"

THENCE along the present (2020) easterly right-of-way line of M.R.G.C.D. Los Lunas Ditch and along the westerly line of the parcel herein described the following two (2) courses:

1. 27.09 feet along the arc of a curve to the left, having a central angle of  $13^{\circ} 17' 11''$ , having a radius of 116.81 feet, a chord bearing of North  $29^{\circ} 41' 12''$  West a distance of 27.03 feet;

2. THENCE North  $36^{\circ} 19' 46''$  West a distance of 19.20 feet to the POINT OF BEGINNING.



Parcel contains ± 4.2466 acres (184,980 Sq. Ft.), more or less."; and

WHEREAS, parcel number 5 is described as:

"PROPERTY DESCRIPTION

PCN A300961

5-2A

State of New Mexico (Property Control Division, Department of Finance and Administration)

A certain parcel of land situated in Projected Section 32, Township 7 North, Range 2 East, New Mexico Principal Meridian, Valencia County, New Mexico, in the San Clemente Grant, comprising a portion of Tract of the Plat Showing Lands of General American Life Insurance Co. "Harlan Ranches", as the same is shown and designated in the plat recorded in the office of the County Clerk of Valencia County, New Mexico on January 7, 1938, being drawing number C-15-64. Said parcel of land also described in Quitclaim Deed, filed in the office of the County Clerk of Valencia County, New Mexico on April 3, 1980, in Book 263, Pages 1005 and being more particularly described by New Mexico State Plane Grid Bearings (Central Zone) and ground distances as follows:

BEGINNING at the southwest corner of the parcel herein described and the southwest corner of said Tract 2, and being 171.61' feet left of the Los Lunas East-West Corridor Survey/Construction Centerline P.O.T. Sta. 79+40.35, NMP# A300961/PCN A300961, Valencia County, State of New Mexico, WHENCE a found 3.25" BHI Control Aluminum Cap on a #5 rebar stamped "BHI 1937401" bears North 66° 13' 51" West a distance of 5670.85 feet;

THENCE along the westerly line of the parcel herein described and along the westerly boundary line of said Tract 2, North 16° 42' 37" East a distance of 22.04 feet to the northwest corner of the parcel herein described;

THENCE along the northerly line of the parcel herein described, South 78° 13' 40" East a distance of 84.64 feet to the northeast corner of the parcel herein described along the easterly boundary line of said Tract 2 and along on the present (2020) westerly right-of-way of M.R.G.C.D. Los Chavez Drain;

THENCE along the easterly line of the parcel herein described and along on the said present (2020) westerly right-of-way of M.R.G.C.D. Los Chavez Drain and along the easterly boundary line of said Tract 2, South 37° 02' 32" West a distance of 24.78 feet to the southeast corner of the parcel herein described and the southeast corner of said Tract 2;

THENCE leaving said present (2020) right-of-way of M.R.G.C.D. Los Chavez Drain, and along the southerly boundary line of said Tract 2 North 77° 53' 23" West a distance of 75.96 feet to the POINT OF BEGINNING.

Parcel contains ± 0.0409 acres (1,783 Sq. Ft.), more or less."; and

WHEREAS, parcel number 6 is described as:

"PROPERTY DESCRIPTION

PCN A300961

6-1

State of New Mexico (Property Control Division, Department of Finance and Administration and its Successors)

A certain parcel of land situated in Projected Section 33, Township 7 North, Range 2 East, New Mexico Principal Meridian, Valencia County, New Mexico, in the San Clemente Grant, comprising a portion of Tract 4 of the Plat Showing Lands of General American Life Insurance Co. "Harlan Ranches", as the same is shown and designated in the plat recorded in the office of the County Clerk of Valencia County, New Mexico on January 7, 1938, being drawing number C-15-64. Said parcel of land also described in Quitclaim Deed, filed in the office of the County Clerk of Valencia County, New Mexico on April 3, 1980, in Book 263, Page 1025 and being more particularly described by New Mexico State Plane Grid Bearings (Central Zone) and ground distances as follows:

BEGINNING at the northwesterly corner of the parcel described herein, said point also being a point on the present (2020) southerly right-of-way of Morris Road, and a point along the present (2020) easterly right-of-way of M.R.G.C.D. Los Chavez Drain and being 100.84 feet left of the Los Lunas East-West Corridor Survey/Construction Centerline P.O.T. Sta. 81+14.90, NMP# A300961/PCN A300961, Valencia County, State of New Mexico, WHENCE a found 3.25" BHI Control Aluminum Cap on a #5 rebar stamped "BHI 1937401" bears North  $66^{\circ} 00' 46''$  West a distance of 5859.70 feet;

THENCE along the said present (2020) easterly right-of-way of M.R.G.C.D. Los Chavez Drain and along northerly line of the parcel described herein and along the said present (2020) southerly right-of-way Line of Morris Road South  $77^{\circ} 53' 23''$  East a distance of 2654.40 feet to the northeasterly corner;

THENCE leaving said present (2020) southerly right-of-way of Morris Road and along the easterly line of the parcel described herein South  $11^{\circ} 50' 52''$  West a distance of 148.18 feet;

THENCE along the southerly line of the parcel described herein the following seven (7) courses:

1. Along the arc of a curve to the left, having a central angle of  $21^{\circ} 56' 05''$ , having a radius of 90.00 feet, a chord bearing of South  $88^{\circ} 25' 29''$  West a distance of 34.25 feet and an arc distance of 34.46 feet;
2. THENCE South  $77^{\circ} 27' 27''$  West a distance of 278.14 feet to a point of curvature;
3. THENCE along the arc of a curve to the right, having a central angle of  $68^{\circ} 02' 53''$ , having a radius of 115.00 feet, a chord bearing of North  $68^{\circ} 31' 07''$  West a distance of 128.69 feet and an arc distance of 136.58 feet to a point of curvature;
4. THENCE along the arc of a curve to the right, having a central angle of  $30^{\circ} 39' 35''$ , having a radius of 1125.00 feet, a chord bearing of North  $86^{\circ} 58' 22''$  West a distance of 594.85 feet and an arc distance of 602.00 feet;
5. THENCE North  $71^{\circ} 38' 34''$  West a distance of 885.16 feet to a point of curvature;
6. THENCE along the arc of a curve to the left, having a central angle of  $09^{\circ} 55' 20''$ , having a radius of 4875.00 feet, a chord bearing of North  $76^{\circ} 36' 14''$  West a distance of 843.17 feet and an arc distance of 844.22 feet;
7. THENCE North  $81^{\circ} 33' 54''$  West a distance of 40.00 feet to the southwesterly corner and a point along the said present (2020) easterly right-of-way of M.R.G.C.D. Los Chavez Drain;

THENCE along the westerly line of the parcel described herein and along the said present (2020) easterly right-of-way of M.R.G.C.D. Los Chavez Drain North  $37^{\circ} 02' 32''$  East a distance of 256.48 feet to the POINT OF BEGINNING.

Parcel contains  $\pm 16.8717$  acres (734,931 Sq. Ft.), more or less."; and

WHEREAS, parcel number 7 is described as:

"PROPERTY DESCRIPTION

PCN A300961

6-1A

State of New Mexico (Property Control Division, Department of Finance and Administration and its Successors)

A certain parcel of land situated in Projected Sections 32 and 33, Township 7 North, Range 2 East, New Mexico Principal Meridian, Valencia County, New Mexico, in the San Clemente Grant, comprising a portion of land described in Tract A in the Boundary Survey Plat of the Remaining Portion of Tract 26A1A1A M.R.G.C.D. Property Map 75 now Designated as Tract A, Lands of the State of New Mexico remaining portion of Tract 26A1A1A, filed in the office of the County Clerk of Valencia County, New Mexico on September 16, 2010, in Cabinet M, Page 170 and being more particularly described by New Mexico State Plane Grid Bearings (Central Zone) and ground distances as follows:

BEGINNING at the southwesterly corner of said parcel, said point also being a point on the easterly boundary of M.R.G.C.D. Los Chavez Interior Drain and also being a point on the northerly right-of-way line of Morris Road and being 159.53 feet left of the Los Lunas East-West Corridor Survey/Construction Centerline P.O.T Sta. 81+44.68, NMP# A300961/PCN A300961, Valencia County, State of New Mexico, WHENCE a found 3.25" BHI Control Aluminum Cap on a #5 rebar stamped "BHI 1937401" bears North 66° 38' 29" West a distance of 5875.00 feet;

THENCE along said easterly boundary of M.R.G.C.D. Los Chavez Interior Drain North 37° 02' 32" East a distance of 25.64 feet to the northwesterly corner of said parcel;

THENCE along the northerly boundary of the parcel described herein the following four (4) courses:

1. South 74° 36' 26" East a distance of 30.51 feet to an angle point;
2. THENCE South 78° 15' 14" East a distance of 386.56 feet to an angle point;
3. THENCE South 78° 15' 13" East a distance of 1485.63 feet to an angle point;
4. THENCE North 85° 59' 28" East a distance of 83.44 feet to the northeasterly corner of said parcel;

THENCE along the easterly line of the parcel described herein South 10° 49' 14" West a distance of 56.58 feet to a nail found on the southeasterly corner of said parcel and a point along the present (2020) northerly right-of-way line of Morris Road;

THENCE along the southerly line of the parcel described herein and along the said present (2020) northerly right-of-way line of Morris Road North 77° 53' 23" West a distance of 1994.86 feet to the POINT OF BEGINNING.

Parcel contains ± 1.2821 acres (55,846 Sq. Ft.), more or less."; and

WHEREAS, the surface rights to the seven parcels of land described above do not substantially meet the purposes of the general services department; and

WHEREAS, the village of Los Lunas has expressed that traffic congestion has become a significant challenge to economic development and to the safety and welfare of the residents of the village; and

WHEREAS, the village of Los Lunas has determined that easements for a road over the seven parcels of land would allow the planned highway interchange and the east-west traffic relief corridor to be built, and the provision of the easements would benefit the residents of the state;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the sale of easements over the properties described above to the village of Los Lunas be authorized by the legislature; and

BE IT FURTHER RESOLVED that approval of the sale of easements be revoked if the village of Los Lunas fails to pay the appraised price or fails to perform any of the scope of services ascribed to it pursuant to the memorandum of agreement of March 11, 2021 between the general services department and the village of Los Lunas; and

BE IT FURTHER RESOLVED that copies of this resolution be transmitted to the general services department and the mayor of the village of Los Lunas.

# LAWS 2021, SENATE JOINT RESOLUTION 13, W/CC

## A JOINT RESOLUTION

RATIFYING AND APPROVING THE TRANSFER FROM THE GENERAL SERVICES DEPARTMENT AND THE DEPARTMENT OF PUBLIC SAFETY TO THE DEPARTMENT OF TRANSPORTATION OF ALL TRACTS OF REAL PROPERTY AND IMPROVEMENTS THEREON ON WHICH ARE LOCATED

NEW MEXICO PORTS OF ENTRY.

WHEREAS, the department of transportation operates New Mexico ports of entry under agreement with the department of public safety and the taxation and revenue department; and

WHEREAS, the department of transportation desires that real property on which the ports of entry are located, and improvements thereon, be transferred to the department of transportation to better facilitate the operation of the ports of entry by the department of transportation; and

WHEREAS, the properties on which ports of entry are located have a value in excess of one hundred thousand dollars (\$100,000); and

WHEREAS, Section 13-6-3 NMSA 1978 provides in pertinent part that any sale, trade or lease of state real property for consideration of one hundred thousand dollars (\$100,000) or more shall be subject to the ratification and approval by the state legislature prior to the sale, trade or lease becoming effective; and

WHEREAS, in 1.5.23.7 NMAC, the state board of finance defines "sale, trade or lease" as any disposition of real property, including donation by one governmental entity to another governmental entity; and

WHEREAS, the real property to be transferred from the facilities management division of the general services department to the department of transportation located in the village of San Jon, county of Quay is more particularly described as:

Beginning at a point on the North Right of Way line of Highway Sixty Six (66) Which said point bears So. 149.4' & East 25' from the SE corner of SW1/4 NE1/4 of Sec. 10. Tow. 10. Rge. 34E., N.M.P.M., thence east 70', thence No. 280', thence W. 70', thence So. to the point of beginning: Containing 0.45/100 acres.

Also a tract as here described Beginning at a point on the No. Right of Way line of Highway Sixty Six (66) which said point bears So. 149.4' & W. 25' from the above described SE cor. SW1/4 NE1/4 S.



10 T. 10.R. 34E. N.M.P.M.. Thence W. 400' to a point; thence N. 280' to a point; thence E. 400' to a point; thence S. 280' to the point of beginning. Containing 2.571 Acres. Also a tract on the south side of Highway Sixty Six (66) described as follows, beginning at a point on the So. Right of Way line of Highway 66 which said point bears So. 249.4' from the above described SE. corner, SW1/4 NE1/4, S. 10, T. 10, R. 34 E. NMP. Thence E. 95' So. 140' W 520 thence E. to beginning Containing 1.671 acres.

\*Described in Warranty Deed, dated 10th day of Jan., A.D. 1941, at 1:05 o'clock P.M., and duly recorded in Book 51, Page 204 of Records of Deeds of Quay County; and

WHEREAS, improvements thereon to be transferred are owned by the department of public safety and are located on the real property owned by the facilities management division of the general services department as described above on which the port of entry is located in the village of San Jon, county of Quay; and

WHEREAS, the real property and any improvements thereon to be transferred from the facilities management division of the general services department to the department of transportation located in the unincorporated village of Nara Visa, county of Quay is more particularly described as:

Lots Number (13) Thirteen and (14) Fourteen, in Block Number (11) Eleven, in the town of Nara Visa, New Mexico, as shown by the Original Plat of said town, on file in the Deed Records of Quay County;

And also,

Lots Number (15) Fifteen, (16) Sixteen, and the West half of Number (17) Seventeen, in Block Number (11) Eleven of the Original Townsite of Nara Visa, New Mexico, as shown by the official map of said townsite on file in the Deed Records of Quay County;

And also,

Lot (18) Eighteen, and the East half of Lot (17) Seventeen, in Block (11) Eleven, in the original townsite of Nara Visa, in Quay County, New Mexico, as shown by plat thereof on file in said county; and

WHEREAS, the real property and any improvements thereon to be transferred from the facilities management division of the general services department to the department of transportation located in the city of Texico, county of Curry is more particularly described as:

## TRACT A

Beginning at a point which is located by the intersection of the north R.O.W. line of U.S. Highway 60 - 70 - 84 and the west fence line of a public road along the east boundary of said W.1/2, SE.1/4 Section 17, T2N R37E. Thence northwesterly along said north R.O.W. line of U.S. Highway

60 - 70 - 84, a distance of 660.0 feet to the point

and place of beginning for tract A. Thence north

637.9 feet; thence east 270.0 feet; thence south 657.53 feet to a point in the north R.O.W. line of U.S. Highway 60 - 70 - 84; thence northeasterly along said R.O.W. line, a distance of 270.0 feet to the point and place of beginning. Said tract contains 4.06 acres of land.

## TRACT B

Beginning at a point which is located by the intersection of the north R.O.W. line of U.S. Highway 60 - 70 - 84 and the west fence line of a public road along the east boundary of said W.1/2, S.E.1/4 Section 17, T2N R37E. Thence northwesterly along said north R.O.W. line of U.S. Highway

60 - 70 - 84, a distance of 390.0 feet; thence north 657.53 feet; thence east 388.2 feet; thence south 685.8 feet to the point and place of beginning. Said tract contains 5.994 acres of land; and

WHEREAS, the real property and any improvements thereon to be transferred from the facilities management division of the general services department to the department of transportation located in the town of Vaughn, county of Guadalupe is more particularly described as:

(WS-1) A certain tract or parcel of land, lying and being situate in the NW 1/4 NW 1/4 of Section 8, T.4 N., R.17 E., NMPM, County of Guadalupe, State of New Mexico, being more particularly bounded and described as follows, to wit:

Beginning at a point 75 feet to the right of and opposite surveyed centerline Station 216+35.15 of NMP F-024-2(8), County of Guadalupe, State of New Mexico, a point on the present (1965) southerly right of way line of NM FAP 97-H, County of Guadalupe, State of New Mexico; thence S.15°32'W. a distance of 224.48 feet; thence S.39°51'8"E. a distance of 534.81 feet; thence N. 74°32'E. a distance of 203.31 feet to a point on the present (1965) southerly right of way line of FAP 97-H; thence N.39°58'W. along said present (1965) southerly right of way line a distance of 746.27 feet to the point and place of beginning. Containing

2.720 acres, more or less. Reserving unto Grantor all water, mineral, oil and gas rights. (Warranty Deed, Calvin M. and Betty Jo Lewis to State Highway Commission dated - January 11, 1966.); and

WHEREAS, the real property and any improvements thereon to be transferred from the facilities management division of the general services department to the department of transportation located in the city of Carlsbad, county of Eddy is more particularly described as:

A certain tract or parcel of land, lying and being situate in the S 1/2 SE 1/4 of Section 15, T.23 S., R.26 E., NMPM, County of Eddy, State of New Mexico, being more particularly bounded and described as follows, to wit:

Beginning at a point 100 feet to the left of and opposite centerline Station 604+77 of NM FAP 83-B, County of Eddy, State of New Mexico, a point on the southerly line of Section 15; thence westerly along the southerly line of Section 15 a distance of 219.32 feet; thence N.22°27'E. a distance of 1090 feet; thence S.67°33'E. a distance of 200 feet to a point on the left right of way line of NMP FAP 83-B; thence S.22°27'W. a distance of 1000 feet to the point and place of beginning. Containing 4.798 acres, more or less; and

WHEREAS, the real property and any improvements thereon to be transferred from the facilities management division of the general services department to the department of transportation located in the unincorporated community of Santa Teresa, county of Doña Ana is more particularly described as:

A certain tract of land situate within a portion of the Northwest Quarter of Section Eighteen, Township 29 South, Range 3 East, N.M.P.M., In Doña Ana County, New Mexico, said tract described in Special warranty Deed filed December 31, 2003 in Book 487, Pages 1876-1877, and being more particularly described by New Mexico Slate Plane Grid Bearings (West Zone) and ground distances as follows:

Beginning at the Southwest corner of said tract herein described, said point being on survey centerline P.O.T. Station 19+72.72, Offset 100.00' Right of N.M.P.# TPM-136-1(4)00, County of Doña Ana, State of New Mexico, and whence the U.S. General Land Office Brass Cap common to Sections 12, 7, 13 and 18 found in place bears N.36°55'02"W. 1,694,27 feet distant, same being on the existing (2008) Easterly Right of Way and Existing Access Control line of the Pete V. Domenici International Highway; thence N.00°14'01"E. along said existing (2008) Easterly Right of Way and Existing Access Control line of Pete V. Domenici International Highway a distance of 255.28 feet to a point on the Existing (2008) Southerly Right of Way line of Cattlemen Road; thence S.89°44'49"E. along said existing (2008) Southerly Right of Way line of Cattlemen Road a distance of

647.76 feet to a point on the existing (2008) Westerly Right of Way line of Booth Road; thence S.00°01'13"E. along said existing (2008) Westerly Right of Way line of Booth Road a distance of 255.14 feet; thence N.89°45'35"W. a distance of 648.89 feet to the Point of Beginning; Said tract contains 165,461 Square Feet or 3.7985 Acres, more or less; and

A certain tract of land situate within a portion of the Northwest Quarter of Section Eighteen and the Southwest Quarter of Section Seven, Township 29 South, Range 3 East, N.M.P.M., in Doña Ana County, New Mexico, said tract described in Special Warranty Deed filed December 31, 2003k in Book 487, Pages 1883-1886, and being more particularly described by New Mexico State Plane Grid Bearings (West Zone) and ground distances as follows:

Beginning at the Southwest corner of said tract herein described, said point being on survey centerline P.O.T. Station 23+08.00, Offset 100.00' Right of N.M.P.# TPM-136-1(4)00, County of Doña Ana, State of New Mexico, and whence the U.S. General Land Office Brass Cap common to Sections 12, 7, 13 and 18 found in place bears N.44°59'36"W. 1,441.33 feet distant, said being on the existing (2008) Easterly Right of Way and Existing Access Control line of Pete V. Domenici International Highway; thence N.00°14'01"E. along said existing (2009) Easterly Right of Way and Existing Access Control line of Pete V. Domenici International Highway a distance of 1,014.39 feet to a point; thence

S.89°43'31"E. a distance of 745.12 feet to a point; thence S.00°05'43"W. a distance of 1,014.12 feet to a point on the existing (2009) Northerly Right of Way line of Cattleman Road; thence N.89°44'49"W. along said existing (2009) Northerly Right of Way line of Cattlemen Road a distance of 747.57 feet to the Point of Beginning;

Said tract contains 756,984 square feet or 17.3780 Acres, more or less; and

WHEREAS, the real property and any improvements thereon to be transferred from the facilities management division of the general services department to the department of transportation located in the town of Clayton, county of Union is more particularly described as:

All of Tracts 3, 4, 5, 6, 7, 8 and 9 of the John A. Boyd Subdivision to the Town of Clayton in Lot 3 of Section 2, T. 25 N., R. 35 E., NMPM, County of Union, State of New Mexico, being more particularly bounded and described as follows, to wit:

Beginning at a point 100 feet to the left of and opposite centerline Station 28+23.36 of NMP F-046-1(7), County of Union, State of New Mexico, a point on the left right of way line, from which point the northwesterly corner of Section 2 bears N.71°26'28".W a distance of 2068.2 feet; thence N.64°53' E. along the

northerly line of Tract 3 a distance of 235 feet to a point for the northeasterly corner of Tract 3; thence S.25°07'E. along the northeasterly line of Tracts 3, 4, 5, 6, 7, 8 and 9 a distance of 700 feet to a point for the southeasterly corner of Tract 9; thence S.64°53'W. along the said southeasterly line of Tract 9 a distance of 235 feet to a point on the left right of way line of F-046-1(7);thence N.25°0'7W. along said left right of way line a distance of 700 feet to the point and place of beginning. Containing 3.776 acres, more or less; and

WHEREAS, the real property and any improvements thereon to be transferred from the facilities management division of the general services department to the department of transportation located in the city of Hobbs, county of Lea is more particularly described as:

(WS-1) A certain tract or parcel of land, lying and being situate in Lot 4 and the SE 1/4 SW 1/4 of Section 19, T. 18 S., R. 39 E., NMPM, County of Lea, State of New Mexico, being more particularly bounded and described as follows, to wit:

Beginning at a point 73 feet to the left of and opposite surveyed center-line Station 137+07.6 of NMP F-187(3),County of Lea, State of New Mexico, a point on the present (1966) northerly right of way line of said F-187(3); thence N.68°39'E. a distance of 599.35 feet; thence N.1°51'E. a distance of 100 feet; thence N.88°09'E. a distance of 1,000 feet; thence S.1°51'E. a distance of 100 feet; thence S.72°21'E. a distance of 599.35 feet; to a point on the present (1966) northerly right of way line of F-187(3); thence S.88°09'W. along said northerly right of way line a distance of 2,130 feet to the point and place of beginning. Containing 9.481 acres, more or less.

EXCEPTING oil, gas and all other minerals. (Warranty Deed, Charlcia A. Taylor, a widow, to State Highway Commission, dated June 14, 1966.); and

WHEREAS, the real property and any improvements thereon to be transferred from the facilities management division of the general services department to the department of transportation located in the unincorporated community of Cedar Hill, county of San Juan is more particularly described as:

A certain tract or parcel of land, lying and being situate in the SE 1/4 SE 1/4 of Section 16 and the SW 1/4 SW 1/4 of Section 15, T. 32 N., R. 10 W., NMPM, County of San Juan, State of New Mexico, being more particularly bounded and described as follows, to wit:

Beginning at a point 100 feet to the left of and opposite centerline Station 1422+00 of NMP F-1(8), County of San Juan, State of New Mexico, a point on the left right of way line; thence N.59°55'09"W. a distance of 308.04 feet; thence N.30°04'51"E. a distance of 953.45 feet; thence N.89° 55'21"E. a distance of

360.0 feet to a point on the left right of way line of F-032-1(8); thence 53°04'51"W. along said left right of way line a distance of 1130.0 feet to the point and place of beginning. Containing 7.366 acres, more or less; and

WHEREAS, the real property and any improvements thereon to be transferred from the facilities management division of the general services department to the department of transportation located in the town of Tatum, county of Lea is more particularly described as:

A certain tract or parcel of land, lying and being situate in the S1/2 SW1/4 and the SW1/4 SE1/4 of Section 22, T. 12 S., R. 36 E. NMPM, County of Lea, New Mexico, being more particularly bounded and described as follows to wit:

Beginning at a point 60 feet to the left of and opposite survey center-line Station 150+00 or NMP F-021-3(1). County of Lea, State of New Mexico, a point on the left right-of-way line: thence N. 10° 52' W. a distance of 140 feet; thence N. 89° 47' W. a distance of 1100.8 feet; thence S.10°52'E., a distance of 140 feet to a point on the left right of way line of F-021-3(1); thence S.89°47'E., along said left right of way line a distance of 1100.8 feet to the point and place of beginning. Containing 3.4719 acres more of less; and

WHEREAS, improvements thereon owned by the department of public safety are located upon real property owned by the department of transportation on which the port of entry is located in city of Raton, county of Colfax; and

WHEREAS, improvements thereon owned by the facilities management division of the general services department are located upon real property owned by the department of transportation on which the port of entry is located in the city of Lordsburg, county of Hidalgo;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the proposed donation and transfer of the real property and any improvements thereon that the facilities management division of the general services department owns and operates as ports of entry as described above from the facilities management division of the general services department to the department of transportation be and is hereby ratified and approved by the legislature; and

BE IT FURTHER RESOLVED that the proposed donation and transfer of any improvements thereon that the department of public safety owns upon real property owned by the facilities management division of the general services department or by the department of transportation as described above from the department of public safety to the department of transportation be and is hereby ratified and approved by the legislature; and

BE IT FURTHER RESOLVED that copies of this resolution be transmitted to the facilities management division of the general services department, the department of public safety and the department of transportation.

# 2021 OFFICIAL ROSTER OF THE STATE OF NEW MEXICO

## LAWS of the State of New Mexico

passed by the

FIRST SESSION

of the

FIFTY-FIFTH LEGISLATURE

STATE OF NEW MEXICO

Which convened in the city of Santa Fe, at the Capitol at the Hour of 12:00 Noon on the 19<sup>th</sup> day of January 2021, and adjourned on the 20<sup>th</sup> day of March 2021.

Prepared for Publication by  
Maggie Toulouse Oliver, Secretary of State

## OFFICIAL ROSTER OF THE STATE OF NEW MEXICO

### UNITED STATES SENATORS

Martin Heinrich, Democrat, Albuquerque  
Ben R. Lujan, Democrat, Santa Fe

### UNITED STATES REPRESENTATIVES

Debra A. Haaland, Democrat, 1<sup>st</sup> Congressional District - Albuquerque  
Yvette Herrell, Republican, 2<sup>nd</sup> Congressional District - Las Cruces  
Teresa Leger Fernandez, Democrat, 3<sup>rd</sup> Congressional District - Santa Fe

### STATE OFFICIALS

Michelle Lujan Grisham, Democrat	Governor
Howie C. Morales, Democrat	Lieutenant Governor
Maggie Toulouse Oliver, Democrat	Secretary of State
Brian S. Colón, Democrat	State Auditor



Tim Eichenberg, Democrat	State Treasurer
Hector Balderas, Democrat	Attorney General
Stephanie Garcia Richard, Democrat	Commissioner of Public Lands
Cynthia B. Hall, Democrat	Public Regulation Commissioner, District 1
Jefferson L. Byrd, Republican	Public Regulation Commissioner, District 2
Joseph M. Maestas, Democrat	Public Regulation Commissioner, District 3
Theresa A. Becenti-Aguilar, Democrat	Public Regulation Commissioner, District 4
Stephen H. Fischmann, Democrat	Public Regulation Commissioner, District 5

### **JUSTICES OF THE SUPREME COURT**

Michael E. Vigil, Chief Justice  
 Barbara J. Vigil  
 C. Shannon Bacon  
 David K. Thomson  
 Julie J. Vargas

### **JUDGES OF THE COURT OF APPEALS**

J. Miles Hanisee, Chief Judge  
 M. Monica Zamora  
 Jennifer L. Attrep  
 Kristina Bogardus  
 Jacqueline R. Medina  
 Megan P. Duffy  
 Briana H. Zamora  
 Zachary A. Ives  
 Shammara H. Henderson  
 Jane B. Yohalem  
 Gerald E. Baca

### **DISTRICT COURTS DISTRICT JUDGES**

#### **FIRST JUDICIAL DISTRICT**

#### **Santa Fe, Los Alamos and Rio Arriba Counties**

Division I	Francis J. Mathew	Santa Fe
Division II	Maria E. Sanchez-Gagne	Santa Fe
Division III	Shannon Broderick Bulman	Santa Fe
Division IV	Sylvia F. LaMar	Santa Fe
Division V	Jason C. Lidyard	Santa Fe
Division VI	Bryan Biedscheid	Santa Fe
Division VII	T. Glenn Ellington	Santa Fe
Division VIII	Mary L. Marlowe Sommer	Santa Fe

Division IX	Matthew J. Wilson	Santa Fe
Division X	Kathleen McGarry	Santa Fe

**SECOND JUDICIAL DISTRICT  
Bernalillo County**

Division I	William Parnall	Albuquerque
Division II	Stan Whitaker	Albuquerque
Division III	Brett R. Loveless	Albuquerque
Division IV	Beatrice J. Brickhouse	Albuquerque
Division V	Nancy J. Franchini	Albuquerque
Division VI	Daniel E. Ramczyk	Albuquerque
Division VII	Alma C. Roberson	Albuquerque
Division VIII	Catherine Begaye	Albuquerque
Division IX	Cindy Leos	Albuquerque
Division X	Bruce Fox	Albuquerque
Division XI	Gerard Lavelle	Albuquerque
Division XII	Clay Campbell	Albuquerque
Division XIII	Lisa Chavez Ortega	Albuquerque
Division XIV	Marie Ward	Albuquerque
Division XV	Courtney B. Weaks	Albuquerque
Division XVI	Jennifer J. Wernersbach	Albuquerque
Division XVII	Erin B. O'Connell	Albuquerque
Division XVIII	Denise Barela-Shepherd	Albuquerque
Division XIX	Benjamin Chavez	Albuquerque
Division XX	Britt M. Baca-Miller	Albuquerque
Division XXI	Alisa Hart	Albuquerque
Division XXII	Amber Chavez Baker	Albuquerque
Division XXIII	Joshua A. Allison	Albuquerque
Division XXIV	Debra Ramirez	Albuquerque
Division XXV	Jane Levy	Albuquerque
Division XXVI	Joseph Montano	Albuquerque
Division XXVII	Victor Lopez	Albuquerque
Division XXVIII	Clara Moran	Albuquerque
Division XXIX	Lucy Solimon	Albuquerque

**THIRD JUDICIAL DISTRICT  
Doña Ana County**

Division I	Manuel I. Arrieta	Las Cruces
Division II	Marci E. Beyer	Las Cruces
Division III	Conrad F. Perea	Las Cruces
Division IV	Mary W. Rosner	Las Cruces
Division V	Lisa C. Schultz	Las Cruces
Division VI	James T. Martin	Las Cruces
Division VII	Douglas R. Driggers	Las Cruces
Division VIII	Grace B. Duran	Las Cruces

Division IX	Richard M. Jacquez	Las Cruces
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**FOURTH JUDICIAL DISTRICT**  
**Guadalupe, Mora and San Miguel Counties**

Division I	Gerald Baca	Las Vegas
Division II	Abigail P. Aragon	Las Vegas
Division III	Flora Gallegos	Las Vegas

**FIFTH JUDICIAL DISTRICT**  
**Lea, Eddy and Chaves Counties**

Division I	Eileen Riordan	Carlsbad
Division II	Thomas E. Lilley	Roswell
Division III	William G.W. Shoobridge	Lovington
Division IV	Mark Sanchez	Lovington
Division V	Jane Shuler Gray	Carlsbad
Division VI	James M. Hudson	Roswell
Division VII	Michael H. Stone	Lovington
Division VIII	Jared G. Kallunki	Roswell
Division IX	Lisa Riley	Carlsbad
Division X	Dustin K. Hunter	Roswell
Division XI	Lee A. Kirksey	Lovington

**SIXTH JUDICIAL DISTRICT**  
**Grant, Hidalgo and Luna Counties**

Division I	Thomas F. Stewart	Silver City
Division II	Jennifer E. DeLaney	Deming
Division III	James B. Foy	Silver City
Division IV	Jarod K. Hofacket	Deming

**SEVENTH JUDICIAL DISTRICT**  
**Catron, Sierra, Socorro and Torrance Counties**

Division I	Mercedes C. Murphy	Socorro
Division II	Matthew Reynolds	Sierra
Division III	Shannon Murdock	Torrance

**EIGHTH JUDICIAL DISTRICT**  
**Colfax, Union and Taos Counties**

Division I	Emilio J. Chavez	Raton
Division II	Melissa Kennelly	Taos
Division III	Jeffrey A. Shannon	Taos

**NINTH JUDICIAL DISTRICT**

### **Curry and Roosevelt Counties**

Division I	Matthew E. Chandler	Clovis
Division II	Drew D. Tatum	Clovis
Division III	Fred T. Van Soelen	Clovis
Division IV	Donna J. Mowrer	Portales
Division V	David P. Reeb	Clovis

### **TENTH JUDICIAL DISTRICT Quay, DeBaca, and Harding Counties**

Division I	Albert J. Mitchell, Jr.	Tucumcari
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### **ELEVENTH JUDICIAL DISTRICT McKinley and San Juan Counties**

Division I	Bradford J. Dalley	Farmington
Division II	Louis E. DePauli, Jr.	Gallup
Division III	Sarah V. Weaver	Farmington
Division IV	Curtis R. Gurley	Aztec
Division V	R. David Pederson	Gallup
Division VI	Daylene A. Marsh	Aztec
Division VII	Robert A. Aragon	Gallup
Division VIII	Karen L. Townsend	Aztec

### **TWELFTH JUDICIAL DISTRICT Lincoln and Otero Counties**

Division I	Steven Blankinship	Alamogordo
Division II	Ellen R. Jessen	Alamogordo
Division III	Daniel A. Bryant	Carrizozo
Division IV	Angie K. Schneider	Alamogordo
Division V	John P. Sugg	Alamogordo

### **THIRTEENTH JUDICIAL DISTRICT Cibola, Sandoval & Valencia Counties**

Division I	James Lawrence Sanchez	Los Lunas
Division II	George P. Eichwald	Bernalillo
Division III	Allen R. Smith	Los Lunas
Division IV	Amanda Sanchez Villalobos	Grants
Division V	James A. Noel	Bernalillo
Division VI	Cindy M. Mercer	Los Lunas
Division VII	Christopher G. Perez	Bernalillo
Division VIII	Cheryl H. Johnston	Bernalillo

## DISTRICT ATTORNEYS

First Judicial District	Mary V. Carmack- Altwies	Santa Fe, Los Alamos & Rio Arriba
Second Judicial District	Raul Torrez	Bernalillo
Third Judicial District	Gerald Milton Byers	Doña Ana
Fourth Judicial District	Thomas A. Clayton	San Miguel, Mora & Guadalupe
Fifth Judicial District	Dianna Luce	Eddy, Chaves & Lea
Sixth Judicial District	Michael R. Renteria	Grant, Luna & Hidalgo
Seventh Judicial District	Clint Wellborn	Socorro, Torrance & Sierra
Eighth Judicial District	Marcus J. Montoya	Taos, Colfax & Union
Ninth Judicial District	Andrea Reeb	Curry & Roosevelt
Tenth Judicial District	Timothy Rose	Quay, Harding & DeBaca
Eleventh Judicial District	Rick Tedrow	San Juan
	Bernadine Martin	McKinley
Twelfth Judicial District	Scot D. Key	Otero & Lincoln
Thirteenth Judicial District	Barbara Romo	Cibola, Sandoval & Valencia

## STATE SENATORS SERVING IN THE FIFTY-FIFTH LEGISLATURE STATE OF NEW MEXICO FIRST SESSION CONVENED JANUARY 19, 2021

<u>District</u>	<u>County</u>	<u>Name</u>	<u>City</u>
1	San Juan	William E. Sharer	Farmington
2	San Juan	Steven P. Neville	Aztec
3	McKinley and San Juan	Shannon D. Pinto	Tohatchi
4	Cibola, McKinley and San Juan	George K. Muñoz	Gallup
5	Los Alamos, Rio Arriba, Sandoval and Santa Fe	Leo Jaramillo	Española
6	Los Alamos, Rio Arriba, Santa Fe and Taos	Roberto "Bobby" Gonzales	Ranchos de Taos
7	Curry, Quay and Union	Pat Woods	Broadview
8	Colfax, Guadalupe, Harding, Mora, Quay, San Miguel & Taos	Pete Campos	Las Vegas
9	Bernalillo and Sandoval	Brenda Grace McKenna	Corrales
10	Bernalillo and Sandoval	Katy M. Duhigg	Albuquerque
11	Bernalillo	Linda M. Lopez	Albuquerque
12	Bernalillo	Gerald Ortiz y Pino	Albuquerque
13	Bernalillo	Bill B. O'Neill	Albuquerque
14	Bernalillo	Michael Padilla	Albuquerque
15	Bernalillo	Daniel A. Ivey-Soto	Albuquerque

16	Bernalillo	Antoinette Sedillo Lopez	Albuquerque
17	Bernalillo	Mimi Stewart	Albuquerque
18	Bernalillo	Bill Tallman	Albuquerque
19	Bernalillo, Sandoval, Santa Fe and Torrance	Gregg W. Schmedes	Albuquerque
20	Bernalillo	Martin E. Hickey	Albuquerque
21	Bernalillo	Mark Moores	Albuquerque
22	Bernalillo, McKinley, Rio Arriba, San Juan and Sandoval	Benny Shendo Jr.	Jemez Pueblo
23	Bernalillo	Harold J. Pope Jr.	Albuquerque
24	Santa Fe	Nancy Rodriguez	Santa Fe
25	Santa Fe	Peter Wirth	Santa Fe
26	Bernalillo	Jacob R. Candelaria	Albuquerque
27	Chaves, Curry, De Baca, Lea and Roosevelt	Stuart Ingle	Portales
28	Catron, Grant and Socorro	Siah Correa Hemphill	Silver City
29	Bernalillo and Valencia	Gregory A. Baca	Belen
30	Cibola, Socorro, McKinley and Valencia	Joshua A. Sanchez	Bosque
31	Doña Ana	Joseph Cervantes	Las Cruces
32	Chaves, Eddy and Otero	Cliff R. Pirtle	Roswell
33	Chaves, Lincoln and Otero	William F. Burt	Alamogordo
34	Doña Ana, Eddy and Otero	Ron Griggs	Alamogordo
35	Doña Ana, Hidalgo, Luna and Sierra	Crystal R. Diamond	Elephant Butte
36	Doña Ana	Jeff Steinborn	Las Cruces
37	Doña Ana	William P. Soules	Las Cruces
38	Doña Ana	Carrie Hamblen	Las Cruces
39	Bernalillo, Lincoln, San Miguel, Santa Fe, Torrance and Valencia	Elizabeth "Liz" Stefanics	Cerrillos
40	Sandoval	Craig W. Brandt	Rio Rancho
41	Eddy and Lea	David M. Gallegos	Eunice
42	Chaves, Eddy and Lea	Gay G. Kernan	Hobbs

**STATE REPRESENTATIVES SERVING IN THE FIFTY-FIFTH LEGISLATURE  
STATE OF NEW MEXICO  
FIRST SESSION  
CONVENED JANUARY 19, 2021**

<u>District</u>	<u>County</u>	<u>Name</u>	<u>City</u>
1	San Juan	Rod Montoya	Farmington

2	San Juan	James R.J. Strickler	Farmington
3	San Juan	T. Ryan Lane	Aztec
4	San Juan	Anthony Allison	Fruitland
5	McKinley and San Juan	D. Wonda Johnson	Rehoboth
6	Cibola and McKinley	Eliseo Lee Alcon	Milan
7	Valencia	Kelly K. Fajardo	Los Lunas
8	Valencia	Alonzo Baldonado	Los Lunas
9	McKinley and San Juan	Patricia A. Lundstrom	Gallup
10	Bernalillo	G. Andrés Romero	Albuquerque
11	Bernalillo	Javier Martínez	Albuquerque
12	Bernalillo	Brittney Aileene Barreras	Albuquerque
13	Bernalillo	Patricia Roybal Caballero	Albuquerque
14	Bernalillo	Miguel P. Garcia	Albuquerque
15	Bernalillo	Dayan Hochman-Vigil	Albuquerque
16	Bernalillo	Antonio Maestas	Albuquerque
17	Bernalillo	Deborah A. Armstrong	Albuquerque
18	Bernalillo	Gail Chasey	Albuquerque
19	Bernalillo	Sheryl Williams	Albuquerque
		Stapleton	
20	Bernalillo	Meredith A. Dixon	Albuquerque
21	Bernalillo	Debra M. Sariñana	Albuquerque
22	Bernalillo, Sandoval and Santa Fe	Stefani Lord	Sandia Park
23	Bernalillo and Sandoval	Daymon Ely	Corrales
24	Bernalillo	Elizabeth "Liz" Thomson	Albuquerque
25	Bernalillo	Christine Trujillo	Albuquerque
26	Bernalillo	Georgene Louis	Albuquerque
27	Bernalillo	Marian Matthews	Albuquerque
28	Bernalillo	Melanie A. Stansbury	Albuquerque
29	Bernalillo	Joy Garratt	Albuquerque
30	Bernalillo	Natalie Figueroa	Albuquerque
31	Bernalillo	William "Bill" R. Rehm	Albuquerque
32	Grant, Hidalgo and Luna	Candie G. Sweetser	Deming
33	Doña Ana	Micaela Lara Cadena	Mesilla
34	Doña Ana	Raymundo Lara	Chamberino
35	Doña Ana	Angelica Rubio	Las Cruces
36	Doña Ana	Nathan P. Small	Las Cruces
37	Doña Ana	Joanne J. Ferrary	Las Cruces
38	Grant, Hidalgo and Sierra	Rebecca Dow	Truth or Consequences
39	Doña Ana, Grant and Sierra	Luis M. Terrazas	Silver City
40	Colfax, Mora, Rio Arriba and San Miguel	Roger Evan Montoya	Velarde
41	Rio Arriba, Santa Fe and Taos	Susan K. Herrera	Embudo
42	Taos	Kristina Ortez	Taos

43	Los Alamos, Rio Arriba, Sandoval and Santa Fe	Christine Chandler	Los Alamos
44	Sandoval	Jane E. Powdrell-Culbert	Corrales
45	Santa Fe	Linda Michelle Serrato	Santa Fe
46	Santa Fe	Andrea Romero	Santa Fe
47	Santa Fe	Brian Egolf	Santa Fe
48	Santa Fe	Tara L. Lujan	Santa Fe
49	Catron, Socorro and Valencia	Gail Armstrong	Magdalena
50	Bernalillo, Santa Fe, Torrance and Valencia	Matthew McQueen	Santa Fe
51	Otero	Rachel A. Black	Alamogordo
52	Doña Ana	Doreen Y. Gallegos	Las Cruces
53	Doña Ana and Otero	Willie D. Madrid	Chaparral
54	Chaves, Eddy and Otero	James G. Townsend	Artesia
55	Eddy	Cathrynn N. Brown	Carlsbad
56	Lincoln and Otero	Zachary J. Cook	Ruidoso
57	Sandoval	Jason C. Harper	Rio Rancho
58	Chaves	Candy Spence Ezzell	Roswell
59	Chaves and Lincoln	Greg Nibert	Roswell
60	Sandoval	Joshua N. Hernandez	Rio Rancho
61	Lea	Randall T. Pettigrew	Lovington
62	Lea	Larry R. Scott	Hobbs
63	Curry, DeBaca, Guadalupe, Roosevelt and San Miguel	Martin R. Zamora	Clovis
64	Curry	Randal S. Crowder	Clovis
65	Rio Arriba, Sandoval and San Juan	Derrick J. Lente	Sandia Pueblo
66	Chaves, Lea and Roosevelt	Phelps Anderson	Roswell
67	Colfax, Curry, Harding, Quay, Roosevelt, San Miguel and Union	Jack Chatfield	Mosquero
68	Bernalillo	Karen C. Bash	Albuquerque
69	Bernalillo, Cibola, McKinley, Socorro, San Juan and Valencia	Harry Garcia	Grants
70	San Miguel, Santa Fe and Torrance	Ambrose M. Castellano	Serafina