



# **LAWS 2013, CONSTITUTIONAL AMENDMENT 1**

## **A JOINT RESOLUTION**

PROPOSING TO AMEND ARTICLE 7, SECTION 1 OF THE CONSTITUTION OF NEW MEXICO TO PROVIDE THAT SCHOOL ELECTIONS SHALL BE HELD AT DIFFERENT TIMES FROM PARTISAN ELECTIONS.

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

### **Constitutional Amendment 1 Section 1 Laws 2013**

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

"A. Every citizen of the United States who is over the age of twenty-one years and has resided in New Mexico twelve months, in the county ninety days, and in the precinct in which the person offers to vote thirty days, next preceding the election, except idiots, insane persons and persons convicted of a felonious or infamous crime unless restored to political rights, shall be qualified to vote at all elections for public officers. The legislature may enact laws providing for absentee voting by qualified electors. All school elections shall be held at different times from partisan elections.

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

### **Constitutional Amendment 1 Section 2 Laws 2013**

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.

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House Joint Resolution 2

# **LAWS 2013, CONSTITUTIONAL AMENDMENT 2**

## **A JOINT RESOLUTION**

PROPOSING TO AMEND ARTICLE 12, SECTION 13 OF THE CONSTITUTION OF NEW MEXICO TO CHANGE THE BOARD OF REGENTS OF NORTHERN NEW MEXICO STATE SCHOOL BY FILLING ONE REGENT POSITION WITH A STUDENT.

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

### **Constitutional Amendment 2 Section 1 Laws 2013**

SECTION 1. It is proposed to amend Article 12, Section 13 of the constitution of New Mexico to read:

"A. The legislature shall provide for the control and management of each of the institutions, except the university of New Mexico, by a board of regents for each institution, consisting of five members, four of whom shall be qualified electors of the state of New Mexico, one of whom shall be a member of the student body of the institution and no more than three of whom at the time of their appointment shall be members of the same political party; provided, however, that the student body member provision in this subsection shall not apply to the New Mexico school for the deaf, the New Mexico military institute or the New Mexico school for the blind and visually impaired, and for each of those three institutions all five members of the board of regents shall be qualified electors of the state of New Mexico.

B. The governor shall nominate and by and with the consent of the senate shall appoint the members of each board of regents for each of the institutions. The terms of nonstudent members shall be for staggered terms of six years, and the terms of student members shall be two years.

C. The governor shall select, with the advice and consent of the senate, a student member from a list provided by the president of the institution. In making the list, the president of the institution shall give due consideration to the recommendations of the student body president of the institution. Following the approval by the voters of this 2014 amendment and upon the first vacancy of a position on the northern New Mexico state school board of regents, the governor shall nominate and by and with the consent of the senate shall appoint a student member to serve a two-year term.

D. The legislature shall provide for the control and management of the university of New Mexico by a board of regents consisting of seven members, six of whom shall be qualified electors of the state of New Mexico, one of whom shall be a member of the student body of the university of New Mexico and no more than four of whom at the time of their appointment shall be members of the same political party. The governor shall nominate and by and with the consent of the senate shall appoint the members of the board of regents. The present five members shall serve out their present terms. The two additional members shall be appointed in 1987 for terms of six years. Following the approval by the voters of this amendment and upon the first vacancy of a position held by a nonstudent member on the university of New Mexico's board of regents, the governor shall nominate and by and with the consent of the senate

shall appoint a student member to serve a two-year term. The governor shall select, with the advice and consent of the senate, a student member from a list provided by the president of the university of New Mexico. In making the list, the president of the university of New Mexico shall give due consideration to the recommendations of the student body president of the university.

E. Members of the board shall not be removed except for incompetence, neglect of duty or malfeasance in office. Provided, however, no removal shall be made without notice of hearing and an opportunity to be heard having first been given such member. The supreme court of the state of New Mexico is hereby given exclusive original jurisdiction over proceedings to remove members of the board under such rules as it may promulgate, and its decision in connection with such matters shall be final."

## **Constitutional Amendment 2 Section 1 Laws 2013**

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.

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Senate Joint Resolution 7

# **LAWS 2013, CHAPTER 1**

## **AN ACT**

RELATING TO THE LEGISLATIVE BRANCH OF GOVERNMENT; APPROPRIATING FUNDS FOR THE EXPENSE OF THE FIFTY-FIRST LEGISLATURE, FIRST SESSION, 2013, AND FOR OTHER LEGISLATIVE EXPENSES, INCLUDING THE LEGISLATIVE COUNCIL SERVICE, THE LEGISLATIVE FINANCE COMMITTEE, THE LEGISLATIVE EDUCATION STUDY COMMITTEE, THE SENATE RULES COMMITTEE, THE HOUSE CHIEF CLERK'S OFFICE AND THE SENATE CHIEF CLERK'S OFFICE; DECLARING AN EMERGENCY.

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

## **Chapter 1 Section 1 Laws 2013**

### **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-first legislature for per diem and mileage of its members, for salaries of employees and for other expenses of the legislature, eight million six hundred thirty-nine thousand seven

hundred dollars (\$8,639,700) or so much thereof as may be necessary for such purposes.

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

(1) per diem for senators \$388,080;

(2) per diem for members of the house of representatives \$646,800;

(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 \$6,460;

(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 \$10,600;

(5) salaries and employee benefits of senate employees \$2,676,560;

(6) salaries and employee benefits of house of representatives employees \$2,554,400;

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

(8) for expense of the house of representatives not itemized above, six hundred thirty-three thousand one hundred dollars (\$633,100). 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 seventy-eight thousand dollars (\$1,078,000) to be disbursed upon vouchers signed by the director of the legislative council service or the director's designee.

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

D. Under the printing contracts entered into for the first session of the fifty-first legislature, the chair of the committees' committee of the senate, subject to the

approval of the committee, and the speaker of the house of representatives are authorized and directed to provide for the printing of all bills, resolutions, joint resolutions, memorials and joint memorials introduced in the senate or house, the printing of the weekly bill locator and the printing of all necessary stationery required for use in the respective houses. They are further directed to provide for the purchase of all supplies necessary for use in the respective houses within the appropriation provided. The orders for printing, stationery and supplies shall be approved by the chair of the committees' committee for the senate and by the speaker for the house.

## **Chapter 1 Section 2 Laws 2013**

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

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

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

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

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

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

## **Chapter 1 Section 3 Laws 2013**

**SECTION 3. LEGISLATIVE COUNCIL SERVICE.--**There is appropriated from the general fund to the legislative council service for fiscal year 2014 unless otherwise

indicated, to be disbursed on vouchers signed by the director of the legislative council service or the director's designee, the following:

A. Personal Services & Employee Benefits	\$ 4,350,000
Contractual Services	210,000
Other Costs	1,000,000
Total	\$ 5,560,000;

B. for travel expenses of legislators other than New Mexico legislative council members, on legislative council business, for committee travel, studies, staff and other necessary expenses for other interim committees and for other necessary legislative expenses for fiscal year 2014, eight hundred sixty-one thousand two hundred dollars (\$861,200); provided that the New Mexico legislative council may transfer amounts from the appropriation in this subsection, during the fiscal year for which appropriated, to any other legislative appropriation where they may be needed;

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

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

## **Chapter 1 Section 4 Laws 2013**

SECTION 4. LEGISLATIVE FINANCE COMMITTEE.--There is appropriated from the general fund to the legislative finance committee for fiscal year 2014, to be disbursed on vouchers signed by the chair of the committee or the chair's designated representative, the following:

Personal Services & Employee Benefits	\$ 3,534,800
Contractual Services	204,000
Other Costs	277,500
Total	\$ 4,016,300.

## **Chapter 1 Section 5 Laws 2013**

SECTION 5. LEGISLATIVE EDUCATION STUDY COMMITTEE.--There is appropriated from the general fund to the legislative education study committee for fiscal year 2014, to be disbursed on vouchers signed by the chair of the committee or the chair's designated representative, the following:

Personal Services & Employee Benefits	\$ 1,092,000
Contractual Services	16,500
Other Costs	104,300

Total \$ 1,212,800.

### **Chapter 1 Section 6 Laws 2013**

SECTION 6. SENATE RULES COMMITTEE.--There is appropriated from the general fund to the legislative council service for the interim duties of the senate rules committee, twenty thousand five hundred dollars (\$20,500) for fiscal year 2014.

### **Chapter 1 Section 7 Laws 2013**

SECTION 7. HOUSE CHIEF CLERK.--There is appropriated from the general fund to the legislative council service for expenditure in fiscal year 2014 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	\$ 942,300
Contractual Services	127,500
Other Costs	32,900
Total	\$ 1,102,700.

### **Chapter 1 Section 8 Laws 2013**

SECTION 8. SENATE CHIEF CLERK.--There is appropriated from the general fund to the legislative council service for expenditure in fiscal year 2014 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	\$ 941,800
Contractual Services	169,000
Other Costs	24,350
Total	\$ 1,135,150.

### **Chapter 1 Section 9 Laws 2013**

SECTION 9. LEGISLATIVE INFORMATION SYSTEM.--There is appropriated from the general fund to the legislative council service for expenditure in fiscal years 2013 and 2014 for the legislative information system, six hundred thirty-two thousand one hundred dollars (\$632,100).

### **Chapter 1 Section 10 Laws 2013**

SECTION 10. EXTENSIBLE MARKUP LANGUAGE DATABASE--SELF-PUBLICATION.--There is appropriated from the legislative cash balances to the legislative council service for the legislative share of the continued development required for the extensible markup language database, extensible markup language



tagging and its use for legislative document systems and an integrated tagged database of the session laws and for the costs associated in collaborating with the New Mexico compilation commission on the ongoing development and expanding partnership role in the self-publication of the New Mexico statutes annotated, 1978, four hundred thousand dollars (\$400,000) for expenditure during fiscal years 2013 and 2014.

### **Chapter 1 Section 11 Laws 2013**

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

### **Chapter 1 Section 12 Laws 2013**

SECTION 12. PERFORMANCE MEASURES.--Each legislative agency shall adhere to the performance measures specified in its strategic plan and shall make reports as required in that plan.

### **Chapter 1 Section 13 Laws 2013**

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

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House Bill 1, w/ec

Approved January 18, 2013

## **LAWS 2013, CHAPTER 2**

AN ACT

NAMING APRIL "BATAAN-CORREGIDOR HERITAGE MONTH"; DECLARING AN EMERGENCY.

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

### **Chapter 2 Section 1 Laws 2013**

SECTION 1. BATAAN-CORREGIDOR HERITAGE MONTH.--The month of April is designated "Bataan-Corregidor heritage month". The month shall be observed by the people of New Mexico in such efforts and undertakings as shall be in harmony with the general character of the month so established.

## **Chapter 2 Section 2 Laws 2013**

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

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Senate Bill 195, w/ec

Approved February 4, 2013

## **LAWS 2013, CHAPTER 3**

AN ACT

REPEALING SECTION 61-23-34 NMSA 1978 (BEING LAWS 2012, CHAPTER 46, SECTION 15), PROVIDING FOR A NOTICE REQUIREMENT FOR SURVEYS CONDUCTED ON CERTAIN LAND GRANTS; DECLARING AN EMERGENCY.

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

## **Chapter 3 Section 1 Laws 2013**

SECTION 1. REPEAL.--Section 61-23-34 NMSA 1978 (being Laws 2012, Chapter 46, Section 15) is repealed.

## **Chapter 3 Section 2 Laws 2013**

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

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Senate Bill 10, w/ec

Approved March 7, 2013

## **LAWS 2013, CHAPTER 4**

AN ACT

RELATING TO LAND GRANTS; TRANSFERRING THE NEW MEXICO COMMUNITY LAND GRANT REGISTRY TO THE LAND GRANT COUNCIL; PROVIDING FOR STORAGE OF HISTORICAL DOCUMENTS; DECLARING AN EMERGENCY.

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

## **Chapter 4 Section 1 Laws 2013**

SECTION 1. Section 49-1-23 NMSA 1978 (being Laws 2005, Chapter 205, Section 1) is amended to read:

"49-1-23. COMMUNITY LAND GRANT REGISTRY ESTABLISHED--  
REPORTING REQUIREMENTS.--

A. The land grant council shall establish the "New Mexico community land grant registry".

B. A community land grant organized and governed pursuant to Chapter 49, Article 1 or 4 NMSA 1978 and operating as a political subdivision of the state shall register its bylaws and a list of current officers with the land grant council. The board of trustees of that land grant shall notify the land grant council of the names and positions of the land grant's elected or appointed officers upon their election or appointment.

C. Community land grants organized and operating pursuant to special statutes or other general statutes may also register their bylaws and lists of officers with the land grant council.

D. A community land grant that registers in accordance with Subsection B or C of this section may request the land grant council to keep on file the originals or copies of current or historical documents or maps submitted by the board of trustees to the land grant council; provided that the land grant council shall store the originals of historical documents and maps in the state archives and records center."

## **Chapter 4 Section 2 Laws 2013**

SECTION 2. Section 49-4-19 NMSA 1978 (being Laws 2007, Chapter 145, Section 18) is amended to read:

"49-4-19. REGISTRATION.--The board of trustees shall register its bylaws and a list of current officers with the land grant council in accordance with the provisions of Section 49-1-23 NMSA 1978. The board of trustees shall notify the land grant council of the names and positions of the land grant-merced's elected or appointed officers upon their election or appointment."

## **Chapter 4 Section 3 Laws 2013**

SECTION 3. TEMPORARY PROVISION.--The secretary of state shall transfer to the land grant council the New Mexico community land grant registry, all associated records and all other records and documents submitted to the secretary of state pursuant to Sections 49-1-23 and 49-4-19 NMSA 1978.

## **Chapter 4 Section 4 Laws 2013**

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

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Senate Bill 38, w/ec

Approved March 8, 2013

## **LAWS 2013, CHAPTER 5**

AN ACT

RELATING TO GAME AND FISH; AMENDING A SECTION OF CHAPTER 17, ARTICLE 3 NMSA 1978 TO PROVIDE FOR SPECIAL TEMPORARY FISHING LICENSES FOR NONRESIDENTS UNDER THE AGE OF EIGHTEEN.

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

## **Chapter 5 Section 1 Laws 2013**

SECTION 1. Section 17-3-19 NMSA 1978 (being Laws 1949, Chapter 149, Section 1, as amended) is amended to read:

"17-3-19. SPECIAL LICENSE--MINORS FISHING ON SCOUT PROPERTY.-- Every citizen of the United States who is a resident or nonresident of the state of New Mexico and under the age of eighteen years shall, upon the payment of two dollars (\$2.00), be issued a special temporary license to fish for ten days during the proper open season in any waters or streams located on the property owned and operated by the boy scouts of America in Colfax county, New Mexico. Such temporary license shall not authorize fishing in any other waters of this state."

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Senate Bill 106

Approved March 8, 2013

## **LAWS 2013, CHAPTER 6**

AN ACT

RELATING TO HEALTH CARE; ENACTING A NEW SECTION OF THE EMERGENCY MEDICAL SERVICES ACT TO PROVIDE FOR DEPARTMENT OF HEALTH CERTIFICATION OF HOSPITALS AS STEMI RECEIVING CENTERS OR STEMI REFERRING CENTERS; PROVIDING FOR RULEMAKING.

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

## **Chapter 6 Section 1 Laws 2013**

SECTION 1. A new section of the Emergency Medical Services Act is enacted to read:

"CERTIFICATION OF STEMI RECEIVING AND REFERRING CENTERS.--

A. As used in this section, "STEMI" means ST segment elevation myocardial infarction.

B. In accordance with department rules, the department shall certify an acute care hospital as a STEMI receiving center or STEMI referring center if that hospital has been accredited as a STEMI receiving center or STEMI referring center by the society of cardiovascular patient care or another nationally recognized organization that provides STEMI receiving or referring accreditation.

C. The department shall post information regarding certification on the department's web site.

D. If a hospital loses its national accreditation as a STEMI receiving center or STEMI referring center, the secretary shall revoke the hospital's certification.

E. The secretary may adopt rules:

(1) relating to STEMI certification and revocation of certification by the department; and

(2) to assist and encourage STEMI receiving centers to enter into coordinated STEMI care agreements with STEMI referring centers and other health care facilities throughout the state to provide appropriate access to care for acute heart attack patients."

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Senate Bill 198, aa

Approved March 11, 2013

**LAWS 2013, CHAPTER 7**

AN ACT

RELATING TO BEHAVIORAL HEALTH; CREATING THE NATIVE AMERICAN SUICIDE PREVENTION ADVISORY COUNCIL.

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

**Chapter 7 Section 1 Laws 2013**

SECTION 1. NATIVE AMERICAN SUICIDE PREVENTION ADVISORY COUNCIL--CREATED--TERMS--QUORUM--MEETINGS.--

A. There is created a "Native American suicide prevention advisory council". The council shall consist of eleven voting members and shall assist in developing policies, rules and priorities for the New Mexico clearinghouse for Native American suicide prevention.

B. The members of the Native American suicide prevention advisory council shall be appointed as follows:

(1) one member representing the eight northern Indian pueblos appointed by the chair of the eight northern Indian pueblos council, incorporated;

(2) one member representing both the Pueblo of Laguna and the Pueblo of Zuni appointed by the chair of the all Indian pueblo council;

(3) one member representing the all Indian pueblo council appointed by the chair of the all Indian pueblo council;

(4) one member representing the southern pueblos appointed by the chair of the ten southern Indian pueblos council;

(5) one member representing the eastern Navajo Nation appointed by the president of the Navajo Nation;

(6) one member representing the western Navajo Nation appointed by the president of the Navajo Nation;

(7) one member representing the Mescalero Apache Tribe appointed by the president of the Mescalero Apache Tribe;

(8) one member representing the Jicarilla Apache Nation appointed by the president of the Jicarilla Apache Nation;

(9) one member representing the urban Native American population appointed by the president of the national Indian youth council, incorporated; and

(10) two members appointed by the chancellor for health sciences of the university of New Mexico, one member being a member of a federally recognized Indian nation, tribe or pueblo.

C. The council shall elect from among its members a chair, vice chair, secretary and treasurer.

D. The members of the Native American suicide prevention advisory council shall be appointed for overlapping terms of six years each. No more than six of the members shall belong to the same political party. The members first appointed to the council shall determine by lot from among their group four members to serve two-year terms, four members to serve four-year terms and three members to serve six-year terms. If a position on the council becomes vacant for any reason, the successor shall be selected by the original appointing authority in the same manner as the original appointment was made and shall serve for the remainder of the term vacated.

E. A majority of council members shall constitute a quorum to take action as the council. No act of the council is valid unless concurred to by a majority of its members present at a meeting at which a quorum exists.

F. The Native American suicide prevention advisory council shall meet at the call of the chair or at a time requested in a written request to the chair by four members, but not less than twice each calendar year.

## **Chapter 7 Section 2 Laws 2013**

SECTION 2. Section 9-7-6.7 NMSA 1978 (being Laws 2011, Chapter 15, Section 1) is amended to read:

"9-7-6.7. CLEARINGHOUSE FOR NATIVE AMERICAN SUICIDE PREVENTION--CULTURALLY BASED SUICIDE PREVENTION INITIATIVES.--

A. In consultation with the Indian affairs department, the interagency behavioral health purchasing collaborative, subject to available funding, shall establish:

(1) a statewide clearinghouse and technical assistance program called the "New Mexico clearinghouse for Native American suicide prevention" to work with the Native American suicide prevention advisory council to provide culturally appropriate suicide prevention, intervention and post-event assistance statewide to Native American individuals, families and tribes, nations and pueblos living with suicide, attempted suicide or the risk of suicide; and

(2) culturally based Native American youth suicide prevention initiatives, each focused on the continuum of prevention, intervention and post-event assistance to Native American individuals, families and tribes, nations and pueblos

living with suicide, attempted suicide or the risk of suicide in rural, frontier and urban communities.

B. As used in this section, "Native American" means a member of a federally recognized Indian tribe, nation or pueblo."

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Senate Bill 447

Approved March 11, 2013

## **LAWS 2013, CHAPTER 8**

### **AN ACT**

RELATING TO LAND GRANTS; GRANTING POLITICAL SUBDIVISION STATUS TO THE SAN ANTONIO DEL RIO COLORADO LAND GRANT-MERCED.

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

### **Chapter 8 Section 1 Laws 2013**

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

"49-1-2. APPLICATION.--

A. Sections 49-1-1 through 49-1-18 NMSA 1978 shall apply to all land grants-mercedes confirmed by the congress of the United States or by the court of private land claims or designated as land grants-mercedes in any report or list of land grants prepared by the surveyor general and confirmed by congress, but shall not apply to any land grant that is now managed or controlled in any manner, other than as provided in Sections 49-1-1 through 49-1-18 NMSA 1978, by virtue of any general or special act.

B. If a majority of the members of the board of trustees of a land grant-merced covered by specific legislation determines that the specific legislation is no longer beneficial to the land grant-merced, the board has the authority to petition the legislature to repeal the legislation and to be governed by its bylaws and as provided in Sections 49-1-1 through 49-1-18 NMSA 1978.

C. The town of Tome land grant-merced, situated in Valencia county, confirmed by congress in 1858 and patented by the United States to the town of Tome, shall be governed by the provisions of Sections 49-1-1 through 49-1-18 NMSA 1978.



D. The town of Atrisco land grant-merced, situated in Bernalillo county, confirmed by the court of private land claims in 1894 and patented by the United States to the town of Atrisco in 1905, shall be governed by the provisions of Sections 49-1-1 through 49-1-18 NMSA 1978; provided that the board of trustees shall not have regulatory jurisdiction over, and the provisions of Chapter 49, Article 1 NMSA 1978 shall not apply to or govern, any lands or interests in real property the title to which is held by any other person, including a public or private corporation, partnership or limited liability company.

E. Notwithstanding the provisions of Subsection A to the contrary, the San Antonio del Rio Colorado land grant-merced, situated in Taos county, which claim was recommended for confirmation by surveyor general James K. Proudfit in 1874 and again in 1886 by surveyor general George W. Julian, but not confirmed by congress, shall be governed by the provisions of Sections 49-1-1 through 49-1-18 NMSA 1978."

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Senate Bill 5

Approved March 11, 2013

## **LAWS 2013, CHAPTER 9**

AN ACT

RELATING TO PUBLIC PROPERTY; AMENDING SECTIONS OF THE NMSA 1978 TO PROVIDE FOR DISPOSITION OF STATE-OWNED ANIMALS.

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

### **Chapter 9 Section 1 Laws 2013**

SECTION 1. Section 13-6-1 NMSA 1978 (being Laws 1961, Chapter 100, Section 1, as amended) is amended to read:

"13-6-1. DISPOSITION OF OBSOLETE, WORN-OUT OR UNUSABLE TANGIBLE PERSONAL PROPERTY.--

A. The governing authority of each state agency, local public body, school district and state educational institution may dispose of any item of tangible personal property belonging to that authority and delete the item from its public inventory upon a specific finding by the authority that the item of property is:

(1) of a current resale value of five thousand dollars (\$5,000) or less; and

(2) worn out, unusable or obsolete to the extent that the item is no longer economical or safe for continued use by the body.

B. The governing authority shall, as a prerequisite to the disposition of any items of tangible personal property:

(1) designate a committee of at least three officials of the governing authority to approve and oversee the disposition; and

(2) give notification at least thirty days prior to its action making the deletion by sending a copy of its official finding and the proposed disposition of the property to the state auditor and the appropriate approval authority designated in Section 13-6-2 NMSA 1978, duly sworn and subscribed under oath by each member of the authority approving the action.

C. A copy of the official finding and proposed disposition of the property sought to be disposed of shall be made a permanent part of the official minutes of the governing authority and maintained as a public record subject to the Inspection of Public Records Act.

D. The governing authority shall dispose of the tangible personal property by negotiated sale to any governmental unit of an Indian nation, tribe or pueblo in New Mexico or by negotiated sale or donation to other state agencies, local public bodies, school districts, state educational institutions or municipalities or through the central purchasing office of the governing authority by means of competitive sealed bid or public auction or, if a state agency, through the surplus property bureau of the transportation services division of the general services department.

E. A state agency shall give the surplus property bureau of the transportation services division of the general services department the right of first refusal when disposing of obsolete, worn-out or unusable tangible personal property of the state agency.

F. If the governing authority is unable to dispose of the tangible personal property pursuant to Subsection D or E of this section, the governing authority may sell or, if the property has no value, donate the property to any organization described in Section 501(c)(3) of the Internal Revenue Code of 1986.

G. If the governing authority is unable to dispose of the tangible personal property pursuant to Subsection D, E or F of this section, it may order that the property be destroyed or otherwise permanently disposed of in accordance with applicable laws.

H. If the governing authority determines that the tangible personal property is hazardous or contains hazardous materials and may not be used safely under any circumstances, the property shall be destroyed and disposed of pursuant to Subsection G of this section.

I. No tangible personal property shall be donated to an employee or relative of an employee of a state agency, local public body, school district or state educational institution; provided that nothing in this subsection precludes an employee from participating and bidding for public property at a public auction.

J. This section shall not apply to any property acquired by a museum through abandonment procedures pursuant to the Abandoned Cultural Properties Act.

K. Notwithstanding the provisions of Subsection A of this section, the department of transportation may sell through public auction or dispose of surplus tangible personal property used to manage, maintain or build roads that exceeds five thousand dollars (\$5,000) in value. Proceeds from sales shall be credited to the state road fund. The department of transportation shall notify the department of finance and administration regarding the disposition of all property.

L. If the secretary of public safety finds that the K-9 dog presents no threat to public safety, the K-9 dog shall be released from public ownership as provided in this subsection. The K-9 dog shall first be offered to its trainer or handler free of charge. If the trainer or handler does not want to accept ownership of the K-9 dog, then the K-9 dog shall be offered to an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 free of charge. If both of the above fail, the K-9 dog shall only be sold to a qualified individual found capable of providing a good home to the animal."

## **Chapter 9 Section 2 Laws 2013**

SECTION 2. Section 33-2-5 NMSA 1978 (being Laws 1939, Chapter 55, Section 5, as amended) is amended to read:

"33-2-5. DISPOSITION OF UNNEEDED PROPERTY.--

A. If the penitentiary of New Mexico, as a body corporate, possesses any real, personal or mixed property of any kind that, in the judgment of the secretary of corrections is no longer required for the use of the penitentiary, then the penitentiary of New Mexico has the right to sell, trade, mortgage or otherwise alienate any real, personal or mixed property for such price and upon such terms as seems just and proper to the secretary of corrections, and the proceeds to be derived from any such transaction shall become the property of the penitentiary of New Mexico; provided, however, that in all cases of the sale, trade, mortgage or other alienation of real property belonging to the penitentiary of New Mexico, the same shall not take effect until approved by the department of finance and administration.

B. K-9 dogs are exempt from the provisions of Subsection A of this section. If the secretary of corrections finds that the K-9 dog presents no threat to public safety, the K-9 dog shall be released from public ownership as provided in this subsection. The K-9 dog shall first be offered to its trainer or handler free of charge. If the trainer or handler does not want to take ownership of the K-9 dog, then the K-9 dog

shall be offered to an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 free of charge. If both of the above fail, the K-9 dog shall only be sold to a qualified individual found capable of providing a good home to the animal."

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SCONC/Senate Bill 139

Approved March 13, 2013

## **LAWS 2013, CHAPTER 10**

AN ACT

RELATING TO LAW ENFORCEMENT; CHANGING THE PURPOSE OF THE LAW ENFORCEMENT PROTECTION FUND TO ALLOW FOR THE PURCHASE OF PROTECTIVE EQUIPMENT FOR POLICE DOGS.

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

### **Chapter 10 Section 1 Laws 2013**

SECTION 1. Section 29-13-7 NMSA 1978 (being Laws 1983, Chapter 289, Section 7, as amended) is amended to read:

"29-13-7. EXPENDITURE LIMITATION--CONTROL.--

A. Amounts distributed from the fund shall be expended only for the following:

(1) the repair and purchase of law enforcement apparatus and equipment, including the financing and refinancing thereof, that meet minimum nationally recognized standards;

(2) the purchase of law enforcement equipment, including protective vests, for police dogs;

(3) expenses associated with advanced law enforcement planning and training;

(4) maintaining the balance of the peace officers' survivors fund at a minimum amount of three hundred fifty thousand dollars (\$350,000);

(5) complying with match or contribution requirements for the receipt of federal funds relating to criminal justice programs; and

(6) no more than fifty percent of the replacement salaries of municipal and county law enforcement personnel of municipalities or counties rated as Class 1 in Paragraph (1) of Subsection B of Section 29-13-4 NMSA 1978 participating in basic law enforcement training.

B. Amounts distributed from the fund shall be expended only pursuant to approved budgets and upon duly executed vouchers approved as required by law."

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Senate Bill 141

Approved March 13, 2013

## **LAWS 2013, CHAPTER 11**

AN ACT

RELATING TO FINANCIAL REGULATION; CREATING THE STATE FINANCIAL REGULATION FUND; PROVIDING FOR DEPOSIT OF MONEY DISTRIBUTED TO THE STATE BY THE CONSENT JUDGMENT ENTERED IN MORTGAGE LENDER LITIGATION; MAKING AN APPROPRIATION.

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

### **Chapter 11 Section 1 Laws 2013**

SECTION 1. A new section of Chapter 9, Article 16 NMSA 1978 is enacted to read:

"STATE FINANCIAL REGULATION FUND--CREATED--PURPOSE.--The "state financial regulation fund" is created as a nonreverting fund in the state treasury. The fund consists of money distributed to the financial institutions division of the regulation and licensing department pursuant to the consent judgment entered by the court in litigation between mortgage lenders and various states, including New Mexico, and filed April 4, 2012 in the United States district court for the District of Columbia and of income from the investment of the fund. The fund shall be administered by the financial institutions division of the regulation and licensing department. Money in the fund is subject to appropriation by the legislature to the financial institutions division to support and improve state financial regulation and supervision as provided in the consent judgment. Disbursements from the fund shall be made by warrant of the secretary of finance and administration pursuant to vouchers signed by the director of the financial institutions division or the director's authorized representative."

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House Bill 205

Approved March 13, 2013

## **LAWS 2013, CHAPTER 12**

AN ACT

RELATING TO EMPLOYMENT; ENACTING THE FAIR PAY FOR WOMEN ACT;  
PROHIBITING WAGE DISCRIMINATION BASED ON AN EMPLOYEE'S SEX;  
PROHIBITING RETALIATION FOR ASSERTING A CLAIM PURSUANT TO THE FAIR  
PAY FOR WOMEN ACT; PROVIDING PENALTIES.

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

### **Chapter 12 Section 1 Laws 2013**

SECTION 1. SHORT TITLE.--This act may be cited as the "Fair Pay For Women Act".

### **Chapter 12 Section 2 Laws 2013**

SECTION 2. DEFINITIONS.--As used in the Fair Pay for Women Act:

- A. "commission" means the human rights commission;
- B. "director" means the chief of the human rights bureau of the labor relations division of the workforce solutions department;
- C. "employ" means suffer or permit to work;
- D. "employee" means any individual employed by an employer;
- E. "employer" means a person employing four or more employees and any person acting for an employer;
- F. "unpaid wage" means the difference between the wages paid to the employee and the wages that would have been paid to the employee had the discrimination not occurred; and
- G. "wage" means compensation for performance of services by an employee for an employer whether paid by the employer or another person, including cash value of all compensation paid in any medium other than cash.

### **Chapter 12 Section 3 Laws 2013**

### SECTION 3. PROHIBITION ON PAYING EMPLOYEES LESS FOR SAME WORK.--

A. No employer shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in the establishment at a rate less than the rate that the employer pays wages to employees of the opposite sex in the establishment for equal work on jobs the performance of which requires equal skill, effort and responsibility and that are performed under similar working conditions, except where the payment is made pursuant to a:

(1) seniority system;

(2) merit system; or

(3) system that measures earnings by quantity or quality of production.

B. An employer shall not reduce the wage of an employee to comply with this section.

C. No agreement between an employer and an employee for a specific wage in violation of the Fair Pay for Women Act shall prevent the employee from raising a claim based on a violation of the Fair Pay for Women Act.

## **Chapter 12 Section 4 Laws 2013**

### SECTION 4. GRIEVANCE PROCEDURE.--

A. A person claiming to be aggrieved by an unlawful discriminatory practice in violation of the Fair Pay for Women Act may:

(1) maintain an action to establish liability and recover damages and injunctive relief in any court of competent jurisdiction by any one or more employees on behalf of the employee or employees or on behalf of other employees similarly situated; or

(2) seek relief under the Human Rights Act pursuant to the process set out in Sections 28-1-10 through 28-1-13 NMSA 1978.

B. The court in any action brought under this section shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow costs of the action and reasonable attorney fees to be paid by the defendant. In any proceedings brought pursuant to the provisions of this section, the employee shall not be required to pay any filing fee or other court costs necessarily incurred in such proceedings.

C. The court in any action brought under this section may order appropriate injunctive relief, including requiring an employer to post in the place of business a notice describing violations by the employer as found by the court or a copy of a cease and desist order applicable to the employer.

D. An action arising under the Fair Pay for Women Act shall be brought no later than two years from the last date of the employee's employment.

E. A person claiming to be aggrieved by an unlawful discriminatory practice in violation of the Fair Pay for Women Act need not exhaust state administrative remedies.

F. The initiation of an administrative process under the Human Rights Act pursuant to the process set out in Sections 28-1-10 through 28-1-13 NMSA 1978 shall toll the statute of limitations for initiating a claim under the Fair Pay for Women Act.

## **Chapter 12 Section 5 Laws 2013**

SECTION 5. RETALIATION PROHIBITED.--It is a violation of the Fair Pay for Women Act for an employer or any other person to discharge, demote, deny promotion to or in any other way discriminate against an employee in the terms or conditions of employment in retaliation for the person asserting a claim or right pursuant to the Fair Pay for Women Act or assisting another person to do so, or for informing another person about employment rights or other rights provided by law.

## **Chapter 12 Section 6 Laws 2013**

### **SECTION 6. ENFORCEMENT--PENALTIES--REMEDIES.--**

A. An employer who violates a provision of the Fair Pay for Women Act shall be liable to the affected employee for damages and equitable relief, including employment, reinstatement and promotion. Damages shall be calculated on the basis of:

(1) the affected employee's unpaid wages and the damages from retaliation;

(2) all other actual damages; and

(3) treble damages.

B. The court may, in its sound discretion, not award treble damages or award any amount thereof not to exceed the amount specified in this section if the employer shows to the satisfaction of the court that the act or omission giving rise to such action was in good faith and that the employer had reasonable grounds for



believing that the employer's act or omission was not a violation of the Fair Pay for Women Act.

C. An employer who violates a provision of the Fair Pay for Women Act may also be liable to the employee for punitive damages.

D. Recovery of unpaid wages is limited to six years prior to the date of the last violation of the Fair Pay for Women Act.

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HLC/House Bill 216, aa

Approved March 14, 2013

## **LAWS 2013, CHAPTER 13**

AN ACT

RELATING TO MOTOR VEHICLE DEALERS FRANCHISING; MAKING CERTAIN UNFAIR ACTS AND PRACTICES UNLAWFUL FOR MOTOR VEHICLE MANUFACTURERS OR DISTRIBUTORS OR THEIR REPRESENTATIVES; DECLARING AN EMERGENCY.

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

### **Chapter 13 Section 1 Laws 2013**

SECTION 1. Section 57-16-5 NMSA 1978 (being Laws 1973, Chapter 6, Section 5, as amended) is amended to read:

"57-16-5. UNLAWFUL ACTS--MANUFACTURERS--DISTRIBUTORS--REPRESENTATIVES.--It is unlawful for a manufacturer, distributor or representative to:

A. coerce or attempt to coerce a dealer to order or accept delivery of a motor vehicle, appliances, equipment, parts or accessories therefor or any other commodity that the motor vehicle dealer has not voluntarily ordered;

B. coerce or attempt to coerce a dealer to order or accept delivery of a motor vehicle with special features, appliances, accessories or equipment not included in the list price of the motor vehicles as publicly advertised by the manufacturer;

C. coerce or attempt to coerce a dealer to order for any person any parts, accessories, equipment, machinery, tools, appliances or any commodity whatsoever;

D. refuse to deliver, in reasonable quantities and within a reasonable time after receipt of dealer's order, to a motor vehicle dealer having a franchise or contractual arrangement for the retail sale of motor vehicles sold or distributed by the manufacturer, distributor or representative, those motor vehicles, parts or accessories covered by the franchise or contract specifically publicly advertised by the manufacturer, distributor or representative to be available for immediate delivery; provided, however, the failure to deliver a motor vehicle, parts or accessories shall not be considered a violation of Chapter 57, Article 16 NMSA 1978 if the failure is due to an act of God, work stoppage or delay due to a strike or labor difficulty, shortage of materials, freight embargo or other cause over which the manufacturer, distributor or representative or an agent thereof has no control;

E. coerce or attempt to coerce a motor vehicle dealer to enter into an agreement with the manufacturer, distributor or representative or to do any other act prejudicial to the dealer by threatening to cancel a franchise or a contractual agreement existing between the manufacturer, distributor or representative and the dealer; provided, however, that notice in good faith to a motor vehicle dealer of the dealer's violation of the terms or provisions of the franchise or contractual agreement does not constitute a violation of Chapter 57, Article 16 NMSA 1978;

F. terminate or cancel the franchise or selling agreement of a dealer without due cause. "Due cause" means a material breach by a dealer, due to matters within the dealer's control, of a lawful provision of a franchise or selling agreement. As used in this subsection, "material breach" means a contract violation that is substantial and significant. In determining whether due cause exists under this subsection, the court shall take into consideration only the dealer's sales in relation to the business available to the dealer; the dealer's investment and obligations; injury to the public welfare; the adequacy of the dealer's sales and service facilities, equipment and parts; the qualifications of the management, sales and service personnel to provide the consumer with reasonably good service and care of new motor vehicles; the dealer's failure to comply with the requirements of the franchise; and the harm to the manufacturer or distributor. The nonrenewal of a franchise or selling agreement, without due cause, shall constitute an unfair termination or cancellation regardless of the terms or provisions of the franchise or selling agreement. The manufacturer, distributor or representative shall notify a motor vehicle dealer in writing by registered mail of the termination or cancellation of the franchise or selling agreement of the dealer at least sixty days before the effective date thereof, stating the specific grounds for termination or cancellation; and the manufacturer, distributor or representative shall notify a motor vehicle dealer in writing by registered mail at least sixty days before the contractual term of the dealer's franchise or selling agreement expires that it will not be renewed, stating the specific grounds for nonrenewal in those cases where there is no intention to renew, and in no event shall the contractual term of a franchise or selling agreement expire without the written consent of the motor vehicle dealer involved prior to the expiration of at least sixty days following the written notice. During the sixty-day period, either party may in appropriate circumstances petition a district court to modify the sixty-day stay or

to extend it pending a final determination of proceedings on the merits. The court may grant preliminary and final injunctive relief;

G. use false, deceptive or misleading advertising in connection with the manufacturer's, distributor's or representative's business;

H. offer to sell or to sell a motor vehicle to a motor vehicle dealer in this or any other state of the United States at a lower actual price than the actual price offered to any other motor vehicle dealer in this state for the same model vehicle similarly equipped or to utilize devices, including sales promotion plans or programs that result in a lesser actual price; provided, however, the provisions of this subsection do not apply to sales to a motor vehicle dealer for resale to a unit of the United States government, the state or its political subdivisions; and provided, further, the provisions of this subsection do not apply to sales to a motor vehicle dealer of a motor vehicle ultimately sold, donated or used by the dealer in a driver education program; and provided, further, that the provisions of this subsection do not apply if a manufacturer, distributor or representative offers to sell or sells new motor vehicles to all motor vehicle dealers at an equal price. As used in this section, "actual price" means the price to be paid by the dealer less any incentive paid by the manufacturer, distributor or representative, whether paid to the dealer or the ultimate purchaser of the vehicle. This provision does not apply to sales by the manufacturer, distributor or representatives to the United States government or its agencies. The provisions of this subsection dealing with vehicle prices in another state and defining actual price do not apply to a manufacturer or distributor if all of the manufacturer's or distributor's dealers within fifty miles of a neighboring state are given all cash or credit incentives available in the neighboring state, whether the incentives are offered by the manufacturer or distributor or a finance subsidiary of either, affecting the price or financing terms of a vehicle;

I. willfully discriminate, either directly or indirectly, in price between different purchasers of a commodity of like grade or quality where the effect of the discrimination may be to lessen substantially competition or tend to create a monopoly or to injure or destroy the business of a competitor;

J. offer to sell or to sell parts or accessories to a motor vehicle dealer for use in the dealer's own business for the purpose of repairing or replacing the same or a comparable part or accessory at a lower actual price than the actual price charged to any other motor vehicle dealer for similar parts or accessories for use in the dealer's own business; provided, however, in those cases where motor vehicle dealers have a franchise to operate and serve as wholesalers of parts and accessories to retail outlets or other dealers, whether or not the dealer is regularly designated as a wholesaler, nothing in this section prevents a manufacturer, distributor or representative from selling to the motor vehicle dealer who operates and serves as a wholesaler of parts and accessories such parts and accessories as may be ordered by the motor vehicle dealer for resale to retail outlets at a lower actual price than the actual price charged a motor vehicle dealer who does not operate or serve as a wholesaler of parts and accessories;

K. prevent or attempt to prevent by contract or otherwise a motor vehicle dealer from changing the capital structure of the dealer's dealership or the means by or through which the dealer finances the operation of the dealership, if the dealer at all times meets any reasonable capital standards agreed to between the dealer and the manufacturer, distributor or representative, and if the change by the dealer does not result in a change in the executive management control of the dealership;

L. prevent or attempt to prevent by contract or otherwise a motor vehicle dealer or an officer, partner or stockholder of a motor vehicle dealer from selling or transferring a part of the interest of any of them to any other person or party; provided, however, that no dealer, officer, partner or stockholder shall have the right to sell, transfer or assign the franchise or power of management or control thereunder without the consent of the manufacturer, distributor or representative except that the manufacturer, distributor or representative shall not withhold consent to the sale, transfer or assignment of the franchise to a qualified buyer capable of being licensed in New Mexico and who meets the manufacturer's or distributor's uniformly applied requirement for appointment as a dealer. Uniform application shall not prevent the application of a separate standard of consent for sale, transfer or assignment to minority or women dealer candidates, and shall not require the application of an identical standard to all persons in all situations. The requirement of uniform application shall be met if the manufacturer applies the same set of standards, which takes into account business performance and experience, financial qualifications, facility requirements and other relevant characteristics; provided that, if two dealers, persons or situations are identical, given the characteristics considered in the standards, the two dealers, persons or situations shall be treated identically, except as provided in this subsection. Upon request, a manufacturer or distributor shall provide its dealer with a copy of the standards that are normally relied upon by the manufacturer or distributor to evaluate a proposed sale, transfer or assignment. A manufacturer, distributor or representative shall send a letter by certified mail approving or withholding consent within sixty calendar days of receiving the completed application forms and related information requested by a manufacturer or distributor as provided below. A manufacturer, distributor or representative shall send its existing motor vehicle dealer the necessary application forms and identify the related information required within twenty calendar days of receiving written notice from the existing motor vehicle dealer of the proposed sale or transfer. No manufacturer, distributor or representative shall require any information not requested in the twenty-day period, and submission of the information requested within that period together with a completed form of the application provided shall constitute a completed application form. A request for consent shall be deemed granted, and the manufacturer, distributor or representative shall be estopped from denying the consent, if the consent has not been expressly withheld during the applicable sixty-day period;

M. obtain money, goods, services, anything of value or any other benefit from any other person with whom the motor vehicle dealer does business on account of or in relation to the transactions between the dealer and the other person, unless the benefit is promptly accounted for and transmitted to the motor vehicle dealer;

N. require a motor vehicle dealer to assent to a release, assignment, novation, waiver or estoppel that would relieve a person from liability imposed by Chapter 57, Article 16 NMSA 1978;

O. require a motor vehicle dealer to provide installment financing with a specified financial institution;

P. establish an additional franchise, including any franchise for a warranty or service facility outside of the relevant market area of the dealer establishing the facility, but excluding the relocation of existing franchises, for the same line-make in a relevant market area where the same line-make is presently being served by an existing motor vehicle dealer if such addition would be inequitable to the existing dealer; provided, however, that the sales and service needs of the public shall be given due consideration in determining the equities of the existing dealer. The sole fact that the manufacturer, distributor or representative desires further penetration of the market is not grounds for establishing an additional franchise; provided, further, that the manufacturer, distributor or representative shall give a ninety-day written notice by registered mail to all same line-make dealers in a relevant market area of its intention to establish an additional franchise;

Q. offer to sell or lease or to sell or lease a new motor vehicle to a person, except a distributor, at a lower actual price therefor than the actual price offered and charged to a motor vehicle dealer for the same model vehicle similarly equipped or to utilize any device that results in a lower actual price;

R. sell, lease or provide motorcycles, parts or accessories to a person not a dealer or distributor for the line-make sold, leased or provided. The provisions of this subsection do not apply to sales, leases or provisions of motor vehicles, parts or accessories by a manufacturer, distributor or representative to the United States government or its agencies or the state or its political subdivisions;

S. offer a finance program, either directly or through an affiliate, based on the physical location of the selling dealer or the residence of the buyer. The provisions of this subsection do not apply to a manufacturer or distributor that has no dealer within fifty miles of a state line or if all of the manufacturer's or distributor's dealers within that fifty miles are given all cash or credit incentives available in the neighboring state, whether the incentives are offered by the manufacturer or the distributor or a finance subsidiary of either, affecting the price or financing terms of a vehicle;

T. force a dealer to sell or relocate a franchise with another manufacturer located at the same physical location or consider the existence of another line-make at a dealership for product allocation, successorship, location approval and capitalization; provided that a manufacturer or distributor may require that the dealer:

(1) meet the manufacturer's capitalization requirements;

(2) meet the manufacturer's facilities requirements; and

(3) not have committed fraudulent acts;

U. enforce a right of first refusal or option to purchase the dealership by a manufacturer or distributor or to require a dealer to grant a right or option to a manufacturer or distributor;

V. be licensed as a dealer or perform warranty or other service or own an interest, directly or indirectly, in a person licensed as a dealer or performing warranty or other service; provided that a manufacturer or distributor may own a person licensed as a dealer for a reasonable time in order to dispose of an interest acquired as a secured party or as part of a dealer development program;

W. fail to recognize and approve the transfer of a dealership to a person named as a successor, donee, beneficiary or devisee in a valid testamentary or trust instrument; provided that a manufacturer or distributor may impose standards or criteria used in a transfer;

X. impose capitalization requirements not necessary to assure that the dealer can meet its financial obligations;

Y. compel a dealer through a finance subsidiary of the manufacturer or distributor to agree to unreasonable operating requirements or directly or indirectly to terminate a dealer, except as allowed by Subsection F of this section, through the actions of a finance subsidiary of the manufacturer or distributor. This subsection shall not limit the right of a financing entity to engage in business practices in accordance with the usage of the trade in which it is engaged;

Z. require a dealer or the dealer's successor to:

(1) construct a new dealership, require the relocation of an existing dealership or substantially change, alter or remodel a dealer's facility except as necessary to comply with health or safety laws or to comply with technology requirements necessary to sell or service vehicles; or

(2) construct a new dealership, require relocation of an existing dealership or substantially change, alter or remodel an existing dealership before the tenth anniversary of the date that the construction or change, alteration or remodel of the dealership at that location was completed if the construction was in substantial compliance with standards or plans provided by a manufacturer, distributor or representative; or

AA. unreasonably withhold approval for a dealer to purchase substantially similar goods or services related to the construction, alteration, remodel or renovation of a dealership facility from vendors of the dealer's choice. This subsection shall not be

construed to allow a dealer or vendor to infringe upon or impair a manufacturer's trademark rights or to erect or maintain a sign that does not conform to the manufacturer's reasonable fabrication specifications and trademark usage guidelines."

## **Chapter 13 Section 2 Laws 2013**

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

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HBIC/House Bill 202, w/ec

Approved March 14, 2013

## **LAWS 2013, CHAPTER 14**

AN ACT

RELATING TO PUBLIC FINANCE; AUTHORIZING THE NEW MEXICO FINANCE AUTHORITY TO ISSUE ADDITIONAL REVENUE BONDS FOR THE REGIONAL CANCER TREATMENT CENTER AT THE GILA REGIONAL MEDICAL CENTER IN GRANT COUNTY AND THE NOR-LEA GENERAL HOSPITAL IN LEA COUNTY; MAKING AN APPROPRIATION.

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

## **Chapter 14 Section 1 Laws 2013**

SECTION 1. Laws 2006, Chapter 89, Section 1, as amended, is amended to read:

"Section 1. TEMPORARY PROVISION--NEW MEXICO FINANCE AUTHORITY REVENUE BONDS--PURPOSE--APPROPRIATION.--

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 three million dollars (\$3,000,000) for the purpose of designing, constructing, equipping and furnishing additions and improvements to a regional cancer treatment center at the Gila regional medical center in Grant county. The authority may issue and sell revenue bonds authorized by this subsection when the chair of the board of county commissioners of Grant county certifies the need for issuance of the bonds. The net proceeds from the sale of the bonds are appropriated to the local government division of the department of finance and administration for the purposes described in this subsection.

B. After the bonds have been issued pursuant to Subsection A of this section, 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 one million five hundred thousand dollars (\$1,500,000) for the purpose of designing, constructing, equipping and furnishing additions and improvements to a regional cancer treatment center at the Nor-Lea general hospital in Lea county. The authority may issue and sell revenue bonds authorized by this subsection when the chair of the board of trustees of the Nor-Lea special hospital district certifies the need for issuance of the bonds. Provided that, if the authority determines that excess balances exist in the rural county cancer treatment fund above the amount needed to service outstanding bonds, then, in lieu of issuing all or a portion of the bonds, the excess balances may be used for the cancer treatment center funded pursuant to this subsection, but the total of excess balances and bond proceeds shall not exceed one million five hundred thousand dollars (\$1,500,000). The net proceeds from the sale of the bonds and any excess balances are appropriated to the local government division of the department of finance and administration for the purposes described in this subsection.

C. After the bonds have been issued pursuant to Subsections A and B of this section, 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 three million dollars (\$3,000,000) as follows:

(1) not to exceed two million two hundred fifty thousand dollars (\$2,250,000) to design, construct, equip and furnish additions and improvements to a regional cancer treatment center at the Gila regional medical center in Grant county; and

(2) not to exceed seven hundred fifty thousand dollars (\$750,000) to design, construct, equip and furnish additions and improvements to Nor-Lea general hospital in Lea county.

D. The authority may issue and sell revenue bonds authorized by Subsection C of this section when the boards of trustees of the Gila regional medical center and the Nor-Lea special hospital district certify the need for the issuance of the bonds. If the authority determines that there are balances in the rural county cancer treatment fund in excess of the amount needed to service outstanding bonds, the authority may use those balances in lieu of issuing all or a portion of the bonds authorized in Subsection C of this section, but the total of funding from bonds and balances shall not exceed three million dollars (\$3,000,000). The net proceeds from the sale of bonds and any excess balances are appropriated to the local government division of the department of finance and administration for the purposes described in Subsection B of this section.

E. The cigarette tax proceeds distributed to the authority pursuant to Subsection H 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.

F. The cigarette tax proceeds distributed to the authority pursuant to Subsection H of Section 7-1-6.11 NMSA 1978 shall be deposited each month in a separate fund or account of the authority.

G. Upon payment of all principal, interest and other expenses or obligations related to the bonds, the 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 to cease distributing cigarette tax proceeds to the authority pursuant to Subsection H of Section 7-1-6.11 NMSA 1978 and to distribute those cigarette tax proceeds to the general fund.

H. 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.

I. The 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.

J. The 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."

## **Chapter 14 Section 2 Laws 2013**

SECTION 2. Section 6-21-6.11 NMSA 1978 (being Laws 2006, Chapter 89, Section 4) is amended to read:

"6-21-6.11. RURAL COUNTY CANCER TREATMENT FUND CREATED--PURPOSE--APPROPRIATION.--The "rural county cancer treatment fund" is created in the New Mexico finance authority. The fund is composed of appropriations, donations, distributions pursuant to Section 7-1-6.11 NMSA 1978 and money earned from investment of the fund and otherwise accruing to the fund. Money in the fund is appropriated to the New Mexico finance authority to provide a revenue stream to finance the design, construction, equipping and furnishing of additions and improvements to cancer treatment facilities in class B counties. Balances remaining in the fund at the end of a fiscal year shall not revert. The New Mexico finance authority shall administer the fund, and money from the fund may be drawn only on warrants

signed by the executive director of the New Mexico finance authority pursuant to vouchers signed by the chief financial officer or the officer's authorized representative."

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House Bill 580, aa

Approved March 14, 2013

## **LAWS 2013, CHAPTER 15**

AN ACT

RELATING TO AGRICULTURE; AMENDING AND REPEALING SECTIONS OF THE PLANT PROTECTION ACT.

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

### **Chapter 15 Section 1 Laws 2013**

SECTION 1. Section 76-5-11 NMSA 1978 (being Laws 1959, Chapter 195, Section 1) is amended to read:

"76-5-11. SHORT TITLE.--Sections 76-5-11 through 76-5-28 NMSA 1978 may be cited as the "Plant Protection Act"."

### **Chapter 15 Section 2 Laws 2013**

SECTION 2. Section 76-5-12 NMSA 1978 (being Laws 1959, Chapter 195, Section 2, as amended) is amended to read:

"76-5-12. DEFINITIONS.--As used in the Plant Protection Act:

A. "board" means the board of regents of New Mexico state university, the board controlling the New Mexico department of agriculture;

B. "plant pests" or "pests" means any organisms injurious to plants and plant products that in the normal course of events could be transported with the plant, including but not limited to the phyla arthropoda, mollusca or nematoda as well as weeds, fungi, bacteria, viruses or parasitic plants that cause pathological or detrimental physiological conditions in plants;

C. "nursery stock" means any plant grown, propagated or collected for planting or propagated for landscaping or decorative purposes but does not include field, vegetable and flower seeds;

D. "florist stock" means any parts of a plant used for decorative purposes, such as cut flowers, evergreens, annuals or perennials;

E. "nursery" means any ground or premises on or in which nursery stock is propagated, grown or cultivated and from which source nursery stock is offered for distribution or sale;

F. "dealer" means any person who buys and resells nursery or florist stock, or who is engaged in handling nursery or florist stock on a consignment basis, when the stock was not grown on the person's premises;

G. "agent" means any person selling or taking orders for nursery or florist stock not sold from any stock on hand for display purposes and is being offered directly to the consumer;

H. "facilities" means all buildings, greenhouses, vehicles, storage places, cellars, pits, trenches, bins, containers, packing material, crates and any other facilities and materials used in storing and distributing nursery or florist stock;

I. "collected plants" means those plants dug or gathered from any location in which plants are found growing wild;

J. "inspector" means any qualified person employed by the department to carry out the provisions of the Plant Protection Act;

K. "landscaper" means any person who buys and resells, in connection with the person's design services, plants used in landscaping;

L. "plant" means any part of any living thing not classified as an animal, which under the proper conditions can either continue to or resume growing;

M. "stock" means nursery or florist stock or both;

N. "department" means the New Mexico department of agriculture;

O. "package" means any bundle, parcel, box, carton, crate or container used in shipping or displaying nursery or florist stock; and

P. "license year" means a period of twelve months ending on a date specified by the board."

## **Chapter 15 Section 3 Laws 2013**

SECTION 3. Section 76-5-13 NMSA 1978 (being Laws 1959, Chapter 195, Section 3, as amended) is amended to read:

"76-5-13. AUTHORITY TO INSPECT.--The department may inspect any nursery or other place or vehicle that might become infested or infected with plant pests or that may contain from time to time plants so infested or infected. The department may inspect or reinspect any nursery or florist stock within the state and inspect associated documentation. Nursery or florist stock or other plant material not found to meet viability standards as provided in Section 76-5-20 NMSA 1978 may be destroyed or removed from sale or managed in a manner deemed necessary by the department until the conditions are corrected."

## **Chapter 15 Section 4 Laws 2013**

SECTION 4. Section 76-5-15 NMSA 1978 (being Laws 1959, Chapter 195, Section 6, as amended) is amended to read:

"76-5-15. INSPECTION OF NURSERIES.--The department is authorized to inspect all nurseries in the state and all nursery stock grown within the state. If the nursery stock is found to be free of plant pests, an inspection certificate shall be issued certifying that the nursery stock has been inspected and is believed to be free from plant pests. The certificate shall be valid for one license year. If, at any subsequent inspection, the nursery is found to be infested with plant pests, the certificate may be canceled until the conditions are corrected."

## **Chapter 15 Section 5 Laws 2013**

SECTION 5. Section 76-5-16 NMSA 1978 (being Laws 1959, Chapter 195, Section 7, as amended) is amended to read:

"76-5-16. DEALERS' OR AGENTS' LICENSES.--Every in-state dealer or agent selling, importing into the state or storing in this state nursery or florist stock shall, before October 1 of each year and before engaging in the business of soliciting, landscaping, taking orders, selling, storing or delivering any such stock, apply to the department for a nursery or florist dealer's, landscaper's or agent's license. Dealers or agents distributing stock directly or on a consignment basis for more than one store or place of business or sales ground or selling stock from motor vehicles or other vehicles shall secure a license for each place or each vehicle from which the stock is sold. The application for license shall designate each place of business of the person applying. The application shall be accompanied by the prescribed fee for each place or each vehicle from which the stock is sold. Upon proper application and receipt of the proper fee, the department shall issue the license, which shall be valid for one license year. If any licensee is found to have violated any of the provisions of the Plant Protection Act or rules, regulations or orders of the department, the license may be revoked and, in the discretion of the department, the person may be refused a license in the state. Those dealers who sell only vegetable plants that are sold for food production or dealers selling only cactus plants may obtain a special dealer's license for the prescribed fee. Applicants for the special dealer's license shall state that they will handle only vegetable plants or cactus plants and that the plants will be from stock certified by an inspector."

## **Chapter 15 Section 6 Laws 2013**

SECTION 6. Section 76-5-19 NMSA 1978 (being Laws 1959, Chapter 195, Section 10, as amended) is amended to read:

"76-5-19. LABELS.--All nursery stock and collected plants sold or trafficked in the state shall be securely and correctly labeled either as to common or botanical names based on a current and recognized industry reference."

## **Chapter 15 Section 7 Laws 2013**

SECTION 7. Section 76-5-20 NMSA 1978 (being Laws 1973, Chapter 97, Section 9) is amended to read:

"76-5-20. VIABILITY STANDARDS.--Only pest-free, sound and healthy nursery stock stored, offered or displayed under conditions that will maintain its vigor shall be offered for sale or sold. The offering for sale or sale of dead nursery stock or nursery stock so seriously weakened by drying or by excessive heat or cold or nursery stock that has been mechanically or otherwise treated to the extent of concealing its true condition or stock that for any cause is in such a condition that it is unable to grow satisfactorily with reasonable care or stock that may potentially be infested with a plant pest, is a violation of the Plant Protection Act. Florist stock offered for sale must be such that it is pest-free and will maintain its aesthetic value for a reasonable period of time after sale."

## **Chapter 15 Section 8 Laws 2013**

SECTION 8. Section 76-5-23 NMSA 1978 (being Laws 1959, Chapter 195, Section 13, as amended) is amended to read:

"76-5-23. TRANSPORTING WITHIN THE STATE.--The department may require a person producing, selling or offering for sale or shipping or transporting any nursery or florist stock within the state to affix or have printed on each package of stock a certification statement as prescribed by the department. When a certification statement is required, it is unlawful for any transportation company, public carrier, commercial truck or other agency engaged in the business of transportation to ship, transport or accept for shipment any package of nursery or florist stock until the required certification statement is attached to the package."

## **Chapter 15 Section 9 Laws 2013**

SECTION 9. Section 76-5-25 NMSA 1978 (being Laws 1959, Chapter 195, Section 15, as amended) is amended to read:

"76-5-25. POWERS OF BOARD AND DEPARTMENT.--The department shall enforce the provisions of the Plant Protection Act. The board shall adopt and promulgate such rules as may be necessary for its administration and enforcement. The board may adopt sets of standards and grades for nursery stock and, if it so desires, adopt those standards and grades recommended by an industry-recognized reference, to take any action necessary to ensure that all nursery stock sold in the state meets the standards and grades established and to stop sales of any substandard stock."

### **Chapter 15 Section 10 Laws 2013**

SECTION 10. REPEAL.--Section 76-5-22 NMSA 1978 (being Laws 1959, Chapter 195, Section 12, as amended) is repealed.

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Senate Bill 184

Approved March 14, 2013

## **LAWS 2013, CHAPTER 16**

AN ACT

RELATING TO PUBLIC EDUCATION; ENACTING THE COMMUNITY SCHOOLS ACT.

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

### **Chapter 16 Section 1 Laws 2013**

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

"SHORT TITLE.--This act may be cited as the "Community Schools Act"."

### **Chapter 16 Section 2 Laws 2013**

SECTION 2. A new section of the Public School Code is enacted to read:

"PURPOSE.--The Community Schools Act is enacted to provide a strategy to organize the resources of a community to ensure student success while addressing the needs of the whole student; to partner federal, state and local entities with private community-based organizations to improve the coordination, delivery, effectiveness and efficiency of services provided to children and families; and to coordinate resources, in order to align and leverage community resources and integrate funding streams."

### **Chapter 16 Section 3 Laws 2013**

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

"COMMUNITY SCHOOLS INITIATIVES--SCHOOL IMPROVEMENT  
FUNCTIONS--REQUIREMENTS.--

A. A community schools initiative may be created in any public school in the state.

B. A community schools initiative shall include, but not be limited to, the following core set of strategies:

(1) extended learning programs, including before- and after-school programs as well as summer programs;

(2) school-based or school-linked health care; and

(3) family engagement and support services.

C. A community schools initiative shall include the following:

(1) a lead partner agency, including but not limited to a public or private agency or community-based organization, to help coordinate programs and services;

(2) an assessment of community resources informed by students, families and community and school leaders that relates to the effective delivery of core services on site; and

(3) the establishment of an evaluation process that measures both the quality and quantity of outcomes."

## **Chapter 16 Section 4 Laws 2013**

SECTION 4. A new section of the Public School Code is enacted to read:

"COMMUNITY SCHOOLS INITIATIVES--ADMINISTRATIVE COSTS--GRANTS--  
SCHOOL DISTRICT, GROUP OF PUBLIC SCHOOLS OR PUBLIC SCHOOL DUTIES--  
REQUIREMENTS.--

A. A school district shall bear any administrative costs associated with the establishment and implementation of a community school within the school district.

B. Subject to the availability of funding, grants for community schools initiatives are available to a school district, a group of public schools or a public school that has demonstrated partnerships with any lead agency and local, private and public

agencies for the purpose of establishing, operating and sustaining community schools and that meets department eligibility requirements.

C. Applications for grants for community schools initiatives shall be in the form prescribed by the department and shall include the following information:

(1) a statement of need, including demographic and socioeconomic information about the area to be served by the community schools initiative;

(2) goals and expected outcomes of the initiative;

(3) services and activities to be provided by the initiative;

(4) written agreements for the provision of services by public and private agencies, community groups and other parties;

(5) a work plan and budget for the initiative, including staffing requirements and the expected availability of staff;

(6) days and hours of operation;

(7) strategies for dissemination of information about the initiative to potential users;

(8) training and professional development plans;

(9) letters of endorsement and commitment from community agencies and organizations and local governments; and

(10) any other information the department requires.

D. A school district, a group of public schools or a public school that uses funds under this section to transform a school into a research- and evidence-based community schools initiative shall:

(1) use rigorous, transparent and equitable evaluation systems to assess the effectiveness of the implementation of the community schools initiative;

(2) provide ongoing, high-quality professional development to staff that:

(a) aligns with the school's instructional program;

(b) facilitates effective teaching and learning; and



(c) supports the implementation of school reform strategies;  
and

(3) give the school sufficient operational flexibility in programming, staffing, budgeting and scheduling so that the school can fully implement a comprehensive strategy designed to focus on improving school climate, student achievement and growth in reading and mathematics, attendance, behavior, parental engagement and, for high schools, graduation rates and readiness for college or a career."

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House Bill 542, aa, w/cc

Approved March 15, 2013

## **LAWS 2013, CHAPTER 17**

### **AN ACT**

RELATING TO LOCAL GOVERNMENT; CHANGING PROVISIONS OF THE WATERSHED DISTRICT ACT THAT ALLOW THE REMOVAL OF LANDS FROM WATERSHED DISTRICTS OR DISCONTINUANCE OF WATERSHED DISTRICTS.

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

### **Chapter 17 Section 1 Laws 2013**

SECTION 1. Section 73-20-22 NMSA 1978 (being Laws 1957, Chapter 210, Section 21, as amended) is amended to read:

"73-20-22. DETACHING LAND.--The owner or owners of land who have not been, are not and cannot be benefited by their inclusion in the watershed district and whose lands do not contribute to the district's purposes may petition the board of supervisors to have the lands withdrawn. The petitions shall be filed with the board of supervisors and the board of directors and shall describe the lands and state the reasons why they should be withdrawn. If it is determined by the board of supervisors that the lands shall be withdrawn, the determination shall be certified to the county clerk of each county in which any portion of the lands lie. After recording, the certification shall be filed with the New Mexico department of agriculture."

### **Chapter 17 Section 2 Laws 2013**

SECTION 2. Section 73-20-23 NMSA 1978 (being Laws 1957, Chapter 210, Section 22, as amended) is amended to read:

"73-20-23. DISCONTINUANCE OF DISTRICTS.--

A. At any time after five years from the organization of a watershed district, a majority of the landowners in the district may file a petition with the board of supervisors and the board of directors requesting that the existence of the district be discontinued if all obligations of the district have been met. The petition shall state the reasons for discontinuance and demonstrate that all obligations of the district have been met.

B. After giving notice as defined in Section 73-20-8 NMSA 1978, the board of supervisors may conduct hearings on the petition as may be necessary to assist it in making a determination.

C. Within sixty days after petition is filed, a referendum shall be held under the supervision of the board of supervisors as provided in Section 73-20-14 NMSA 1978. No informalities in the conduct of the referendum or in any matters relating to the referendum shall invalidate it or its result if notice of the referendum has been given substantially as provided in Subsection B of this section.

D. If a majority of the votes cast in the referendum favor the discontinuance of the district and it is found that all obligations have been met, the board of supervisors shall make a determination that the watershed district shall be discontinued. A copy of the determination shall be certified by the clerk of the county involved for recording. After recording, the certification shall be filed with the New Mexico department of agriculture."

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House Bill 448

Approved March 15, 2013

## **LAWS 2013, CHAPTER 18**

AN ACT

RELATING TO GEOSPATIAL RESOURCES; DESIGNATING THE STATE DIGITAL GEOSPATIAL DATA CLEARINGHOUSE AT THE UNIVERSITY OF NEW MEXICO; PROVIDING POWERS AND DUTIES.

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

### **Chapter 18 Section 1 Laws 2013**

SECTION 1. STATE DIGITAL GEOSPATIAL DATA CLEARINGHOUSE DESIGNATED--POWERS AND DUTIES.--

A. The resource geographic information system within the earth data analysis center of the university of New Mexico is designated as the "state digital geospatial data clearinghouse" to serve as a publicly accessible repository for digital geospatial data. For the purposes of this section, "digital geospatial data" means electronic information that includes the geographic or spatial location and characteristics of features and boundaries on, above or below the earth's surface.

B. The state digital geospatial data clearinghouse shall:

(1) coordinate, acquire, manage, inventory, maintain, secure and deliver geospatial data to state agencies, local governments, tribal governments, universities, federal agencies or private sector entities;

(2) ensure compliance with the Public Records Act for geospatial data that originate with a state agency or local government;

(3) provide online access to other geospatial data repositories, distributed data resources and mapping services developed or maintained and for use by state agencies, local governments, tribal governments, universities, federal agencies or private sector entities;

(4) support the data needs for pilot and prototype geospatial mapping projects in conjunction with state agencies, local governments, tribal governments, universities, federal agencies or private sector entities;

(5) participate in the updates to and implementation of the state geospatial information technology strategic plan;

(6) provide access to reference maps, images and data for geospatial information system projects for and among state agencies, local governments, tribal governments, universities, federal agencies or private sector entities;

(7) collaborate with state agencies, local governments, tribal governments, universities, federal agencies or private sector entities to facilitate the coordination of geospatial data acquisition;

(8) serve as the reference repository for geospatial data in the state; provided, however, that the originating agency or entity retains custody and responsibility of the data generated by the agency or entity;

(9) implement systems that are compliant with web-based standards and best-practice technologies;

(10) participate in the identification, development and implementation of state geospatial standards and facilitate adherence to those standards; and

(11) submit an annual report to the information technology commission, the legislative finance committee and an appropriate interim legislative committee that includes:

(a) an inventory of publicly accessible geospatial information available from the clearinghouse;

(b) descriptions of how geospatial information is managed and accessed; and

(c) a summary of clearinghouse enhancements, collaborations and data acquisitions toward maintaining best-available geospatial information.

C. The state digital geospatial data clearinghouse may:

(1) enter into contracts and agreements with state agencies, local governments, tribal governments, universities, federal agencies or private sector entities to share or provide geospatial data;

(2) coordinate geospatial data-acquisition projects with state agencies, local governments, tribal governments, universities, federal agencies or private sector entities; and

(3) leverage funds and data from state agencies, local governments, tribal governments, universities, federal agencies or private sector entities to carry out the purposes of the clearinghouse.

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House Bill 493

Approved March 15, 2013

## **LAWS 2013, CHAPTER 19**

AN ACT

RELATING TO TRANSPORTATION; AMENDING SECTIONS OF THE NMSA 1978 TO PROVIDE FOR USES OF MONEY IN THE STATE AVIATION FUND.

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

## **Chapter 19 Section 1 Laws 2013**

SECTION 1. Section 7-1-6.7 NMSA 1978 (being Laws 1994, Chapter 5, Section 2, as amended by Laws 2007, Chapter 297, Section 1 and by Laws 2007, Chapter 298, Section 1) is amended to read:

### **"7-1-6.7. DISTRIBUTIONS--STATE AVIATION FUND.--**

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state aviation fund in an amount equal to four and seventy-nine hundredths percent of the taxable gross receipts attributable to the sale of fuel specially prepared and sold for use in turboprop or jet-type engines as determined by the department.

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state aviation fund in an amount equal to twenty-six hundredths percent of gasoline taxes, exclusive of penalties and interest, collected pursuant to the Gasoline Tax Act.

C. From July 1, 2013 through June 30, 2018, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state aviation fund in an amount equal to forty-six thousandths percent of the net receipts attributable to the gross receipts tax distributable to the general fund.

D. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state aviation fund from the net receipts attributable to the gross receipts tax distributable to the general fund in an amount equal to:

(1) eighty thousand dollars (\$80,000) monthly from July 1, 2007 through June 30, 2008;

(2) one hundred sixty-seven thousand dollars (\$167,000) monthly from July 1, 2008 through June 30, 2009; and

(3) two hundred fifty thousand dollars (\$250,000) monthly after July 1, 2009."

## **Chapter 19 Section 2 Laws 2013**

SECTION 2. Section 64-1-15 NMSA 1978 (being Laws 1963, Chapter 314, Section 7, as amended by Laws 2007, Chapter 297, Section 2 and by Laws 2007, Chapter 298, Section 2) is amended to read:

### **"64-1-15. STATE AVIATION FUND.--**

A. There is created in the state treasury the "state aviation fund". All income to the state aviation fund is appropriated to the division. Earnings from investment of the fund shall be credited to the fund.

B. The amounts distributed to the state aviation fund pursuant to Subsection C of Section 7-1-6.7 NMSA 1978 shall be used for the air service assistance program, including planning, program administration, construction, equipment, materials and maintenance of a system of airports, navigation aids and related facilities. All other amounts distributed to the state aviation fund, including collections by the division for aircraft registration pursuant to the Aircraft Registration Act, payments to the division pursuant to Sections 64-1-13 and 64-1-19 NMSA 1978 and reimbursements to the division from federal aviation administration funds or from any other source shall be used for planning and program administration, construction, equipment, materials and maintenance of a system of airports, navigation aids and related facilities. All expenditures shall be made in accordance with budgets approved by the department. Balances in the state aviation fund shall not be transferred and shall not revert to any other fund."

## **Chapter 19 Section 3 Laws 2013**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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Senate Bill 2, aa

Approved March 15, 2013

## **LAWS 2013, CHAPTER 20**

AN ACT

RELATING TO CHILDREN; AMENDING THE SAFE HAVEN FOR INFANTS ACT; DEFINING A SAFE HAVEN SITE.

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

## **Chapter 20 Section 1 Laws 2013**

SECTION 1. Section 24-22-1.1 NMSA 1978 (being Laws 2005, Chapter 26, Section 2) is amended to read:

"24-22-1.1. PURPOSE.--The purpose of the Safe Haven for Infants Act is to promote the safety of infants and to immunize a parent from criminal prosecution for leaving an infant, ninety days of age or less, at a safe haven site. This act is not intended to abridge the rights or obligations created by the federal Indian Child Welfare Act of 1978 or the rights of parents."

## **Chapter 20 Section 2 Laws 2013**

SECTION 2. Section 24-22-2 NMSA 1978 (being Laws 2001, Chapter 31, Section 2 and Laws 2001, Chapter 132, Section 2, as amended) is amended to read:

"24-22-2. DEFINITIONS.--As used in the Safe Haven for Infants Act:

A. "fire station" means a fire station that is certified by the fire marshal division of the public regulation commission;

B. "hospital" means an acute care general hospital or health care clinic licensed by the state;

C. "Indian child" means an Indian child as defined by the federal Indian Child Welfare Act of 1978;

D. "infant" means a child no more than ninety days old, as determined within a reasonable degree of medical certainty;

E. "law enforcement agency" means a law enforcement agency of the state or a political subdivision of the state;

F. "safe haven site" means a hospital, law enforcement agency or fire station that has staff on-site at the time an infant is left at such a site; and

G. "staff" means an employee, contractor, agent or volunteer performing services as required and on behalf of the safe haven site."

## **Chapter 20 Section 3 Laws 2013**

SECTION 3. Section 24-22-3 NMSA 1978 (being Laws 2001, Chapter 31, Section 3 and Laws 2001, Chapter 132, Section 3, as amended) is amended to read:

"24-22-3. LEAVING AN INFANT.--

A. A person may leave an infant with the staff of a safe haven site without being subject to criminal prosecution for abandonment or abuse if the infant was born within ninety days of being left at the safe haven site, as determined within a reasonable degree of medical certainty, and if the infant is left in a condition that would not constitute abandonment or abuse of a child pursuant to Section 30-6-1 NMSA 1978.

B. A safe haven site may ask the person leaving the infant for the name of the infant's biological father or biological mother, the infant's name and the infant's medical history, but the person leaving the infant is not required to provide that information to the safe haven site.

C. The safe haven site is deemed to have received consent for medical services provided to an infant left at a safe haven site in accordance with the provisions of the Safe Haven for Infants Act or in accordance with procedures developed between the children, youth and families department and the safe haven site."

## **Chapter 20 Section 4 Laws 2013**

SECTION 4. Section 24-22-4 NMSA 1978 (being Laws 2001, Chapter 31, Section 4 and Laws 2001, Chapter 132, Section 4, as amended) is amended to read:

"24-22-4. SAFE HAVEN SITE PROCEDURES.--

A. A safe haven site shall accept an infant who is left at the safe haven site in accordance with the provisions of the Safe Haven for Infants Act.

B. In conjunction with the children, youth and families department, a safe haven site shall develop procedures for appropriate staff to accept and provide necessary medical services to an infant left at the safe haven site and to the person leaving the infant at the safe haven site, if necessary.

C. Upon receiving an infant who is left at a safe haven site in accordance with the provisions of the Safe Haven for Infants Act, the safe haven site may provide the person leaving the infant with:

(1) information about adoption services, including the availability of private adoption services;

(2) brochures or telephone numbers for agencies that provide adoption services or counseling services; and

(3) written information regarding whom to contact at the children, youth and families department if the parent decides to seek reunification with the infant.

D. A safe haven site shall ask the person leaving the infant whether the infant has a parent who is either a member of an Indian tribe or is eligible for membership in an Indian tribe, but the person leaving the infant is not required to provide that information to the safe haven site.

E. Immediately after receiving an infant in accordance with the provisions of the Safe Haven for Infants Act, a safe haven site shall inform the children, youth and families department that the infant has been left at the safe haven site. The safe haven site shall provide the children, youth and families department with all available information regarding the child and the parents, including the identity of the child and the parents, the location of the parents and the child's medical records."

## **Chapter 20 Section 5 Laws 2013**



SECTION 5. Section 24-22-5 NMSA 1978 (being Laws 2001, Chapter 31, Section 5 and Laws 2001, Chapter 132, Section 5, as amended) is amended to read:

"24-22-5. RESPONSIBILITIES OF THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT.--

A. The children, youth and families department shall be deemed to have emergency custody of an infant who has been left at a safe haven site according to the provisions of the Safe Haven for Infants Act.

B. Upon receiving a report of an infant left at a safe haven site pursuant to the provisions of the Safe Haven for Infants Act, the children, youth and families department shall immediately conduct an investigation, pursuant to the provisions of the Abuse and Neglect Act.

C. When an infant is taken into custody by the children, youth and families department, the department shall make reasonable efforts to determine whether the infant is an Indian child. If the infant is an Indian child:

(1) the child's tribe shall be notified as required by Section 32A-1-14 NMSA 1978 and the federal Indian Child Welfare Act of 1978; and

(2) pre-adoptive placement and adoptive placement of the Indian child shall be in accordance with the provisions of Section 32A-5-5 NMSA 1978 regarding Indian child placement preferences.

D. The children, youth and families department shall perform public outreach functions necessary to educate the public about the Safe Haven for Infants Act, including developing literature about that act and distributing it to safe haven sites.

E. An infant left at a safe haven site in accordance with the provisions of the Safe Haven for Infants Act shall presumptively be deemed eligible and enrolled for medicaid benefits and services."

## **Chapter 20 Section 6 Laws 2013**

SECTION 6. Section 24-22-7 NMSA 1978 (being Laws 2001, Chapter 31, Section 7 and Laws 2001, Chapter 132, Section 7, as amended) is amended to read:

"24-22-7. PROCEDURE IF REUNIFICATION IS SOUGHT.--

A. A person established as a parent of an infant previously left at a safe haven site shall have standing to participate in all proceedings regarding the child pursuant to the provisions of the Abuse and Neglect Act.

B. If a person not previously established as a parent seeks reunification with an infant previously left at a safe haven site and the person's DNA indicates parentage of the infant, that person shall have standing to participate in all proceedings regarding the infant pursuant to the provisions of the Abuse and Neglect Act."

## **Chapter 20 Section 7 Laws 2013**

SECTION 7. Section 24-22-8 NMSA 1978 (being Laws 2001, Chapter 31, Section 8 and Laws 2001, Chapter 132, Section 8) is amended to read:

"24-22-8. IMMUNITY.--A safe haven site and its staff are immune from criminal liability and civil liability for accepting an infant in compliance with the provisions of the Safe Haven for Infants Act but not for subsequent negligent medical care or treatment of the infant."

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House Bill 374, aa

Approved March 15, 2013

## **LAWS 2013, CHAPTER 21**

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 21 Section 1 Laws 2013**

SECTION 1. AUTHORIZATION OF PROJECTS.--Pursuant to the provisions of Section 6-21-6 NMSA 1978, the legislature authorizes the New Mexico finance authority to make loans from the public project revolving fund for public projects as defined in Section 6-21-3 NMSA 1978. Pursuant to Section 6-21-6 NMSA 1978, loans of less than one million dollars (\$1,000,000) do not require specific authorization and need not be identified in this act. Authorization is given to the New Mexico finance authority to make loans to the following qualified entities on terms and conditions established by the authority:

1. the Albuquerque public school district in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

2. the Alice King community school in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

3. the city of Artesia in Eddy county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, special assessment district and solid waste projects;

4. the Aztec municipal school district in San Juan county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

5. the Belen consolidated school district in Valencia county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

6. the city of Belen in Valencia county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

7. Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

8. the Bloomfield school district in San Juan county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

9. the board of regents of New Mexico institute of mining and technology for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

10. the board of regents of New Mexico state university for the New Mexico department of agriculture for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

11. the board of regents of the university of New Mexico for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

12. the Carlsbad soil and water conservation district in Eddy county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

13. the town of Carrizozo in Lincoln county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

14. Catron county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

15. the village of Causey in Roosevelt county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

16. the Central consolidated school district in San Juan county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

17. Cibola county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

18. the Claunch-Pinto soil and water conservation district in Torrance county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

19. the town of Clayton in Union county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

20. the Cobre consolidated school district in Grant county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

21. Colfax county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

22. the Cuba independent school district in Rio Arriba county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

23. Curry county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

24. De Baca county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

25. the Deming public school district in Luna county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

26. the village of Des Moines in Union county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

27. Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

28. the village of Dora in Roosevelt county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

29. the board of regents of eastern New Mexico university for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

30. Eddy county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

31. the city of Espanola in Rio Arriba county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

32. the town of Estancia in Torrance county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

33. 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;

34. 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;

35. the city of Gallup in McKinley county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

36. the Gallup-McKinley county school district in McKinley county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

37. 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 and solid waste projects;

38. Grant county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

39. the city of Grants in Cibola county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

40. the village of Hatch in Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

41. the town of Hurley in Grant county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

42. the city of Jal in Lea county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

43. the city of Las Cruces in Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

44. Lea county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

45. 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;

46. the city of Lordsburg in Hidalgo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

47. 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;

48. the Lovington municipal school district in Lea county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

49. the city of Lovington in Lea county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

50. the village of Melrose in Curry county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

51. the Mescalero Apache Tribe in Otero county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

52. the town of Mesilla in Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

53. the city of Moriarty in Torrance county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

54. the Pueblo of Nambe in Santa Fe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

55. the New Mexico border authority in Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

56. the New Mexico national guard in Santa Fe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

57. the New Mexico school for the arts in Santa Fe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

58. the spaceport authority for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

59. the board of regents of northern New Mexico state school in Rio Arriba county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

60. Otero county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

61. the Pueblo of Cochiti for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

62. the Pueblo of Laguna in Cibola county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

63. the Pueblo of Sandia in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

64. the Pueblo of Santa Ana in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

65. the Pueblo of Zuni in McKinley county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

66. Quay county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

67. Rio Arriba county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

68. Roosevelt county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

69. the city of Ruidoso Downs in Lincoln county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

70. the Ruidoso municipal school district in Lincoln county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

71. the village of Ruidoso in Lincoln county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

72. the village of San Jon in Quay county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

73. San Juan county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

74. Sierra county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;



75. the town of Silver City in Grant county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

76. 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;

77. Socorro county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

78. the city of Socorro in Socorro county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

79. 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;

80. the city of Sunland Park in Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

81. Taos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

82. the town of Taos in Taos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

83. the city of Texico in Curry county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

84. Torrance county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

85. 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;

86. 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;

87. the city of Tucumcari in Quay county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

88. Union county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

89. Valencia county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

90. the town of Vaughn in Guadalupe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

91. Miner's Colfax general hospital in Colfax county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

92. southern Sandoval investment, a subsidiary of the Pueblo of Santa Ana, in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

93. 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;

94. Lincoln county medical center in Lincoln county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

95. the academy for technology and the classics in Santa Fe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

96. the Animas public school district in Hidalgo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

97. the city of Anthony in Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

98. 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;

99. the village of Corona in Lincoln county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

100. the Corona public school district in Lincoln county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

101. the village of Cuba in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

102. the department of transportation for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

103. 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;

104. 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;

105. the Elida municipal school district in Roosevelt county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

106. the village of Encino in Tarrant county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

107. the Estancia municipal school district in Tarrant county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

108. 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;

109. the village of Floyd in Roosevelt county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

110. the Floyd municipal school district in Roosevelt county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

111. the general services department for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

112. the village of Grady in Curry county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

113. the Grady municipal school district in Curry county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

114. 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;

115. the Greentree solid waste authority in Lincoln county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

116. the village of Grenville in Union county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

117. 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;

118. the Jal public school district in Lea county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

119. the village of Logan in Quay county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

120. the Logan municipal school district in Quay county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

121. the village of Loving in Eddy county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

122. 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;

123. the village of Magdalena in Socorro county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

124. the village of Maxwell in Colfax county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

125. 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;

126. the Moriarty-Edgewood school district in Torrance county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

127. 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;

128. the Mountainair public school district in Torrance county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

129. the New Mexico renewable energy transmission authority for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

130. the town of Peralta in Valencia county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

131. 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;

132. the Quemado independent school district in Catron county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

133. the Reserve independent school district in Catron county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

134. 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;

135. 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;

136. 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;

137. the town of Tatum in Lea county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

138. the Tatum municipal school district in Lea county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

139. the village of Tijeras in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

140. 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;

141. the village of Wagon Mound in Mora county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

142. To'hajiilee economic development, inc., in Bernalillo county for, or any wholly owned enterprise of To'Hajiilee economic development, inc., established for the purpose of, building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects; and

143. the Nova corporation in Bernalillo county for, or any wholly owned enterprise of Nova corporation established for the purpose of, building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects.

### **Chapter 21 Section 2 Laws 2013**

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 2016 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 21 Section 3 Laws 2013**

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

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House Bill 70, aa, w/ec

Approved March 15, 2013

## **LAWS 2013, CHAPTER 22**

AN ACT

MAKING AN APPROPRIATION FOR THE LOCAL GOVERNMENT PLANNING FUND.

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

### **Chapter 22 Section 1 Laws 2013**

SECTION 1. APPROPRIATION.--Two million dollars (\$2,000,000) is appropriated from the public project revolving fund to the local government planning fund administered by the New Mexico finance authority for expenditure in fiscal year 2014 and subsequent fiscal years to fund local government planning for infrastructure, water or wastewater public project needs, or to develop water conservation plans, long-term master plans or energy audits, and to pay the administrative costs of the local government planning program. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the public project revolving fund.

### **Chapter 22 Section 2 Laws 2013**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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Senate Bill 54

Approved March 21, 2013

## **LAWS 2013, CHAPTER 23**

### **AN ACT**

RELATING TO AGRICULTURE; ENACTING THE NEW MEXICO COMMERCIAL FEED ACT; PROVIDING POWERS AND DUTIES; REQUIRING LABELING OF ALL COMMERCIAL FEED; REQUIRING REGISTRATION; PROVIDING FOR INSPECTIONS, SAMPLING AND ANALYSIS; PROHIBITING THE DISTRIBUTION OF ADULTERATED OR MISBRANDED COMMERCIAL FEED; PRESCRIBING FEES; PRESCRIBING PENALTIES; REPEALING THE COMMERCIAL FEED LAW.

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

### **Chapter 23 Section 1 Laws 2013**

SECTION 1. SHORT TITLE.--This act may be cited as the "New Mexico Commercial Feed Act".

### **Chapter 23 Section 2 Laws 2013**

SECTION 2. DEFINITIONS.--As used in the New Mexico Commercial Feed Act:

- A. "board" means the board of regents of New Mexico state university;
- B. "brand name" means any word, name, symbol or device, or any combination of words, names, symbols or devices, that identifies a commercial feed and distinguishes it from that of other commercial feeds;
- C. "commercial feed" means one or more feed ingredients that are not otherwise exempt from the provisions of the New Mexico Commercial Feed Act that are manufactured into an animal feed or used as a feed ingredient in the manufacture of another commercial feed;
- D. "contract feeder" means a person who is an independent contractor and who feeds commercial feed to animals pursuant to a contract whereby the commercial feed is supplied, furnished or otherwise provided to the person and whereby



the person's remuneration is determined all or in part by feed consumption, mortality, profits or amount or quality of product;

E. "customer-formula feed" means a commercial feed that consists of a mixture of feed ingredients, each batch of which is manufactured according to the specific instructions of the final purchaser;

F. "department" means the New Mexico department of agriculture;

G. "distribute" means to offer for sale, exchange or barter or to sell, exchange or barter commercial feed;

H. "distributor" means a person who distributes commercial feed;

I. "drug" means an article intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in animals other than humans and an article other than commercial feed intended to affect the structure or any function of the animal body;

J. "feed ingredient" means any of the constituent materials that make up a commercial feed;

K. "label" means a display of written, printed or graphic matter upon or affixed to the container in which a commercial feed is distributed or on the invoice or delivery slip with which a commercial feed is distributed;

L. "labeling" means all labels and other written, printed or graphic matter on a commercial feed or any of its containers or wrappers accompanying that commercial feed;

M. "manufacture" means to grind, mix or blend or further process a commercial feed for distribution;

N. "mineral feed" means a commercial feed intended to supply primarily mineral elements or inorganic nutrients;

O. "official sample" means a sample of commercial feed taken by the department;

P. "pet food" means commercial feed prepared and distributed for consumption by dogs or cats;

Q. "product name" means the name of a commercial feed that identifies it as to kind, class or specific use and distinguishes it from all other products bearing the same brand name;

R. "quantity statement" means the net weight, net volume or count of commercial feed;

S. "registrant" means the person who registers commercial feed with the department;

T. "specialty pet food" means commercial feed prepared and distributed for consumption by domesticated animals other than dogs and cats that are normally maintained in a cage or tank, including gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes and turtles; and

U. "ton" means a net weight of two thousand pounds avoirdupois.

### **Chapter 23 Section 3 Laws 2013**

#### **SECTION 3. BOARD AND DEPARTMENT POWERS AND DUTIES.--**

A. The New Mexico Commercial Feed Act shall be administered by the department under the direction of the board. The board shall adopt and promulgate rules to carry out the provisions of that act.

B. In promulgating rules as appropriate to the conditions that exist in New Mexico, the board shall consider current good manufacturing practices and definitions of feed ingredients and commercial feed terms recognized by the commercial feed industry and the federal government.

### **Chapter 23 Section 4 Laws 2013**

SECTION 4. APPLICABILITY.--The New Mexico Commercial Feed Act applies to mineral feed, pet food and specialty pet food as well as other commercial feed. That act applies to contract feeders as well as distributors.

### **Chapter 23 Section 5 Laws 2013**

SECTION 5. EXEMPTIONS.--The following are exempt from the provisions of the New Mexico Commercial Feed Act:

A. commodities such as hay, straw, stover, silage, cobs, husks, hulls and individual chemical compounds or substances that are not intermixed with other materials for animal feed and are not adulterated as provided in Section 8 of the New Mexico Commercial Feed Act; and

B. unmixed whole seeds and physically altered entire unmixed seeds, when they are not chemically changed and are not adulterated as provided in Section 8 of the New Mexico Commercial Feed Act.

## **Chapter 23 Section 6 Laws 2013**

SECTION 6. PROHIBITED ACTS.--A person shall not:

- A. manufacture or distribute commercial feed that is adulterated or misbranded;
- B. adulterate or misbrand commercial feed;
- C. distribute otherwise exempt agricultural commodities or products that are adulterated as provided in Section 8 of the New Mexico Commercial Feed Act;
- D. fail to register commercial feed in accordance with the New Mexico Commercial Feed Act;
- E. fail to pay inspection fees and file reports as required by the New Mexico Commercial Feed Act;
- F. sell, distribute or dispose of commercial feed in violation of a withdrawal from distribution order issued by the department or otherwise violate a withdrawal from distribution order;
- G. impede, hinder or otherwise prevent or attempt to prevent an agent of the department from performing the agent's duty in accordance with the New Mexico Commercial Feed Act; or
- H. reuse bags and totes for commercial feed unless they are cleaned as prescribed by the board.

## **Chapter 23 Section 7 Laws 2013**

SECTION 7. MISBRANDING.--A commercial feed shall be deemed to be misbranded if:

- A. its labeling is false or misleading in any particular;
- B. it is distributed under the name of another commercial feed;
- C. it is not labeled as required in Section 9 of the New Mexico Commercial Feed Act;
- D. it purports to be a commercial feed or it purports to contain a feed ingredient and the commercial feed or feed ingredient does not conform to the definition of the commercial feed or feed ingredient, if any, prescribed by board rule; or

E. any word, statement or other information that is required by the New Mexico Commercial Feed Act or rules adopted in accordance with that act to appear on the label or labeling is not prominently placed on the label with such conspicuousness, as compared with other words, statements, designs or devices in the labeling, and in such terms as to render it likely to be read and understood by the ordinary person under customary conditions of purchase and use.

## **Chapter 23 Section 8 Laws 2013**

SECTION 8. ADULTERATION.--A commercial feed is adulterated if:

A. it bears or contains any poisonous or deleterious substance that may render it injurious to health; provided, however, that if the poisonous or deleterious substance is not an added substance, the commercial feed shall not be considered adulterated pursuant to this subsection if the quantity of the poisonous or deleterious substance in the commercial feed does not ordinarily render it injurious to health;

B. it bears or contains any added poisonous, deleterious or nonnutritive substance that is unsafe as prescribed by the board;

C. it is or it bears or contains any food additive that is unsafe as prescribed by board rule;

D. it is a raw agricultural commodity and it bears or contains a pesticide chemical that is unsafe as provided in board rule; provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed by the board and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating or milling, the residue of the pesticide chemical remaining in or on such processed commercial feed shall not be deemed unsafe if the residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of the residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal that is unsafe as prescribed by the board;

E. it is or it bears or contains any color additive that is unsafe as prescribed by the board;

F. it is or it bears or contains any new animal drug that is unsafe as prescribed by the board;

G. it consists, in whole or in part, of any filthy, putrid or decomposed substance or it is otherwise unfit for animal feed;

H. it has been prepared, packed or held under unsanitary conditions under which it may have become contaminated with filth or been rendered injurious to animal health;

I. it is, in whole or in part, the product of a diseased animal or of an animal that has died otherwise than by slaughter that is unsafe as prescribed by the board;

J. its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to animal health;

K. it has been intentionally subjected to radiation except as prescribed by the board;

L. any valuable constituent has been, in whole or in part, omitted or abstracted from the commercial feed or any less valuable substance substituted for the valuable constituent;

M. its composition or quality falls below or differs from that it is purported or is represented to possess by its labeling;

N. it contains a drug and the methods used in or the facilities or controls used for the drug's manufacture, processing or packaging do not conform to current good manufacturing practice rules promulgated by the board to assure that the drug meets the requirement of the New Mexico Commercial Feed Act as to safety and has the identity and strength and meets the quality and purity characteristics that it purports or is represented to possess; or

O. it contains viable weed seeds in amounts that exceed the limits established by the board.

## **Chapter 23 Section 9 Laws 2013**

### **SECTION 9. LABELING.--**

A. Commercial feed, except customer-formula feed, shall be accompanied by a label bearing the following information:

(1) the quantity statement;

(2) the product name and the brand name, if any, under which the commercial feed is distributed;

(3) the guaranteed analysis, expressed on an "as is" basis, stated in such terms as the board determines is required to advise the user of the composition of the feed or to support claims made in the labeling; provided that in all cases the

substances or elements shall be determinable by laboratory methods approved by the board;

(4) the common or usual name of each ingredient used in the manufacture of the commercial feed; provided that the board may allow the use of a collective term for a group of ingredients that perform a similar function, or it may exempt such commercial feeds or any group of commercial feed from the requirement of an ingredient statement if the board finds that such statement is not required in the interest of consumers;

(5) the name and principal mailing address of the manufacturer or distributor;

(6) adequate directions for the use for commercial feed that contains drugs and for such other commercial feed that the board requires as necessary for safe and effective use; and

(7) such precautionary statements as the board determines are necessary for the safe and effective use of the commercial feed.

B. Customer-formula feed shall be accompanied by a label, invoice, delivery slip or other shipping document that bears the following information:

(1) the name and address of the manufacturer;

(2) the name and address of the purchaser;

(3) the date of delivery;

(4) the product name and quantity statement of each commercial feed and each other feed ingredient used in the mixture;

(5) adequate directions for use for customer-formula feed that contains drugs and for such other customer-formula feed that the board requires as necessary for safe and effective use;

(6) precautionary statements as required by the board; and

(7) if the customer-formula feed contains drugs:

(a) the purpose of the drugs; and

(b) the established name of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with board rules.

## **Chapter 23 Section 10 Laws 2013**

### **SECTION 10. REGISTRATION OF COMMERCIAL FEED.--**

A. All commercial feed, except customer-formula feed, shall be registered with the department before being distributed in New Mexico. The application for registration shall be submitted on forms furnished by the department and accompanied by a label or other printed matter describing the commercial feed and by a registration fee of two dollars (\$2.00). A copy of the approved registration shall be provided to the registrant. A commercial feed registration expires annually on December 31.

B. A distributor is not required to register a brand of commercial feed that is already registered by another person pursuant to the New Mexico Commercial Feed Act.

C. The department may refuse registration if the application does not comply with the provisions of the New Mexico Commercial Feed Act and may cancel a registration that is subsequently found not to be in compliance with the provisions of that act; provided, however, that a registration shall not be refused or canceled until the applicant or registrant has been given an opportunity to be heard before the board and to amend the application or to cure the problem in registration to comply with the requirements of the New Mexico Commercial Feed Act.

## **Chapter 23 Section 11 Laws 2013**

### **SECTION 11. INSPECTION, SAMPLING AND ANALYSIS.--**

A. Except as provided in Subsection E of this section, to enforce the provisions of the New Mexico Commercial Feed Act, an employee or agent of the department may enter upon the premises and inspect any factory, warehouse or other establishment in New Mexico in which commercial feeds are manufactured, processed, packed or held for distribution or enter any vehicle being used to transport or hold commercial feed. The employee or agent may inspect all pertinent equipment, finished and unfinished materials, containers and labeling in the establishment. Entry and inspection shall be during normal business hours and after written notice to the owner, operator or agent in charge. The employee or agent shall present appropriate credentials to the owner, operator or agent in charge of the factory, warehouse or other establishment. Inspections shall be within reasonable limits and in a reasonable manner and may include the verification of only such records and production and control procedures as may be necessary to determine compliance with the provisions of the New Mexico Commercial Feed Act and rules promulgated in accordance with that act. A separate notice shall be given for each inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection, the person in charge of the facility or vehicle shall be so notified.

B. Before leaving the premises, the employee or agent of the department who is making the inspection shall give to the owner, operator or agent in charge a receipt for any official samples obtained during the inspection.

C. If the owner of a factory, warehouse or other establishment, or the owner's agent, refuses to admit the employee or agent of the department to inspect in accordance with Subsection A of this section, the department may ask the district court for a warrant directing such owner or the owner's agent to submit the premises described in the warrant to inspection.

D. An employee or agent of the department may enter upon any public or private premises, including any vehicle of transport, during regular business hours to have access to and to obtain official samples and to examine records relating to distribution of commercial feeds.

E. When an employee or agent of the department has reasonable cause to believe that any lot of commercial feed is being distributed in violation of any of the provisions of the New Mexico Commercial Feed Act or rules promulgated in accordance with that act, the employee or agent may issue a withdrawal from distribution order as provided in Section 13 of the New Mexico Commercial Feed Act.

F. Official sampling and analysis shall be conducted in accordance with methods approved by the board.

G. The results of all analyses of official samples shall be forwarded by the department to the person named on the label and to the purchaser. When the inspection and analysis of an official sample indicates a commercial feed has been adulterated or misbranded, the owner or operator may request a portion of the official sample, and the department shall comply with the request within thirty days following receipt of the analysis.

H. In determining for administrative purposes whether a commercial feed is deficient in any component, the department shall be guided by the official sample obtained and analyzed as provided in this section.

## **Chapter 23 Section 12 Laws 2013**

### **SECTION 12. INSPECTION FEES--REPORTS--CANCELLATION OF REGISTRATIONS.--**

A. An inspection fee shall be paid to the board for all commercial feeds distributed in New Mexico. The fee shall not exceed fifteen cents (\$.15) per ton, or, for each brand of commercial feed distributed in individual packages of ten pounds or less, a distributor shall pay an annual inspection fee not to exceed twenty-five dollars (\$25.00) and shall not pay the tonnage fee on such packages of the brand so registered.



B. Fees collected shall not exceed the costs of inspection, sampling and analysis and other expenses necessary for the administration of the New Mexico Commercial Feed Act. Fees collected shall constitute a fund for the payment of the costs of inspection, sampling and analysis and other expenses necessary for the administration of that act.

C. Except as otherwise provided in this section, a person who distributes commercial feed in New Mexico shall:

(1) file, not later than the last day of January, April, July and October of each year, a quarterly statement setting forth the number of net tons of commercial feeds distributed in New Mexico during the preceding calendar quarter and, upon filing the statement, shall pay the inspection fee. When more than one person is involved in the distribution of commercial feed, the person who distributes to the consumer is responsible for reporting the tonnage and paying the inspection fee unless the report and payment have been made by a prior distributor of the feed; and

(2) keep such records as may be necessary or required by the board to indicate accurately the tonnage of commercial feeds distributed in New Mexico, and the board may examine those records to verify statements of tonnage. If a quarterly report is not filed or if the inspection fee is not paid within the thirty-day period after the end of a quarter, a penalty of twenty percent, or a sum of ten dollars (\$10.00), whichever is greater, will be due in addition to the inspection fees, and the inspection fees and the penalty shall constitute a debt for which suit may be brought by the board.

D. Failure to make an accurate statement of tonnage or to pay the inspection fee or comply with the provisions of the New Mexico Commercial Feed Act shall constitute sufficient cause for the cancellation of all registrations on file for the distributor.

## **Chapter 23 Section 13 Laws 2013**

### **SECTION 13. DETAINED COMMERCIAL FEED.--**

A. When an employee or agent of the department has reasonable cause to believe that any lot of commercial feed is being distributed in violation of any of the provisions of the New Mexico Commercial Feed Act or rules promulgated in accordance with that act, it may issue and enforce a written "withdrawal from distribution" order, warning the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the department or the district court.

B. The department shall release for distribution the lot of commercial feed that was withdrawn from distribution when the provisions of the New Mexico Commercial Feed Act have been complied with. If the department and the distributor agree that the lot of commercial feed is adulterated or otherwise cannot comply with that

act within thirty days, the department shall release the lot of commercial feed for disposal in a manner approved by the department.

C. If the distributor has not complied with the provisions of the New Mexico Commercial Feed Act or rules promulgated in accordance with that act within thirty days or if the department has reasonable grounds to believe that the lot of commercial feed will be distributed in violation of the withdrawal from distribution order, the department shall begin condemnation and seizure proceedings against the lot of commercial feed. The department may file a complaint for seizure in the district court in the judicial district in which the commercial feed is located.

D. If, after hearing, the court finds that the commercial feed violates the provisions of the New Mexico Commercial Feed Act or rules promulgated in accordance with that act and orders the commercial feed to be condemned, the department shall ensure that it is disposed of in an appropriate manner. The court may allow the distributor to process or re-label the commercial feed to bring it into compliance with the New Mexico Commercial Feed Act.

## **Chapter 23 Section 14 Laws 2013**

### **SECTION 14. INJUNCTIONS--APPEALS OF DECISIONS OF THE DEPARTMENT.--**

A. The department may apply to the district court for a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of the New Mexico Commercial Feed Act or the rules promulgated in accordance with that act.

B. A person adversely affected by an act, order or ruling made pursuant to the provisions of the New Mexico Commercial Feed Act may appeal the decision as provided in Section 39-3-1.1 NMSA 1978.

## **Chapter 23 Section 15 Laws 2013**

SECTION 15. PENALTIES.--A person convicted of violating Section 6 of the New Mexico Commercial Feed Act is guilty of a misdemeanor and shall be fined in an amount not more than one hundred dollars (\$100) for the first violation and not more than one thousand dollars (\$1,000) for a second or subsequent violation.

## **Chapter 23 Section 16 Laws 2013**

SECTION 16. COOPERATION WITH OTHER ENTITIES.--The department may cooperate with and enter into agreements with governmental agencies of New Mexico, other states and the federal government and private associations to carry out the purpose and provisions of the New Mexico Commercial Feed Act.

## **Chapter 23 Section 17 Laws 2013**

SECTION 17. ANNUAL REPORTS.--The department shall publish an annual report on the manufacture and distribution of commercial feeds in New Mexico, together with such data on their production and use as the department determines, and a report of the results of the analyses of official samples of commercial feeds sold in New Mexico as compared with the analyses guaranteed in the registration and on the label; provided that the information concerning production and use of commercial feed shall not disclose the operations of any person.

## **Chapter 23 Section 18 Laws 2013**

SECTION 18. REPEAL.--Sections 76-19-1 through 76-19-14 NMSA 1978 (being Laws 1961, Chapter 151, Sections 1 through 5, Laws 1973, Chapter 102, Section 6, Laws 1961, Chapter 151, Sections 7 through 12, Laws 1973, Chapter 102, Section 13 and Laws 1961, Chapter 151, Section 13, as amended) are repealed.

## **Chapter 23 Section 19 Laws 2013**

SECTION 19. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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Senate Bill 91, aa

Approved March 21, 2013

# **LAWS 2013, CHAPTER 24**

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; AUTHORIZING THE NEW MEXICO FINANCE AUTHORITY TO MAKE GRANTS FOR CERTAIN ACEQUIA PROJECTS FROM THE ACEQUIA PROJECT FUND; DECLARING AN EMERGENCY.

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

## **Chapter 24 Section 1 Laws 2013**

SECTION 1. AUTHORIZATION OF QUALIFYING WATER PROJECTS.-- Pursuant to the provisions of Section 72-4A-9 NMSA 1978, the legislature authorizes the New Mexico finance authority to make loans or grants from the water project fund to

the following qualified entities for the following qualifying water projects on terms and conditions established by the water trust board and the New Mexico finance authority:

1. to the southern Sandoval county arroyo flood control authority in Sandoval county for a flood prevention project;
2. to the Agua Sana water users association in Rio Arriba county for a water conservation, treatment, recycling or reuse project;
3. to the city of Las Vegas in San Miguel county for a water conservation, treatment, recycling or reuse project;
4. to the Camino Real regional utility authority in Dona Ana county for a water conservation, treatment, recycling or reuse project;
5. to the village of Cimarron in Colfax county for a water conservation, treatment, recycling or reuse project;
6. to the Ojo Caliente mutual domestic water consumers association in Taos county for a water conservation, treatment, recycling or reuse project;
7. to the eastern New Mexico water utility authority in Curry, Quay and Roosevelt counties for a water storage, conveyance and delivery project;
8. to the city of Tucumcari in Quay county for a water storage, conveyance and delivery project;
9. to the city of Gallup in McKinley county for a water storage, conveyance and delivery project;
10. to the city of Eunice in Lea county for a water storage, conveyance and delivery project;
11. to El Valle de Los Ranchos water and sanitation district in Taos county for a water storage, conveyance and delivery project;
12. to the Winterhaven mutual domestic water consumers association in Dona Ana county for a water storage, conveyance and delivery project;
13. to the Dona Ana mutual domestic water consumers association in Dona Ana county for a water storage, conveyance and delivery project;
14. to the town of Carrizozo in Lincoln county for a water storage, conveyance and delivery project;

15. to the town of Springer in Colfax county for a water storage, conveyance and delivery project;
16. to the Hanover mutual domestic water consumers association in Grant county for a water storage, conveyance and delivery project;
17. to the greater Glorieta mutual domestic water consumers association in Santa Fe county for a water storage, conveyance and delivery project;
18. to the city of Truth or Consequences in Sierra county for a water storage, conveyance and delivery project;
19. to the city of Deming in Luna county for a water storage, conveyance and delivery project;
20. to the city of Las Vegas in San Miguel county for a water storage, conveyance and delivery project;
21. to El Creston mutual domestic water consumers association in San Miguel county for a water storage, conveyance and delivery project;
22. to the Ancones mutual domestic water consumers association in Rio Arriba county for a water storage, conveyance and delivery project;
23. to the Pueblo of Santa Clara in Rio Arriba county for a water storage, conveyance and delivery project;
24. to the village of Taos ski valley in Taos county for a water storage, conveyance and delivery project;
25. to El Valle water alliance in San Miguel county for a water storage, conveyance and delivery project;
26. to the Cuatro Villas mutual domestic water users association in Santa Fe county for a water storage, conveyance and delivery project;
27. to the village of Hatch in Dona Ana county for a water storage, conveyance and delivery project;
28. to Los Ojos mutual domestic water consumers association in Rio Arriba county for a water storage, conveyance and delivery project;
29. to the Union del Llano mutual domestic water consumers association in Rio Arriba county for a water storage, conveyance and delivery project;

30. to El Salto water mutual domestic water consumers association in Taos county for a water storage, conveyance and delivery project;

31. to McKinley county for a water storage, conveyance and delivery project;

32. to McKinley county for an additional water storage, conveyance and delivery project;

33. to the city of Elephant Butte in Sierra county for a water storage, conveyance and delivery project;

34. to the village of Capitan in Lincoln county for a water storage, conveyance and delivery project;

35. to the greater Chimayo mutual domestic water consumers association in Santa Fe county for a water storage, conveyance and delivery project;

36. to the village of San Jon in Quay county for a water storage, conveyance and delivery project;

37. to the city of Alamogordo in Otero county for a water storage, conveyance and delivery project;

38. to the Nogal mutual domestic water consumers association in Lincoln county for a water storage, conveyance and delivery project;

39. to the Blanco mutual domestic water consumers association in San Juan county for a water storage, conveyance and delivery project;

40. to the Santa Cruz mutual domestic water consumers association in Rio Arriba county for a water storage, conveyance and delivery project;

41. to the Eldorado area water and sanitation district in Santa Fe county for a water storage, conveyance and delivery project;

42. to the Eldorado area water and sanitation district in Santa Fe county for an additional water storage, conveyance and delivery project;

43. to the Eldorado area water and sanitation district in Santa Fe county for an additional water storage, conveyance and delivery project;

44. to the Eldorado area water and sanitation district in Santa Fe county for an additional water storage, conveyance and delivery project;

45. to Santa Fe county for a water storage, conveyance and delivery project;

46. to the village of Ruidoso in Lincoln county for a water storage, conveyance and delivery project;

47. to the village of Ruidoso in Lincoln county for an additional water storage, conveyance and delivery project;

48. to the lower Des Montes mutual domestic water consumers association in Taos county for a water storage, conveyance and delivery project;

49. to the city of Belen in Valencia county for a water storage, conveyance and delivery project;

50. to the town of Estancia in Torrance county for a water storage, conveyance and delivery project;

51. to the city of Santa Rosa in Guadalupe county for a water storage, conveyance and delivery project;

52. to the village of Eagle Nest in Colfax county for a water storage, conveyance and delivery project;

53. to the city of Moriarty in Torrance county for a water storage, conveyance and delivery project;

54. to the Sierra Vista mutual domestic water consumers association in Bernalillo county for a water storage, conveyance and delivery project;

55. to the Pueblo of Laguna in Cibola county for a water storage, conveyance and delivery project;

56. to the Canadian River soil and water conservation district in Quay county for a watershed restoration and management project;

57. to the Ute Creek soil and water conservation district in Harding county for a watershed restoration and management project;

58. to the Claunch-Pinto soil and water conservation district in Bernalillo, Santa Fe and Torrance counties for a watershed restoration and management project;

59. to the Claunch-Pinto soil and water conservation district in Bernalillo, Rio Arriba, Santa Fe and Valencia counties for a watershed restoration and management project;

60. to the Upper Hondo soil and water conservation district in Lincoln county for a watershed restoration and management project;

61. to the East Torrance soil and water conservation district in Torrance county for a watershed restoration and management project;

62. to the acequia de la Otra Banda in Santa Fe county for a watershed restoration and management project;

63. to the Pueblo of Cochiti in Sandoval county for a flood preservation project;

64. to the Pueblo of Cochiti in Sandoval county for a watershed restoration and management project; and

65. to Valley Estates mutual water and sewer association in Rio Arriba county for a water storage, conveyance and delivery project.

## **Chapter 24 Section 2 Laws 2013**

SECTION 2. AUTHORIZATION OF QUALIFYING ACEQUIA WATER PROJECTS.--Pursuant to the provisions of Section 72-4A-9.1 NMSA 1978, the legislature authorizes the New Mexico finance authority to make grants from the acequia project fund to the following qualified entities for the following qualifying acequia water projects on terms and conditions established by the water trust board and the New Mexico finance authority:

1. to the acequia de la Otra Banda in Santa Fe county for an acequia project;

2. to the Canoncito y Encinal acequia in Mora county for an acequia project;

3. to the Rainsville north and south acequia in Mora county for an acequia project;

4. to the acequia del Barranco de Jacona in Santa Fe county for an acequia project;

5. to the acequia de Jose Gabriel Ortiz in Santa Fe county for an acequia project;

6. to the acequia de la Plaza in Rio Arriba county for an acequia project; and

7. to the Heredia community ditch in Grant county for an acequia project.



## **Chapter 24 Section 3 Laws 2013**

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

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Senate Bill 228, aa, w/ec

Approved March 21, 2013

## **LAWS 2013, CHAPTER 25**

AN ACT

RELATING TO CHILDREN; AMENDING SECTIONS OF THE CHILDREN'S TRUST FUND ACT TO EXPAND THE FUND'S FUNCTIONS.

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

## **Chapter 25 Section 1 Laws 2013**

SECTION 1. Section 24-19-2 NMSA 1978 (being Laws 1986, Chapter 15, Section 2, as amended) is amended to read:

"24-19-2. PURPOSE.--It is the purpose of the Children's Trust Fund Act to:

A. be a statewide resource that advocates for and educates about the prevention of child abuse and neglect;

B. provide the means to develop innovative children's projects and programs that address one or more of the following:

(1) preventing abuse and neglect of children;

(2) providing medical, psychological and other appropriate treatment for children who are victims of abuse or neglect; and

(3) developing community-based services aimed at the prevention and treatment of child abuse and neglect; and

C. manage the next generation fund projects and programs."

## **Chapter 25 Section 2 Laws 2013**

SECTION 2. Section 24-19-3 NMSA 1978 (being Laws 1986, Chapter 15, Section 3, as amended) is amended to read:

"24-19-3. DEFINITIONS.--As used in the Children's Trust Fund Act:

- A. "board" means the children's trust fund board of trustees;
- B. "children's projects and programs" means projects and programs that provide services to children, including services to their families, consistent with the purposes of the Children's Trust Fund Act;
- C. "council" means the next generation council;
- D. "department" means the children, youth and families department;
- E. "next generation fund projects and programs" means projects and programs funded from the next generation fund that meet the requirements for funding provided in Section 24-19-10 NMSA 1978; and
- F. "secretary" means the secretary of children, youth and families."

## **Chapter 25 Section 3 Laws 2013**

SECTION 3. Section 24-19-4 NMSA 1978 (being Laws 1986, Chapter 15, Section 4, as amended) is amended to read:

"24-19-4. CHILDREN'S TRUST FUND CREATED--EXPENDITURE LIMITATIONS.--

A. The "children's trust fund" is created in the state treasury. The children's trust fund may be used for any purpose enumerated in Section 24-19-2 NMSA 1978. All income received from investment of the fund shall be credited to the fund. No money appropriated to the fund or otherwise accruing to it shall be disbursed in any manner except as provided in the Children's Trust Fund Act.

B. The children's trust fund shall be administered by the department for the purpose of funding children's projects and programs from the income received from investment of the fund; provided that none of the income shall be used for capital expenditures. All income from investment of the fund is appropriated to the department for that purpose or for administrative costs as provided in Subsection C of this section. Grants, distributions and transfers of money from the fund shall be made only from the income received from investment of the fund and from other sources pursuant to Section 24-19-9 NMSA 1978, including federal funds, private donations, bequests and other public and private grants.

C. Up to ten percent of the income received from investment of the children's trust fund may be expended for costs of administration of the fund and administration of the children's projects and programs undertaken with fund money. Administrative costs include per diem and mileage, staff salaries and expenses related to administration of the fund.

D. Disbursements from income credited to the children's trust fund and appropriated to the department shall be made only upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of children, youth and families or the secretary's designated representative to fund children's projects and programs approved by the board.

E. One-half of the money transferred to the children's trust fund pursuant to Section 40-1-11 NMSA 1978 and all of the money transferred to the children's trust fund pursuant to Section 66-3-420 NMSA 1978 shall be deemed income received from investment of the fund."

## **Chapter 25 Section 4 Laws 2013**

SECTION 4. Section 24-19-5 NMSA 1978 (being Laws 1986, Chapter 15, Section 5, as amended) is amended to read:

"24-19-5. CHILDREN'S TRUST FUND BOARD OF TRUSTEES CREATED--MEMBERS.--

A. There is created the "children's trust fund board of trustees" consisting of thirteen nonpartisan members, not employees of the state, knowledgeable in the area of children's programs and representative of multiple, diverse perspectives within the state, who shall be appointed by the governor with the advice and consent of the senate. Of these members, at least two shall be individuals of recognized standing in the field of children's services. On the initial board, two members shall be appointed for terms ending on July 1, 1988; two members shall be appointed for terms ending on July 1, 1989; and three members shall be appointed for terms ending on July 1, 1990. Thereafter, appointments shall be made for terms of four years. Vacancies of appointed members shall be filled by appointment by the governor for the unexpired term.

B. The board shall select a person from its membership to serve as chair."

## **Chapter 25 Section 5 Laws 2013**

SECTION 5. Section 24-19-7 NMSA 1978 (being Laws 1986, Chapter 15, Section 7, as amended) is amended to read:

"24-19-7. DUTIES OF THE BOARD.--At least four times a year, the board shall meet upon the call of its chair to take all action necessary or proper for the administration of the Children's Trust Fund Act. The board shall also approve or

disapprove proposals submitted and shall base its decision on the proposals' merit and feasibility, the best interest of the beneficiaries of the children's project or program proposals and the capacity of the children's projects' or programs' success or failure for evaluation."

## **Chapter 25 Section 6 Laws 2013**

SECTION 6. Section 24-19-8 NMSA 1978 (being Laws 1986, Chapter 15, Section 8, as amended) is amended to read:

"24-19-8. CHILDREN, YOUTH AND FAMILIES DEPARTMENT--ADDITIONAL POWERS AND DUTIES.--The department shall:

A. promulgate rules approved by the board;

B. transmit proposals for children's projects and programs to the board and next generation fund projects and programs to the council for evaluation and report on the proposals;

C. enter into contracts approved by the board to carry out the proposed children's project or program or next generation fund project or program, provided that:

(1) not more than fifty percent of the total funds distributed for any one fiscal year from the children's trust fund shall be allocated for any single children's project or program;

(2) not more than fifty percent of the total funds distributed for any one fiscal year from the next generation fund shall be allocated for any single next generation fund project or program;

(3) each children's project or program shall be funded for a specified period, not to exceed four years, and funds shall not be used for maintenance of ongoing or permanent efforts extending beyond the period specified, except that a children's project or program may be extended once for a period not to exceed the original, and the board shall approve rules providing procedures and guidelines for the preparation and approval of proposals for children's projects and programs and providing for any other matter the board deems necessary for the administration of the Children's Trust Fund Act; and

(4) no contract shall be entered into if the department finds it contrary to law;

D. furnish the board and the council with the necessary technical and clerical assistance;

E. adopt standard contract provisions; and

F. report at least annually to the governor and the legislature on the progress of its work and the results of children's projects and programs and next generation fund projects and programs."

## **Chapter 25 Section 7 Laws 2013**

SECTION 7. Section 24-19-9 NMSA 1978 (being Laws 1986, Chapter 15, Section 9, as amended) is amended to read:

"24-19-9. ACCEPTANCE OF FEDERAL FUNDS AND PRIVATE DONATIONS.-- To carry out the provisions of the Children's Trust Fund Act, the department and the children's trust fund may accept any federal matching funds or grants for children's projects and programs or next generation fund projects and programs. The department may accept donations and bequests from private sources for deposit in the children's trust fund or the next generation fund, as applicable. The board shall distribute these funds as specified by the granting entity or donor."

## **Chapter 25 Section 8 Laws 2013**

SECTION 8. Section 24-19-10 NMSA 1978 (being Laws 2005, Chapter 65, Section 5) is amended to read:

"24-19-10. NEXT GENERATION FUND--CREATED--EXPENDITURE LIMITATIONS.--

A. The "next generation fund" is created in the state treasury. The next generation fund may be used for any purpose enumerated in Section 24-19-2 NMSA 1978. All income received from investment of the fund shall be credited to the fund. No money appropriated to the fund or otherwise accruing to it shall be disbursed in any manner except as provided in the Children's Trust Fund Act.

B. The fund shall be used to fund next generation fund projects and programs that are approved by the board. Next generation fund projects and programs shall:

- (1) provide positive child and youth development activities that support physical, mental and social well-being;
- (2) promote strong, healthy families and help to prevent child abuse and neglect;
- (3) promote community service, leadership and citizenship; and
- (4) provide community coordination of child and youth development programming across the age zero to twenty-four developmental continuum.

C. The next generation fund shall be administered by the department, and the income from investment of the fund is appropriated to the department to carry out the purposes of the fund. None of the income shall be used for capital expenditures. Grants, distributions and transfers of money from the fund shall be made only from the income received from investment of the fund.

D. Up to ten percent of the income received from investment of the fund may be expended for costs of administering the fund and next generation projects and programs. Administrative costs include per diem and mileage, staff salaries and expenses related to administration of the fund.

E. Disbursements from the fund shall be made by warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of children, youth and families or the secretary's designated representative."

## **Chapter 25 Section 9 Laws 2013**

SECTION 9. Section 24-19-11 NMSA 1978 (being Laws 2005, Chapter 65, Section 7) is amended to read:

"24-19-11. NEXT GENERATION COUNCIL--CREATED--MEMBERSHIP--PURPOSE.--

A. The "next generation council" is created. The board shall appoint ten members, at least two from each federal congressional district, who are not employees of the state and who are knowledgeable in the area of positive child and youth development programs. Members serve at the pleasure of the board. Members shall select a member to serve as chair of the council. Members are entitled to per diem and mileage as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

B. The council shall evaluate proposed next generation fund projects and programs and make funding recommendations to the board. The board shall approve or disapprove next generation fund projects and programs for funding and transmit those proposals to the department."

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Senate Bill 297

Approved March 21, 2013

## **LAWS 2013, CHAPTER 26**

AN ACT

RELATING TO COURTS; PROVIDING THAT MAGISTRATES WHO HOLD OFFICE IN DISTRICTS WITH A POPULATION OF MORE THAN TWO HUNDRED THOUSAND PERSONS IN THE LAST FEDERAL DECENNIAL CENSUS MAY BE ELECTED IN THAT DISTRICT AS LONG AS THERE IS NO BREAK IN SERVICE.

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

### **Chapter 26 Section 1 Laws 2013**

SECTION 1. Section 35-2-1 NMSA 1978 (being Laws 1968, Chapter 62, Section 41, as amended) is amended to read:

"35-2-1. QUALIFICATION--PERSONAL QUALIFICATIONS.--

A. Each magistrate shall be a qualified elector of, and reside in, the magistrate district for which the magistrate is elected or appointed.

B. No person is eligible for election or appointment to the office of magistrate unless the person has graduated from high school or has attained the equivalent of a high school education as indicated by possession of a certificate of equivalency issued by the public education department based upon the record made on the general educational development test.

C. In magistrate districts with a population of more than two hundred thousand persons in the last federal decennial census, no person is eligible for election to the office of magistrate unless the person:

(1) is a member of the bar of this state and licensed to practice law in this state; or

(2) holds the office of magistrate in that district when the federal decennial census is published, as long as there is no break in service.

D. In magistrate districts with a population of more than two hundred thousand persons in the last federal decennial census, no person is eligible for appointment to the office of magistrate unless the person is a member of the bar of this state and licensed to practice law in this state.

E. A person holding the office of magistrate shall not engage in the private practice of law during tenure in office."

### **Chapter 26 Section 2 Laws 2013**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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House Bill 151

Approved March 21, 2013

## **LAWS 2013, CHAPTER 27**

AN ACT

RELATING TO TAXATION; PROVIDING FOR EQUAL TREATMENT AND ADMINISTRATION UNDER THE TAX ADMINISTRATION ACT; EXTENDING DEADLINES; ALLOWING INTEREST TO APPLY TO LONGER PERIODS; ALLOWING THE SECRETARY OF TAXATION AND REVENUE TO ABATE CERTAIN ASSESSMENTS OF TAXES PROTESTED; PROVIDING FOR EQUITABLE RECOUPMENT; MAKING TECHNICAL CORRECTIONS; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2007.

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

### **Chapter 27 Section 1 Laws 2013**

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. If any adjustment is made in the basis for computation of any federal tax as a result of an audit by the internal revenue service or the filing of an amended federal return changing a prior election or making any other change for which federal approval is required by the Internal Revenue Code, the taxpayer affected shall, within one hundred eighty days of final determination of the adjustment, file an amended



return with the department. Payment of any additional tax due shall accompany the return.

D. 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.

E. 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 under 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.

F. As used in this section, "final determination" means:

(1) the taxpayer has:

(a) made payment on any additional income tax liability resulting from the federal audit; and

(b) not filed a petition for redetermination or claim for refund for the portions of the audit on which payment was made;

(2) the taxpayer has received a refund from the United States department of the treasury resulting from the federal audit;

(3) the taxpayer has signed federal form 870 or other internal revenue service form consenting to the deficiency or accepting any overassessment;

(4) the taxpayer's time period for filing a federal petition for redetermination to the United States tax court has expired;

(5) the taxpayer enters into a closing agreement with the internal revenue service as provided in Section 7121 of the Internal Revenue Code; or

(6) a decision from the United States tax court, United States district court, United States court of appeals, United States court of claims or United States supreme court becomes final."

## **Chapter 27 Section 2 Laws 2013**

SECTION 2. Section 7-1-16 NMSA 1978 (being Laws 1965, Chapter 248, Section 19, as amended) is amended to read:

"7-1-16. DELINQUENT TAXPAYER.--

A. Except as provided in Subsection D of this section, any taxpayer to whom taxes have been assessed as provided in Section 7-1-17 NMSA 1978 or upon whom demand for payment has been made as provided in Section 7-1-63 NMSA 1978 who does not within ninety days after the date of assessment or demand for payment make payment, protest the assessment or demand for payment as provided by Section 7-1-24 NMSA 1978 or furnish security for payment as provided by Section 7-1-54 NMSA 1978 becomes a delinquent taxpayer and remains such until:

- (1) payment of the total amount of all such taxes is made;
- (2) security is furnished for payment; or
- (3) no part of the assessment remains unabated.

B. Any taxpayer who fails to provide security as required by Subsection D of Section 7-1-54 NMSA 1978 shall be deemed to be a delinquent taxpayer.

C. If a taxpayer files a protest as provided in Section 7-1-24 NMSA 1978, the taxpayer nevertheless becomes a delinquent taxpayer upon failure of the taxpayer to appear, in person or by authorized representative, at the hearing set or upon failure to perfect an appeal from any decision or part thereof adverse to the taxpayer to the next higher appellate level, as provided in that section, unless the taxpayer makes payment of the total amount of all taxes assessed and remaining unabated or furnishes security for payment.

D. A taxpayer does not become a delinquent taxpayer if the taxpayer has been issued an assessment as a result of a managed audit but is still within the allowed time period to pay the tax due as specified in Paragraph (4) of Subsection A of Section 7-1-67 NMSA 1978."

## **Chapter 27 Section 3 Laws 2013**

SECTION 3. 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 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 an amended return is required by Subsection C 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."

## **Chapter 27 Section 4 Laws 2013**

SECTION 4. Section 7-1-19 NMSA 1978 (being Laws 1971, Chapter 21, Section 1, as amended) is amended to read:

"7-1-19. LIMITATION OF ACTIONS.--No action or proceeding shall be brought to collect taxes administered under the provisions of the Tax Administration Act and due under an assessment or notice of the assessment of taxes after the later of either ten years from the date of such assessment or notice or, with respect to undischarged

amounts in a bankruptcy proceeding, one year after the later of the issuance of the final order or the date of the last scheduled payment."

## **Chapter 27 Section 5 Laws 2013**

SECTION 5. Section 7-1-23 NMSA 1978 (being Laws 1965, Chapter 248, Section 25, as amended) is amended to read:

"7-1-23. DISPUTING LIABILITIES--ELECTION OF REMEDIES.--Any taxpayer must elect to dispute the taxpayer's liability for the payment of taxes either by protesting the assessment thereof as provided in Section 7-1-24 NMSA 1978 without making payment or by claiming a refund thereof as provided in Section 7-1-26 NMSA 1978 after making payment. The pursuit of one of the two remedies described herein constitutes an unconditional waiver of the right to pursue the other."

## **Chapter 27 Section 6 Laws 2013**

SECTION 6. Section 7-1-24 NMSA 1978 (being Laws 1965, Chapter 248, Section 26, as amended) is amended to read:

"7-1-24. DISPUTING LIABILITIES--ADMINISTRATIVE PROTEST.--

A. Any taxpayer may dispute:

- (1) the assessment to the taxpayer of any amount of tax;
- (2) the application to the taxpayer of any provision of the Tax Administration Act except the issuance of a subpoena or summons; or
- (3) the denial of or failure either to allow or to deny a:
  - (a) credit or rebate; or
  - (b) claim for refund made in accordance with Section 7-1-26 NMSA 1978.

B. The taxpayer may dispute a matter described in Subsection A of this section by filing with the secretary a written protest. Every protest shall identify the taxpayer and the tax credit, rebate, property or provision of the Tax Administration Act involved and state the grounds for the taxpayer's protest and the affirmative relief requested. The statement of grounds for protest shall specify individual grounds upon which the protest is based and a summary statement of the evidence, if any, expected to be produced supporting each ground asserted; provided that the taxpayer may supplement the statement at any time prior to ten days before any hearing conducted on the protest pursuant to Section 7-1-24.1 NMSA 1978 or, if a scheduling order has been issued, in accordance with the scheduling order. The secretary may, in

appropriate cases, provide for an informal conference before setting a hearing of the protest or acting on any claim for refund. In the case of an assessment of tax by the department, a protest may be filed without making payment of the amount assessed.

C. Any protest by a taxpayer shall be filed within ninety days of the date of the mailing to or service upon the taxpayer by the department of the notice of assessment or other peremptory notice or demand, the date of mailing or filing a return, the date of the application to the taxpayer of the applicable provision of the Tax Administration Act, the date of denial of a claim pursuant to Section 7-1-24.1 NMSA 1978 or the last date upon which the department was required to take action on the claim but failed to take action. If a protest is not filed within the time required, the secretary may proceed to enforce collection of any tax if the taxpayer is delinquent within the meaning of Section 7-1-16 NMSA 1978. The fact that the department did not mail the assessment or other peremptory notice or demand by certified or registered mail or otherwise demand and receive acknowledgment of receipt by the taxpayer shall not be deemed to demonstrate the taxpayer's inability to protest within the required time.

D. No proceedings other than those to enforce collection of any amount assessed as tax and to protect the interest of the state by injunction, as provided in Sections 7-1-31, 7-1-33, 7-1-34, 7-1-40, 7-1-53, 7-1-56 and 7-1-58 NMSA 1978, are stayed by timely filing of a protest under this section.

E. Nothing in this section shall be construed to authorize any criminal proceedings hereunder or to authorize an administrative protest of the issuance of a subpoena or summons."

## **Chapter 27 Section 7 Laws 2013**

SECTION 7. A new section of the Tax Administration Act, Section 7-1-24.1 NMSA 1978, is enacted to read:

"7-1-24.1. DISPUTING LIABILITIES--CONDUCT OF HEARINGS--HEARING OFFICER.--

A. Upon timely receipt of a protest filed pursuant to Section 7-1-24 NMSA 1978, the department or a hearing officer shall set a date for a hearing within ninety days.

B. A hearing officer shall be designated by the secretary to conduct the hearing. A taxpayer may appear at a hearing on the taxpayer's own behalf or may be represented by a bona fide employee, an attorney, a certified public accountant, a registered public accountant or, with respect only to tax imposed pursuant to the Income Tax Act, a person who is an enrolled agent for federal income tax purposes. If the department and the taxpayer agree, the hearing may be conducted via videoconference. A hearing shall not be open to the public except upon request of the

taxpayer. A hearing officer may postpone or continue a hearing at the hearing officer's discretion.

C. A hearing officer shall not engage or participate as an employee of the department in the enforcement or formulation of general tax policy, other than to conduct hearings. A taxpayer may request that the secretary determine whether a hearing officer engaged or participated in the enforcement or formulation of general tax policy and whether that engagement or participation affects the hearing officer's impartiality in a particular matter. The secretary may designate another hearing officer for the matter to avoid actual or apparent prejudice.

D. A hearing officer shall not engage in ex-parte communications concerning the substantive issues of any matter that has been protested while that matter is still pending. If the secretary determines that a hearing officer has engaged in prohibited ex-parte communications, the secretary shall designate another hearing officer for that matter.

E. The rules of evidence shall not apply in a hearing. The hearing officer may require reasonable substantiation of statements or records tendered, the accuracy or truth of which is in reasonable doubt, to rule on the admissibility of evidence. A taxpayer may request a written ruling on a contested question of evidence in a matter in which the taxpayer has filed a written protest and for which that protest is pending.

F. In hearings before a hearing officer, the Rules of Civil Procedure for the District Courts shall not apply. The hearing officer shall conduct a hearing to allow the ample and fair presentation of both complaints and defenses. The hearing officer shall hear arguments, permit discovery, entertain and dispose of motions, require written expositions of the case as the circumstances justify and render a decision in accordance with the law and the evidence presented and admitted. A taxpayer may request a written ruling on any contested question of procedure in a matter in which the taxpayer has filed a written protest and for which that protest is pending.

G. In the case of a hearing of any protest, the hearing officer shall make and preserve a complete record of the proceedings. At the beginning of the hearing, the hearing officer shall inform the taxpayer of the taxpayer's right to representation. The hearing officer, within thirty days of the conclusion of the hearing, shall inform the protestant in writing of the decision and of the protestant's right to, and the requirements for perfection of, an appeal from the decision to the court of appeals and of the consequences of a failure to appeal. The written decision shall embody an order granting or denying the relief requested or granting or denying a part of the relief requested as appropriate.

H. A taxpayer with two or more protests containing related issues may request that the protests be combined and heard jointly. The hearing officer shall grant the request to combine protests unless it would create an unreasonable burden on the department."

## Chapter 27 Section 8 Laws 2013

SECTION 8. 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. Any person who believes that an amount of tax has been paid by or withheld from that person in excess of that for which the person was liable, who has been denied any credit or rebate claimed or who claims a prior right to property in the possession of the department pursuant to a levy made under authority of Sections 7-1-31 through 7-1-34 NMSA 1978 may claim a refund by directing to the secretary, within the time limited by the provisions of Subsections D and E of this section, a written claim for refund. Except as provided in Subsection I of this section, a refund claim shall include:

- (1) the taxpayer's name, address and identification number;
- (2) the type of tax for which a refund is being claimed, the credit or rebate denied or the property levied upon;
- (3) the sum of money or other property being claimed;
- (4) with respect to refund, the period for which overpayment was made; and
- (5) a brief statement of the facts and the law on which the claim is based, which may be referred to as the "basis for the refund".

B. The secretary or the secretary's delegate may allow the claim in whole or in part or may deny the claim.

(1) If the claim is denied in whole or in part in writing, no claim may be refiled with respect to that which was denied, but the person, within ninety days after either the mailing or delivery of the denial of all or any part of the claim, may elect to pursue one, but not more than one, of the remedies in Subsection C of this section.

(2) If the department has neither granted nor denied any portion of a claim for refund within one hundred twenty days of the date the claim was mailed or delivered to the department, the person may refile it within the time limits set forth in Subsection D of this section or may within ninety days elect to pursue one, but only one, of the remedies in Subsection C of this section. After the expiration of the two hundred ten days from the date the claim was mailed or delivered to the department, the department may not approve or disapprove the claim unless the person has pursued one of the remedies under Subsection C of this section.

C. A person may elect to pursue one, but only one, of the remedies in Paragraphs (1) and (2) of this subsection. In any case, if a person does timely pursue more than one remedy, the person shall be deemed to have elected the first remedy invoked. The remedies are as follows:

(1) the person may direct to the secretary, pursuant to the provisions of Section 7-1-24 NMSA 1978, a written protest against the denial of, or failure to either allow or deny the claim or portion of the claim; or

(2) the person may commence a civil action in the district court for Santa Fe county by filing a complaint setting forth the circumstance of the claimed overpayment, denied credit or rebate or denial of a prior right to property levied upon by the department alleging that on account thereof the state is indebted to the plaintiff in the amount or property stated, together with any interest allowable, demanding the refund to the plaintiff of that amount or property and reciting the facts of the claim for refund. The plaintiff or the secretary may appeal from any final decision or order of the district court to the court of appeals.

D. Except as otherwise provided in Subsection E of this section, no credit or refund of any amount may be allowed or made to any person unless as the result of a claim made by that person as provided in this section:

(1) within three years of the end of the calendar year in which:

(a) the payment was originally due or the overpayment resulted from an assessment by the department pursuant to Section 7-1-17 NMSA 1978, whichever is later;

(b) the final determination of value occurs with respect to any overpayment that resulted from a disapproval by any agency of the United States or the state of New Mexico or any court of increase in value of a product subject to taxation under the Oil and Gas Severance Tax Act, the Oil and Gas Conservation Tax Act, the Oil and Gas Emergency School Tax Act, the Oil and Gas Ad Valorem Production Tax Act or the Natural Gas Processors Tax Act;

(c) property was levied upon pursuant to the provisions of the Tax Administration Act; or

(d) an overpayment of New Mexico tax resulted from: 1) an internal revenue service audit adjustment or a federal refund paid due to an adjustment of an audit by the internal revenue service or an amended federal return; or 2) making a change to a federal return for which federal approval is required by the Internal Revenue Code;

(2) when an amount of a claim for credit under the provisions of the Investment Credit Act, Laboratory Partnership with Small Business Tax Credit Act or



Technology Jobs Tax Credit Act or for the rural job tax credit pursuant to Section 7-2E-1.1 NMSA 1978 or similar credit has been denied, the taxpayer may claim a refund of the credit no later than one year after the date of the denial;

(3) when a taxpayer under audit by the department has signed a waiver of the limitation on assessments on or after July 1, 1993 pursuant to Subsection F of Section 7-1-18 NMSA 1978, the taxpayer may file a claim for refund of the same tax paid for the same period for which the waiver was given, until a date one year after the later of the date of the mailing of an assessment issued pursuant to the audit, the date of the mailing of final audit findings to the taxpayer or the date a proceeding is begun in court by the department with respect to the same tax and the same period;

(4) if the payment of an amount of tax was not made within three years of the end of the calendar year in which the original due date of the tax or date of the assessment of the department occurred, a claim for refund of that amount of tax can be made within one year of the date on which the tax was paid; or

(5) when a taxpayer has been assessed a tax on or after July 1, 1993 under Subsection B, C or D of Section 7-1-18 NMSA 1978 and when the assessment applies to a period ending at least three years prior to the beginning of the year in which the assessment was made, the taxpayer may claim a refund for the same tax for the period of the assessment or for any period following that period within one year of the date of the assessment unless a longer period for claiming a refund is provided in this section.

E. No credit or refund shall be allowed or made to any person claiming a refund of gasoline tax under Section 7-13-11 NMSA 1978 unless notice of the destruction of the gasoline was given the department within thirty days of the actual destruction and the claim for refund is made within six months of the date of destruction. No credit or refund shall be allowed or made to any person claiming a refund of gasoline tax under Section 7-13-17 NMSA 1978 unless the refund is claimed within six months of the date of purchase of the gasoline and the gasoline has been used at the time the claim for refund is made.

F. If as a result of an audit by the department or a managed audit covering multiple periods an overpayment of tax is found in any period under the audit, that overpayment may be credited against an underpayment of the same tax found in another period under audit pursuant to Section 7-1-29 NMSA 1978, provided that the taxpayer files a claim for refund for the overpayments identified in the audit.

G. Any refund of tax paid under any tax or tax act administered under Subsection B of Section 7-1-2 NMSA 1978 may be made, at the discretion of the department, in the form of credit against future tax payments if future tax liabilities in an amount at least equal to the credit amount reasonably may be expected to become due.

H. For the purposes of this section, the term "oil and gas tax return" means a return reporting tax due with respect to oil, natural gas, liquid hydrocarbons, carbon dioxide, helium or nonhydrocarbon gas pursuant to the Oil and Gas Severance Tax Act, the Oil and Gas Conservation Tax Act, the Oil and Gas Emergency School Tax Act, the Oil and Gas Ad Valorem Production Tax Act, the Natural Gas Processors Tax Act or the Oil and Gas Production Equipment Ad Valorem Tax Act.

I. The filing of a fully completed original income tax return, corporate income tax return, corporate income and franchise tax return, estate tax return or special fuel excise tax return that shows a balance due the taxpayer or a fully completed amended income tax return, an amended corporate income tax return, an amended corporate income and franchise tax return, an amended estate tax return, an amended special fuel excise tax return or an amended oil and gas tax return that shows a lesser tax liability than the original return constitutes the filing of a claim for refund for the difference in tax due shown on the original and amended returns."

## **Chapter 27 Section 9 Laws 2013**

SECTION 9. Section 7-1-28 NMSA 1978 (being Laws 1965, Chapter 248, Section 30, as amended) is amended to read:

"7-1-28. AUTHORITY FOR ABATEMENTS OF ASSESSMENTS OF TAX.--

A. In response to a written protest against an assessment, submitted in accordance with the provisions of Section 7-1-24 NMSA 1978, but before any court acquires jurisdiction of the matter, or when a "notice of assessment of taxes" is incorrect, the secretary or the secretary's delegate may abate any part of an assessment determined by the secretary or the secretary's delegate to have been incorrectly, erroneously or illegally made. An abatement in the amount of 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 abatements 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, abatements of gasoline tax made under Section 7-13-17 NMSA 1978 and abatements of cigarette tax made under 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 any federal court, from which order, appeal or review is not successfully taken by the department, adjudging that any person is not required to pay any portion of tax assessed to that person, the secretary or the secretary's delegate shall cause that amount of the assessment to be abated.

C. Pursuant to a compromise of taxes agreed to by the secretary and according to the terms of the closing agreement formalizing the compromise, the

secretary or the secretary's delegate shall cause the abatement of the appropriate amount of any assessment of tax.

D. The secretary or the secretary's delegate shall cause the abatement of the amount of an assessment of tax that is equal to the amount of fee paid to or retained by an out-of-state attorney or collection agency from a judgment or the amount collected by the attorney or collection agency pursuant to Section 7-1-58 NMSA 1978.

E. Records of abatements 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 abatement.

F. In response to a timely protest pursuant to Section 7-1-24 NMSA 1978 of an assessment by the department and notwithstanding any other provision of the Tax Administration Act, the secretary or the secretary's delegate may abate that portion of an assessment of tax, 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 protest pursuant to Section 7-1-24 NMSA 1978 of the department's assessment may be made by the taxpayer to whom the assessment was issued or by the other person who claims to have previously paid the tax on behalf of the taxpayer."

## **Chapter 27 Section 10 Laws 2013**

SECTION 10. 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 creditor 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 or rebate or made an overpayment of tax, the secretary shall authorize the payment to the person of the amount thereof.

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 I 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."

## **Chapter 27 Section 11 Laws 2013**

SECTION 11. Section 7-1-67 NMSA 1978 (being Laws 1965, Chapter 248, Section 68, as amended by Laws 2007, Chapter 45, Section 2 and by Laws 2007, Chapter 262, Section 4) is amended to read:

### **"7-1-67. INTEREST ON DEFICIENCIES.--**

A. If a tax imposed is not paid on or before the day on which it becomes due, interest shall be paid to the state on that amount from the first day following the day on which the tax becomes due, without regard to any extension of time or installment agreement, until it is paid, except that:

(1) for income tax imposed on a member of the armed services of the United States serving in a combat zone under orders of the president of the United States, interest shall accrue only for the period beginning the day after any applicable extended due date if the tax is not paid;

(2) if the amount of interest due at the time payment is made is less than one dollar (\$1.00), then no interest shall be due;

(3) if demand is made for payment of a tax, including accrued interest, and if the tax is paid within ten days after the date of the demand, no interest on the amount paid shall be imposed for the period after the date of the demand;

(4) if a managed audit is completed by the taxpayer on or before the date required, as provided in the agreement for the managed audit, and payment of any tax found to be due is made in full within one hundred eighty days of the date the secretary has mailed or delivered an assessment for the tax to the taxpayer, no interest shall be due on the assessed tax;

(5) when, as the result of an audit or a managed audit, an overpayment of a tax is credited against an underpayment of tax pursuant to Section 7-

1-29 NMSA 1978, interest shall accrue from the date the tax was due until the tax is deemed paid;

(6) if the department does not issue an assessment for the tax program and period within the time provided in Subsection D of Section 7-1-11.2 NMSA 1978, interest shall be paid from the first day following the day on which the tax becomes due until the tax is paid, excluding the period between either:

(a) the one hundred eightieth day after giving a notice of outstanding records or books of account and the date of the assessment of the tax; or

(b) the ninetieth day after the expiration of the additional time requested by the taxpayer to comply pursuant to Section 7-1-11.2 NMSA 1978, if such request was granted, and the date of the assessment of the tax; and

(7) if the taxpayer was not provided with proper notices as required in Section 7-1-11.2 NMSA 1978, interest shall be paid from the first day following the day on which the tax becomes due until the tax is paid, excluding the period between one hundred eighty days prior to the date of assessment and the date of assessment.

B. Interest due to the state under Subsection A or D of this section shall be at the underpayment rate established for individuals pursuant to Section 6621 of the Internal Revenue Code computed on a daily basis; provided that if a different rate is specified by a compact or other interstate agreement to which New Mexico is a party, that rate shall be applied to amounts due under the compact or other agreement.

C. Nothing in this section shall be construed to impose interest on interest or interest on the amount of any penalty.

D. If any tax required to be paid in accordance with Section 7-1-13.1 NMSA 1978 is not paid in the manner required by that section, interest shall be paid to the state on the amount required to be paid in accordance with Section 7-1-13.1 NMSA 1978. If interest is due under this subsection and is also due under Subsection A of this section, interest shall be due and collected only pursuant to Subsection A of this section."

## **Chapter 27 Section 12 Laws 2013**

SECTION 12. Section 7-1-68 NMSA 1978 (being Laws 1965, Chapter 248, Section 69, as amended) is amended to read:

"7-1-68. INTEREST ON OVERPAYMENTS.--

A. As provided in this section, interest shall be allowed and paid on the amount of tax overpaid by a person that is subsequently refunded or credited to that person.

B. Interest on overpayments of tax shall accrue and be paid at the underpayment rate established pursuant to Section 6621 of the Internal Revenue Code, computed on a daily basis; provided that if a different rate is specified by a compact or other interstate agreement to which New Mexico is a party, that rate shall apply to amounts due under the compact or other agreement.

C. Unless otherwise provided by this section, interest on an overpayment not arising from an assessment by the department shall be paid from the date of the claim for refund until a date preceding by not more than thirty days the date of the credit or refund to any person; interest on an overpayment arising from an assessment by the department shall be paid from the date of overpayment until a date preceding by not more than thirty days the date of the credit or refund to any person.

D. No interest shall be allowed or paid with respect to an amount credited or refunded if:

(1) the amount of interest due is less than one dollar (\$1.00);

(2) the credit or refund is made within:

(a) fifty-five days of the date of the claim for refund of income tax, pursuant to either the Income Tax Act or the Corporate Income and Franchise Tax Act for the tax year immediately preceding the tax year in which the claim is made;

(b) sixty days of the date of the claim for refund of any tax not provided for in this paragraph;

(c) seventy-five days of the date of the claim for refund of gasoline tax to users of gasoline off the highways;

(d) one hundred twenty days of the date of the claim for refund of tax imposed pursuant to the Resources Excise Tax Act, the Severance 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 Natural Gas Processors Tax Act or the Oil and Gas Production Equipment Ad Valorem Tax Act; or

(e) one hundred twenty days of the date of the claim for refund of income tax, pursuant to the Income Tax Act or the Corporate Income and Franchise Tax Act, for any tax year more than one year prior to the year in which the claim is made;

(3) Sections 6611(f) and 6611(g) of the Internal Revenue Code, as those sections may be amended or renumbered, prohibit payment of interest for federal income tax purposes;

(4) the credit results from overpayments found in an audit of multiple reporting periods and applied to underpayments found in that audit or refunded as a net overpayment to the taxpayer pursuant to Section 7-1-29 NMSA 1978;

(5) the department applies the credit or refund to an intercept program, to the taxpayer's estimated payment prior to the due date for the estimated payment or to offset prior liabilities of the taxpayer pursuant to Subsection E of Section 7-1-29 NMSA 1978;

(6) the credit or refund results from overpayments the department finds pursuant to Subsection F of Section 7-1-29 NMSA 1978 that exceed the refund claimed by the taxpayer on the return; or

(7) the refund results from a film production tax credit pursuant to Section 7-2F-1 NMSA 1978.

E. Nothing in this section shall be construed to require the payment of interest upon interest."

## **Chapter 27 Section 13 Laws 2013**

SECTION 13. APPLICABILITY--WRITTEN PROTESTS--TIME LIMITS.--The following time limits for filing a written protest shall apply pursuant to that version of Section 7-1-24 NMSA 1978 in effect:

A. immediately prior to July 1, 2013, if the date of mailing or service of process, application of the applicable provision of the Tax Administration Act, denial or failure to deny or allow with the time prescribed occurred on or before June 1, 2013; or

B. on or after July 1, 2013, if the date of mailing or service of process, application of the applicable provision of the Tax Administration Act, denial or failure to deny or allow with the time prescribed occurred on or after June 2, 2013.

## **Chapter 27 Section 14 Laws 2013**

SECTION 14. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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House Bill 299, aa

Approved March 21, 2013

# **LAWS 2013, CHAPTER 28**



AN ACT

RELATING TO HEALTH; REPEALING SECTIONS OF THE NMSA 1978 RELATING TO TESTING OF VIRAL HEPATITIS, CONFIDENTIALITY AND PENALTIES.

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

**Chapter 28 Section 1 Laws 2013**

SECTION 1. REPEAL.--Sections 24-2E-1 through 24-2E-3 NMSA 1978 (being Laws 2001, Chapter 136, Sections 1 through 3) are repealed.

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Senate Bill 310

Approved March 25, 2013

**LAWS 2013, CHAPTER 29**

AN ACT

RELATING TO GAME AND FISH; AMENDING A SECTION OF CHAPTER 17 NMSA 1978 TO PROVIDE FOR SPECIAL EVENT PERMITS.

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

**Chapter 29 Section 1 Laws 2013**

SECTION 1. Section 17-3-17 NMSA 1978 (being Laws 1964 (1st S.S.), Chapter 17, Section 8, as amended) is amended to read:

"17-3-17. FISHING WITHOUT LICENSE--EXCEPTIONS.--

A. It is a misdemeanor for any person, except children who have not reached their twelfth birthday, to take or attempt to take any game fish from any public stream or water in this state without carrying a proper fishing license as provided by law. The presence of any person, except children who have not reached their twelfth birthday, along any public stream or water in this state with fishing rod, hook or line, without carrying a proper fishing license, is prima facie evidence of the violation of this section. The director of the department of game and fish or any conservation officer may require any person along any public stream or water in this state with fishing rod, hook or line to exhibit the person's license.

B. The director, with the approval of the state game commission, may designate no more than two nonconsecutive Saturdays in each year as free fishing days. During the free fishing days, residents and nonresidents may exercise the privileges of holders of proper fishing licenses without having proper fishing licenses and without payment of any license fees, subject to all limitations, restrictions, conditions, laws, rules and regulations applicable to holders of proper fishing licenses.

C. The director may designate, by special permit, fishing events during which the requirement for a fishing license or permit pursuant to Chapter 17 NMSA 1978 is waived exclusively for designated event participants. During the special permitted events, residents and nonresidents may exercise only the privileges as allowed by the director. The director's special permit shall substitute for the requirement of any license or permit pursuant to Chapter 17 NMSA 1978, and no payment of any license fee is required. The director's special permit shall be for a period of no longer than three days, and all other laws and rules shall apply."

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HENRC/House Bill 61

Approved March 25, 2013

## **LAWS 2013, CHAPTER 30**

### **AN ACT**

RELATING TO LICENSING; ENACTING A NEW SECTION OF THE UNIFORM ELECTRONIC TRANSACTIONS ACT TO ALLOW AGENCIES TO PROVIDE A MANNER FOR APPLICANTS TO ELECTRONICALLY OBTAIN, RENEW, REACTIVATE AND REINSTATE PROFESSIONAL AND OCCUPATIONAL CERTIFICATIONS, PERMITS, REGISTRATIONS AND LICENSES.

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

### **Chapter 30 Section 1 Laws 2013**

SECTION 1. Section 14-16-1 NMSA 1978 (being Laws 2001, Chapter 131, Section 1) is amended to read:

"14-16-1. SHORT TITLE.--Chapter 14, Article 16 NMSA 1978 may be cited as the "Uniform Electronic Transactions Act"."

### **Chapter 30 Section 2 Laws 2013**

SECTION 2. A new section of the Uniform Electronic Transactions Act is enacted to read:

"ELECTRONIC CERTIFICATIONS, PERMITS, REGISTRATIONS AND LICENSES.--A governmental agency may provide by rule the manner by which an applicant may satisfy by electronic means all agency requirements relating to certifications, permits, registrations, and licenses including but not limited to obtaining, renewing, reactivating, and reinstating, a professional or occupational certification, permit, registration or license."

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HBIC/House Bill 62, aa

Approved March 25, 2013

## **LAWS 2013, CHAPTER 31**

AN ACT

RELATING TO MOTOR VEHICLES; CLARIFYING THE USE OF CERTAIN SPEED LIMIT VIOLATIONS.

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

### **Chapter 31 Section 1 Laws 2013**

SECTION 1. Section 66-7-302.1 NMSA 1978 (being Laws 1989, Chapter 318, Section 30 and also Laws 1989, Chapter 319, Section 8, as amended) is amended to read:

"66-7-302.1. SPEED LIMIT--CONVICTION--USE LIMITED.--

A. The division shall not use a violation of Section 66-7-301 NMSA 1978, where the posted speed limit is designated as fifty-five or sixty-five miles an hour, for the purpose of suspending or revoking a driver's license unless the driver was exceeding the speed of seventy-five miles an hour.

B. An insurer shall not consider a violation of Section 66-7-301 NMSA 1978, where the posted speed limit is designated as fifty-five or sixty-five miles an hour, as a moving traffic violation against a person unless the person was exceeding the speed of seventy-five miles an hour for the purpose of establishing rates of motor vehicle insurance charged by the insurer, and the insurer shall not cancel or refuse to renew any policy of insurance for such a violation."

## **Chapter 31 Section 2 Laws 2013**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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House Bill 164

Approved March 25, 2013

## **LAWS 2013, CHAPTER 32**

AN ACT

RELATING TO CULTURAL AFFAIRS; CREATING THE CULTURAL AFFAIRS DEPARTMENT ENTERPRISE FUND.

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

## **Chapter 32 Section 1 Laws 2013**

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

"CULTURAL AFFAIRS ENTERPRISE FUND--CREATED--ADMINISTRATION.--  
The "cultural affairs department enterprise fund" is created as a nonreverting fund in the state treasury. Except as otherwise provided by law, the fund consists of appropriations to the fund, revenue generated by the department, proceeds from the disposition of department property, income from investment of the fund, gifts, grants, donations and bequests. The fund shall be administered by the department, and money in the fund is subject to appropriation by the legislature to the department to carry out the provisions of the Cultural Affairs Department Act and other laws administered by the department or any of its divisions. Disbursements from the fund shall be by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of cultural affairs or the secretary's authorized representative."

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House Bill 417, aa

Approved March 25, 2013

## **LAWS 2013, CHAPTER 33**

## AN ACT

RELATING TO LICENSURE; ALLOWING EXPEDITED OCCUPATIONAL AND PROFESSIONAL LICENSING OF MILITARY SERVICE MEMBERS, SPOUSES OF MILITARY SERVICE MEMBERS AND VETERANS WHO ARE LICENSED IN ANOTHER JURISDICTION.

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

### **Chapter 33 Section 1 Laws 2013**

SECTION 1. A new section of the Uniform Licensing Act is enacted to read:

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

A. A state agency, board or commission that issues an occupational or professional license pursuant to Chapter 61, Articles 2 through 34 NMSA 1978 shall, as soon as practicable after a military service member, the spouse of a military service member or a recent veteran files an application for a license accompanied by the required fees:

(1) process the application; and

(2) issue a license 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, that has met the minimal licensing requirements that are substantially equivalent to the licensing requirements for the occupational or professional license the applicant applies for pursuant to Chapter 61, Articles 2 through 34 NMSA 1978.

B. A license issued pursuant to this section is not a provisional license and must confer the same rights, privileges and responsibilities as a license issued pursuant to Chapter 61, Articles 2 through 34 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 for the renewal of a license pursuant to Chapter 61, Articles 2 through 34 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. A state agency, board or commission that issues a license pursuant to Chapter 61 NMSA 1978 shall establish procedures necessary to implement this section by July 1, 2013, including rules for the renewal of licenses pursuant to Subsection C of this section.

E. This section applies only to an application for an occupational or professional license pursuant to Chapter 61 NMSA 1978 filed on or after July 1, 2013.

F. As used in this section:

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

(2) "recent veteran" means a person who has received an honorable discharge or separation from military service within the two years immediately preceding the date the person applied for an occupational or professional license pursuant to this section."

## **Chapter 33 Section 2 Laws 2013**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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House Bill 180, aa

Approved March 26, 2013

## **LAWS 2013, CHAPTER 34**

AN ACT

RELATING TO HIGHER EDUCATION; CREATING THE MILITARY WAR VETERAN SCHOLARSHIP FUND.

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

## **Chapter 34 Section 1 Laws 2013**

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

"MILITARY WAR VETERAN SCHOLARSHIP FUND--PURPOSE--  
ADMINISTRATION--DISBURSEMENTS.--

A. There is created in the state treasury the "military war veteran scholarship fund". The fund shall consist of money appropriated to the fund, any grants, gifts and bequests made to the fund and income from investment of the fund. Any

money in the fund from grants, gifts, bequests or investment income shall not revert to the general fund at the end of any fiscal year. Money in the fund shall be disbursed on warrants signed by the secretary of finance and administration pursuant to vouchers signed by the secretary of higher education.

B. The higher education department shall administer the fund and shall make disbursements from the fund to reimburse post-secondary educational institutions under the exclusive control of the state for tuition payments, required student fees and book allowances for military war veteran students, including students who have received a baccalaureate degree and are enrolled in a program of study leading to a master's or doctoral degree, who are attending post-secondary educational institutions pursuant to Article 9, Section 14 of the constitution of New Mexico and who are in compliance with the educational institution's satisfactory academic progress requirements. A financial aid officer may exercise professional judgment when special circumstances exist to adjust the cost of attendance or expected family contribution or to modify other factors to make the program responsive to a student's special financial circumstances; provided that documentation exists in the student's file within the parameters authorized for this program.

C. A military war veteran may apply to the veterans' services department for a scholarship. The veterans' services department shall determine the eligibility of an applicant and certify approved applicants to the higher education department. The higher education department shall pay by voucher to the appropriate post-secondary educational institution an amount not exceeding the amount of the scholarship for an approved military war veteran. Money in the fund shall be allocated in the order that applications are received and approved.

D. The higher education department and the veterans' services department may adopt rules and procedures as necessary or appropriate to implement the provisions of this section.

E. As used in this section, "military war veteran" means a person who has been honorably discharged from the armed forces of the United States; who was a resident of New Mexico at the original time of entry into the armed forces or who has lived in New Mexico for ten years or more; and who has been awarded a southwest Asia service medal, global war on terror service medal, Iraq campaign medal, Afghanistan campaign medal or any other medal issued for service in the armed forces of the United States in support of any United States military campaign or armed conflict as defined by congress or presidential executive order or any other campaign medal issued for service after August 1, 1990 in the armed forces of the United States during periods of armed conflict as defined by congress or by executive order."

## **Chapter 34 Section 2 Laws 2013**

SECTION 2. EFFECTIVE DATE.--The effective date of the provision of this act is July 1, 2013.

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House Bill 247, aa, w/cc

Approved March 26, 2013

## **LAWS 2013, CHAPTER 35**

### AN ACT

RELATING TO MILITARY AFFAIRS; ALLOWING FOR THE SUSPENSION OF SOME OR ALL MUNICIPAL OR COUNTY SERVICES, PUBLIC UTILITIES AND TELECOMMUNICATIONS SERVICES PROVIDED BY PERSONS WHOSE RATES ARE REGULATED BY THE MUNICIPALITY, COUNTY OR THE PUBLIC REGULATION COMMISSION WHEN A RESIDENT IS DEPLOYED OR TEMPORARILY ASSIGNED; REQUIRING RECONNECTION OR NEW CONNECTION WITHOUT CHARGE.

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

### **Chapter 35 Section 1 Laws 2013**

SECTION 1. MILITARY DEPLOYMENT--MUNICIPAL OR COUNTY SERVICES AND UTILITIES DISCONTINUED.--

A. When a resident is a member of a branch of the United States armed forces, the reserves or the New Mexico national guard and is deployed or on temporary duty assignment outside the resident's community for more than thirty days, the resident may suspend some or all municipal or county services, public utilities or telecommunications services provided by persons whose rates are regulated by the municipality, the county or the public regulation commission for the home of the resident without a penalty. The resident shall certify to the municipality, county or other service providers that:

(1) the resident has orders to deploy or to be temporarily assigned outside the resident's community;

(2) the service is in the resident's name;

(3) the resident owns the home or has a lease that does not preclude suspension of municipal or county services or utilities; and

(4) family members or other persons will not be staying in the home during the time the resident is deployed or temporarily assigned.



B. Upon return from deployment or temporary duty assignment, the resident shall be allowed to reconnect the suspended municipal or county services, public utilities or telecommunications services without having to pay a reconnection fee. Except for new equipment or installation of equipment, the resident may establish new service at a new address without paying a connection fee.

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SPAC/Senate Bill 574, aa

Approved March 26, 2013

## **LAWS 2013, CHAPTER 36**

AN ACT

RELATING TO MANUFACTURED HOUSING; CHANGING THE COMPOSITION OF THE MANUFACTURED HOUSING COMMITTEE.

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

### **Chapter 36 Section 1 Laws 2013**

SECTION 1. Section 60-14-2 NMSA 1978 (being Laws 1978, Chapter 79, Section 1, as amended) is amended to read:

"60-14-2. DEFINITIONS.--As used in the Manufactured Housing Act:

A. "broker" means any person who, for a fee, commission or valuable consideration, lists, sells, offers for sale, exchanges, offers to exchange, rents or leases or offers to rent or lease pre-owned manufactured homes for another person or who negotiates, offers to negotiate, locates or brings together a buyer and a seller or offers to locate or bring together a buyer and a seller in conjunction with the sale, exchange, rental or lease of a pre-owned manufactured home. A broker may or may not be an agent of any party involved in the transaction. No person shall be considered a broker unless engaged in brokerage activities related to the sale, exchange or lease-purchase of two or more pre-owned manufactured homes to consumers in any consecutive twelve-month period;

B. "certificate of qualification" means a certificate issued by the division to a qualifying party;

C. "committee" means the manufactured housing committee;

D. "consumer" means any person who seeks or acquires by purchase, exchange or lease-purchase a manufactured home;

E. "dealer" means any person engaged in the business of buying for resale, selling or exchanging manufactured homes or offering manufactured homes for sale, exchange or lease-purchase to consumers. No person shall be considered a dealer unless engaged in the sale, exchange or lease-purchase of two or more manufactured homes to consumers in any consecutive twelve-month period. A dealer may also engage in any brokerage activities included under the definition of broker in this section; provided, "dealer" shall not include:

(1) receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under judgment, decree or order of any court;

(2) public officers while performing their duties as such officers; and

(3) finance companies, banks and other lending institutions covering sales of repossessed manufactured houses;

F. "director" means the director of the manufactured housing division and the construction industries division of the regulation and licensing department;

G. "division" means the manufactured housing division of the regulation and licensing department;

H. "inspection agency" means any firm, partnership, corporation, association or any combination thereof approved in accordance with regulations adopted by the division as having the personnel and equipment available to adequately inspect for the proper construction of manufactured homes or house trailers not used exclusively for recreational purposes;

I. "inspector" means a person appointed by the division as being qualified to adequately inspect the construction, electrical installations and mechanical installations of manufactured homes and their repair and modification, as well as the installation, tie-downs, blocking, skirting and water, gas and sewer connections of any manufactured homes in New Mexico;

J. "installer" means any person who installs manufactured homes for remuneration;

K. "installation" means, but is not limited to, preparation by an installer of a manufactured home site, construction of tie-down facilities and connection to on-site utility terminals;

L. "manufacturer" means any resident or nonresident person who manufactures or assembles manufactured homes or any component of manufactured homes;

M. "manufactured home" means a movable or portable housing structure over thirty-two feet in length or over eight feet in width constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation for human occupancy as a residence and that may include one or more components that can be retracted for towing purposes and subsequently expanded for additional capacity or may be two or more units separately towable but designed to be joined into one integral unit, as well as a single unit. "Manufactured home" does not include recreational vehicles or modular or premanufactured homes, built to Uniform Building Code standards, designed to be permanently affixed to real property. "Manufactured home" includes any movable or portable housing structure over twelve feet in width and forty feet in length that is used for nonresidential purposes;

N. "permit" means a certificate issued by the division to the dealer or installer of a manufactured home indicating that the manufactured home meets the minimum requirements for occupancy provided for by codes or regulations of the division;

O. "person" includes an individual, firm, partnership, corporation, association or other legal entity or any combination thereof;

P. "qualifying party" means any individual who submits to the examination for a license, other than a broker's or salesperson's license, to be issued under the Manufactured Housing Act to a licensee, other than an individual, and who after passing such an examination is responsible for the licensee's compliance with the requirements of that act and with the rules, regulations, codes and standards adopted and promulgated in accordance with the provisions of the Manufactured Housing Act;

Q. "repairman" means any person who, for remuneration or consideration, modifies, alters or repairs the structural, mechanical or electrical systems of a manufactured home; and

R. "salesperson" means any person who for any form of compensation sells or lease-purchases or offers to sell or lease-purchase manufactured homes to consumers as an employee or agent of a dealer."

## **Chapter 36 Section 2 Laws 2013**

SECTION 2. Section 60-14-5 NMSA 1978 (being Laws 1977, Chapter 245, Section 220, as amended) is amended to read:

"60-14-5. MANUFACTURED HOUSING COMMITTEE CREATED--  
MEMBERSHIP--COMPENSATION--DUTIES.--

A. There is created within the division the "manufactured housing committee". It shall be composed of seven members who are residents of New Mexico

and who shall serve at the pleasure of the governor and be appointed by the governor as follows:

(1) one member who is or is the designated representative of a manufacturer licensed under the Manufactured Housing Act;

(2) one member who is or is the qualifying party of a dealer licensed under the Manufactured Housing Act;

(3) one member who is or is the qualifying party of an installer licensed under the Manufactured Housing Act;

(4) one member who is the owner of a manufactured housing dealership licensed under the Manufactured Housing Act;

(5) one member who is engaged in the business of financing the purchase of manufactured housing units; and

(6) two public members who are manufactured housing unit owners not subject to licensure under the Manufactured Housing Act.

The term of office of each member of the committee is four years; provided that members shall be appointed for staggered terms beginning July 1, 1983 so that two terms end on June 30, 1985, two terms end on June 30, 1986 and three terms end on June 30, 1987. Thereafter, all members shall be appointed to four-year terms. Members shall be appointed to provide adequate representation of all geographic areas of the state.

B. Each member of the committee shall 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 committee shall annually elect a chair and vice chair from its membership. The director of the division shall serve as the executive secretary of the committee.

D. The committee shall meet at least bimonthly at the call of the chair.

E. The committee shall provide technical and policy advice to the division, review and approve or disapprove all rules, regulations, standards and codes subject to its approval under the provisions of the Manufactured Housing Act and:

(1) establish by regulation classifications of licenses issued by the division and qualifications and examinations necessary for licensure under the Manufactured Housing Act; and

(2) suspend or revoke for cause any license or certificate of qualification issued by the division."

### **Chapter 36 Section 3 Laws 2013**

SECTION 3. Section 60-14-7 NMSA 1978 (being Laws 1975, Chapter 331, Section 8, as amended) is amended to read:

"60-14-7. LICENSE REQUIRED--CLASSIFICATION--EXAMINATION.--

A. No person shall engage in business as a manufacturer, dealer, broker, repairman, installer or salesperson unless licensed as provided in the Manufactured Housing Act or the Construction Industries Licensing Act.

B. The committee shall adopt regulations creating a system of license classifications covering the occupations of dealer, broker, manufacturer, repairman, installer and salesperson and providing for the qualifications and examination for each class of license.

C. No person shall import for sale or exchange, or engage in the business of selling, leasing or exchanging or offering for sale, lease or exchange, any manufactured home manufactured by any person who is not licensed as a manufacturer under the Manufactured Housing Act."

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House Bill 274, aa

Approved March 26, 2013

## **LAWS 2013, CHAPTER 37**

AN ACT

RELATING TO HIGHER EDUCATION BONDING; AMENDING THE COLLEGE DISTRICT TAX ACT; ALLOWING FOR THE EXPENDITURE OF BOND PROCEEDS ON COMPUTER HARDWARE AND SOFTWARE.

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

### **Chapter 37 Section 1 Laws 2013**

SECTION 1. Section 21-2A-1 NMSA 1978 (being Laws 1995, Chapter 224, Section 7) is amended to read:

"21-2A-1. SHORT TITLE.--Sections 21-2A-1 through 21-2A-10 NMSA 1978 may be cited as the "College District Tax Act"."

## **Chapter 37 Section 2 Laws 2013**

SECTION 2. Section 21-2A-6 NMSA 1978 (being Laws 1995, Chapter 224, Section 12) is amended to read:

"21-2A-6. COLLEGE DISTRICT GENERAL OBLIGATION BONDS--INTEREST--FORM--PAYMENT.--

A. Any board, other than a board created pursuant to the provisions of the Off-Campus Instruction Act, may borrow money for the purpose of:

(1) erecting, furnishing, constructing, purchasing, remodeling and equipping buildings and utility facilities, exclusive of stadiums;

(2) making other real property improvements;

(3) purchasing grounds; and

(4) purchasing and installing computer hardware and software with a useful life equal to or exceeding the maturity of the bonds.

B. To carry out the purposes of the College District Tax Act, the board may issue negotiable general obligation bonds of the college district, if approved by the higher education department and then approved at an election by a majority of the qualified electors voting on the issue; provided, however, no bonds shall be issued that create a total bonded indebtedness in the college district in excess of three percent of the assessed valuation of the taxable property within the college district as shown in the preceding general assessment, which debt limitation is to be in excess of other existing debt limitations. Bonds shall be sold at a price that does not result in a net effective interest rate exceeding the maximum net effective interest rate permitted by the Public Securities Act. The bonds shall be sold at a public sale or may be sold at private sale to the state of New Mexico or the New Mexico finance authority at the price and upon such terms and conditions as the board and the state of New Mexico or the New Mexico finance authority may determine. The bonds may be in such denominations and registered and pay interest as the board determines.

C. The bonds shall be due and payable either annually or semiannually commencing not later than three years from their date. The bonds shall be issued for a term of not more than twenty years. The form and terms of the bonds, including provisions for their payment and optional or mandatory redemption, shall be as determined by the board. If the board so determines, the bonds may be redeemable prior to maturity upon payment of a premium not exceeding one percent of the principal of the bonds. The bonds shall be executed in the name of and on behalf of the college

district, signed by the chair of the board, with the seal of the college district affixed to the bonds, and attested by the secretary of the board. The bonds may be executed and sealed in accordance with the provisions of the Uniform Facsimile Signature of Public Officials Act.

D. To provide for the payment of the interest and principal of the bonds issued and sold pursuant to the provisions of the College District Tax Act, upon approval of the bonds at an election by a majority of the qualified electors in the college district who voted on the issue, the board of county commissioners shall annually make and levy, during each year in which any bonds are outstanding, an ad valorem tax on all taxable property in the district in an amount sufficient to produce a sum equal to one year's interest on all bonds then outstanding, together with an amount sufficient to pay the principal on all bonds as they mature. This levy shall not exceed five mills; provided, however, that this five-mill limitation may be exceeded in any year in which the valuation of the property within the college district declines to a level lower than the valuation of the property in the year in which the bonds were issued. The taxes authorized by this subsection shall be levied, assessed and collected at the times and in the manner that ad valorem taxes for school districts are assessed, levied and collected, and it is the duty of all tax officials and authorities to cause taxes authorized by this subsection to be levied, assessed and collected.

E. The proceeds obtained from the issuance of the bonds shall not be diverted or expended for any purposes other than those provided in the College District Tax Act; provided that no building shall be built without prior approval of detailed plans by the higher education department; and further provided that the expenses incurred in the preparation and sale of the bonds may be paid out of the proceeds from the sale of the bonds.

F. Prior to the issuance and sale of bonds, the attorney general shall approve all bond transcripts and certify approval or rejection thereof in the same manner as is required by law for the approval of school bonds. Unless otherwise specifically provided, the provisions of the College District Tax Act for the issuance of bonds shall be deemed exclusive of the provisions of all other laws."

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Senate Bill 39

Approved March 26, 2013

## **LAWS 2013, CHAPTER 38**

AN ACT

RELATING TO PROPERTY INTERESTS; AMENDING THE UNIFORM PROBATE CODE; ENACTING THE UNIFORM REAL PROPERTY TRANSFER ON DEATH ACT;

REPEALING AND REENACTING SECTION 45-6-401 NMSA 1978 (BEING LAWS 2001, CHAPTER 236, SECTION 1).

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

### **Chapter 38 Section 1 Laws 2013**

SECTION 1. Section 45-6-401 NMSA 1978 (being Laws 2001, Chapter 236, Section 1) is repealed and a new Section 45-6-401 NMSA 1978 is enacted to read:

"45-6-401. SHORT TITLE.--Sections 45-6-401 through 45-6-417 NMSA 1978 may be cited as the "Uniform Real Property Transfer on Death Act"."

### **Chapter 38 Section 2 Laws 2013**

SECTION 2. A new Section 45-6-402 NMSA 1978 is enacted to read:

"45-6-402. DEFINITIONS.--As used in the Uniform Real Property Transfer on Death Act:

A. "beneficiary" means a person that receives property under a transfer on death deed;

B. "designated beneficiary" means a person designated to receive property in a transfer on death deed;

C. "essential elements" means the names of the grantor and the grantee, a clause transferring title, a description of the property transferred, the grantor's signature and acknowledgment by the grantor in the presence of a notary public or in the presence of another individual authorized by law to take acknowledgments;

D. "joint owner" means an individual who owns property concurrently with one or more other individuals with a right of survivorship. "Joint owner" includes a joint tenant but does not include a tenant in common;

E. "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;

F. "property" means an interest in real property located in New Mexico that is transferable on the death of the owner;

G. "transfer on death deed" means a deed authorized under the Uniform Real Property Transfer on Death Act; and



H. "transferor" means an individual who makes a transfer on death deed."

### **Chapter 38 Section 3 Laws 2013**

SECTION 3. A new Section 45-6-403 NMSA 1978 is enacted to read:

"45-6-403. APPLICABILITY.--The Uniform Real Property Transfer on Death Act applies to a transfer on death deed made before, on or after January 1, 2014 by a transferor dying on or after January 1, 2014."

### **Chapter 38 Section 4 Laws 2013**

SECTION 4. A new Section 45-6-404 NMSA 1978 is enacted to read:

"45-6-404. NONEXCLUSIVITY.--The Uniform Real Property Transfer on Death Act does not affect any method of transferring property otherwise permitted under the laws of New Mexico."

### **Chapter 38 Section 5 Laws 2013**

SECTION 5. A new Section 45-6-405 NMSA 1978 is enacted to read:

"45-6-405. TRANSFER ON DEATH DEED AUTHORIZED.--An individual may transfer property to one or more beneficiaries effective at the transferor's death by a transfer on death deed."

### **Chapter 38 Section 6 Laws 2013**

SECTION 6. A new Section 45-6-406 NMSA 1978 is enacted to read:

"45-6-406. TRANSFER ON DEATH DEED REVOCABLE.--A transfer on death deed is revocable even if the deed or another instrument contains a contrary provision."

### **Chapter 38 Section 7 Laws 2013**

SECTION 7. A new Section 45-6-407 NMSA 1978 is enacted to read:

"45-6-407. TRANSFER ON DEATH DEED NONTESTAMENTARY.--A transfer on death deed is nontestamentary."

### **Chapter 38 Section 8 Laws 2013**

SECTION 8. A new Section 45-6-408 NMSA 1978 is enacted to read:

"45-6-408. CAPACITY OF TRANSFEROR.--The capacity required to make or revoke a transfer on death deed is the same as the capacity required to make a will."

### **Chapter 38 Section 9 Laws 2013**

SECTION 9. A new Section 45-6-409 NMSA 1978 is enacted to read:

"45-6-409. REQUIREMENTS.--A transfer on death deed shall:

A. contain the essential elements and formalities of a properly recordable inter vivos deed;

B. state that the transfer to the designated beneficiary is to occur at the transferor's death; and

C. be recorded before the transferor's death in the public records in the office of the county clerk for the county where the property is located."

### **Chapter 38 Section 10 Laws 2013**

SECTION 10. A new Section 45-6-410 NMSA 1978 is enacted to read:

"45-6-410. NOTICE, DELIVERY, ACCEPTANCE OR CONSIDERATION NOT REQUIRED.--A transfer on death deed does not require:

A. notice or delivery to or acceptance by the designated beneficiary during the transferor's life; or

B. consideration."

### **Chapter 38 Section 11 Laws 2013**

SECTION 11. A new Section 45-6-411 NMSA 1978 is enacted to read:

"45-6-411. REVOCATION BY INSTRUMENT AUTHORIZED--REVOCATION BY ACT NOT PERMITTED.--

A. Subject to Subsection B of this section, an instrument is effective to revoke a recorded transfer on death deed, or any part of it, only if the instrument:

(1) is acknowledged by the transferor after the acknowledgment of the deed being revoked;

(2) is recorded before the transferor's death in the public records in the office of the county clerk for the county in which the deed is recorded; and

(3) is:

(a) a transfer on death deed that revokes the deed or part of the deed expressly or by inconsistency;

(b) an instrument of revocation that expressly revokes the deed or part of the deed; or

(c) an inter vivos deed that expressly revokes the transfer on death deed or part of the deed.

B. If a transfer on death deed is made by more than one transferor:

(1) revocation by a transferor does not affect the deed as to the interest of another transferor; and

(2) a deed of joint owners is revoked only if it is revoked by all of the living joint owners.

C. After a transfer on death deed is recorded, it may not be revoked by a revocatory act on the deed.

D. This section does not limit the effect of an inter vivos transfer of the property."

## **Chapter 38 Section 12 Laws 2013**

SECTION 12. A new Section 45-6-412 NMSA 1978 is enacted to read:

"45-6-412. EFFECT OF TRANSFER ON DEATH DEED DURING TRANSFEROR'S LIFE.--During a transferor's life, a transfer on death deed does not:

A. affect an interest or right of the transferor or any other owner, including the right to transfer or encumber the property;

B. affect an interest or right of a transferee, even if the transferee has actual or constructive notice of the deed;

C. affect an interest or right of a secured or unsecured creditor or future creditor of the transferor, even if the creditor has actual or constructive notice of the deed;

D. affect the transferor's or designated beneficiary's eligibility for any form of public assistance;

E. create a legal or equitable interest in favor of the designated beneficiary; or

F. subject the property to claims or process of a creditor of the designated beneficiary."

## **Chapter 38 Section 13 Laws 2013**

SECTION 13. A new Section 45-6-413 NMSA 1978 is enacted to read:

"45-6-413. EFFECT OF TRANSFER ON DEATH DEED AT TRANSFEROR'S DEATH.--

A. Except as otherwise provided in the transfer on death deed or in Subsection B, C or D of this section or in Section 45-2-603, 45-2-702, 45-2-706, 45-2-707, 45-2-802,

45-2-803 or 45-2-804 NMSA 1978, on the death of the transferor, the following rules apply to property that is the subject of a transfer on death deed and owned by the transferor at death:

(1) provided that the designated beneficiary survives the transferor, the interest in the property is transferred to the designated beneficiary in accordance with the deed;

(2) the interest of a designated beneficiary that fails to survive the transferor lapses;

(3) subject to Paragraph (4) of this subsection, concurrent interests are transferred to the beneficiaries in equal and undivided shares with no right of survivorship; and

(4) if the transferor has identified two or more designated beneficiaries to receive concurrent interests in the property, the share of one that lapses or fails for any reason is transferred to the other, or to the others in proportion to the interest of each in the remaining part of the property held concurrently.

B. Subject to Chapter 14, Article 9 NMSA 1978, a beneficiary takes the property subject to all recorded conveyances, encumbrances, assignments, contracts, mortgages, liens and other recorded interests to which the property is subject at the transferor's death. For purposes of this subsection and Chapter 14, Article 9 NMSA 1978, the recording of the transfer on death deed is deemed to have occurred at the transferor's death.

C. If a transferor is a joint owner and is:

(1) survived by one or more other joint owners, the property that is the subject of a transfer on death deed belongs to the surviving joint owner or owners with right of survivorship; or

(2) the last surviving joint owner, the transfer on death deed is effective.

D. A transfer on death deed transfers property without covenant or warranty of title even if the deed contains a contrary provision."

### **Chapter 38 Section 14 Laws 2013**

SECTION 14. A new Section 45-6-414 NMSA 1978 is enacted to read:

"45-6-414. DISCLAIMER.--A beneficiary may disclaim all or part of the beneficiary's interest as provided by the Uniform Disclaimer of Property Interests Act."

### **Chapter 38 Section 15 Laws 2013**

SECTION 15. A new Section 45-6-415 NMSA 1978 is enacted to read:

"45-6-415. LIABILITY FOR CREDITOR CLAIMS AND STATUTORY ALLOWANCES.--A beneficiary of a transfer on death deed is liable for an allowed claim against the transferor's probate estate and statutory allowances to a surviving spouse and children to the extent provided in Section 45-6-102 NMSA 1978."

### **Chapter 38 Section 16 Laws 2013**

SECTION 16. A new Section 45-6-416 NMSA 1978 is enacted to read:

"45-6-416. OPTIONAL FORM OF TRANSFER ON DEATH DEED.--The following form may be used to create a transfer on death deed. The provisions of the Uniform Real Property Transfer on Death Act govern the effect of this or any other instrument used to create a transfer on death deed:

(front of form)

"REVOCABLE TRANSFER ON DEATH DEED

NOTICE TO OWNER

You should carefully read all information on the other side of this form. You may want to consult a lawyer before using this form.

This form must be recorded before your death or it will not be effective.



---

Signature

Date

## ACKNOWLEDGMENT

(insert acknowledgment for deed here)"

(back of form)

## "COMMON QUESTIONS ABOUT THE USE OF THIS FORM

What does the Transfer on Death (TOD) deed do? When you die, this deed transfers the described property, subject to any liens or mortgages (or other encumbrances) on the property at your death. Probate is not required. The TOD deed has no effect until you die. You can revoke it at any time. You are also free to transfer the property to someone else during your lifetime. If you do not own any interest in the property when you die, this deed will have no effect.

How do I make a TOD deed? Complete this form. Have it acknowledged before a notary public or other individual authorized by law to take acknowledgments. Record the form in each county where any part of the property is located. The form has no effect unless it is acknowledged and recorded before your death.

Is the "legal description" of the property necessary? Yes.

How do I find the "legal description" of the property? This information may be on the deed you received when you became an owner of the property. This information may also be available in the office of the county clerk for the county where the property is located. If you are not absolutely sure, consult a lawyer.

Can I change my mind before I record the TOD deed? Yes. If you have not yet recorded the deed and want to change your mind, simply tear up or otherwise destroy the deed.

How do I "record" the TOD deed? Take the completed and acknowledged form to the office of the county clerk of the county where the property is located. Follow the instructions given by the county clerk to make the form part of the official property records. If the property is in more than one county, you should record the deed in each county.

Can I later revoke the TOD deed if I change my mind? Yes. You can revoke the TOD deed. No one, including the beneficiaries, can prevent you from revoking the deed.

How do I revoke the TOD deed after it is recorded? There are three ways to revoke a recorded TOD deed: (1) Complete and acknowledge a revocation form, and record it in each county where the property is located. (2) Complete and acknowledge a new TOD

deed that disposes of the same property, and record it in each county where the property is located. (3) Transfer the property to someone else during your lifetime by a recorded deed that expressly revokes the TOD deed. You may not revoke the TOD deed by will.

I am being pressured to complete this form. What should I do? Do not complete this form under pressure. Seek help from a trusted family member, friend or lawyer.

Do I need to tell the beneficiaries about the TOD deed? No, but it is recommended. Secrecy can cause later complications and might make it easier for others to commit fraud.

I have other questions about this form. What should I do? This form is designed to fit some but not all situations. If you have other questions, you are encouraged to consult a lawyer."."

## **Chapter 38 Section 17 Laws 2013**

SECTION 17. A new Section 45-6-417 NMSA 1978 is enacted to read:

"45-6-417. OPTIONAL FORM OF REVOCATION.--The following form may be used to create an instrument of revocation under the Uniform Real Property Transfer on Death Act. The provisions of the Uniform Real Property Transfer on Death Act govern the effect of this or any other instrument used to revoke a transfer on death deed.

(front of form)

"REVOCATION OF TRANSFER ON DEATH DEED

NOTICE TO OWNER

This revocation must be recorded before you die or it will not be effective. This revocation is effective only as to the interests in the property of owners who sign this revocation.

IDENTIFYING INFORMATION

Owner or Owners of Property Making This Revocation:

\_\_\_\_\_

Printed name

Mailing address

\_\_\_\_\_

Printed name

Mailing address



Legal description of the property:

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## REVOCAATION

I revoke all my previous transfers of this property by transfer on death deed.

## SIGNATURE OF OWNER OR OWNERS MAKING THIS REVOCATION

---

Signature

---

Date

---

Signature

---

Date

## ACKNOWLEDGMENT

(insert acknowledgment here)"

(back of form)

## "COMMON QUESTIONS ABOUT THE USE OF THIS FORM

How do I use this form to revoke a Transfer on Death (TOD) deed? Complete this form. Have it acknowledged before a notary public or other individual authorized to take acknowledgments. Record the form in the public records in the office of the county clerk of each county where the property is located. The form must be acknowledged and recorded before your death or it has no effect.

How do I find the "legal description" of the property? This information may be on the TOD deed. It may also be available in the office of the county clerk for the county where the property is located. If you are not absolutely sure, consult a lawyer.

How do I "record" the form? Take the completed and acknowledged form to the office of the county clerk of the county where the property is located. Follow the instructions given by the county clerk to make the form part of the official property records. If the property is located in more than one county, you should record the form in each of those counties.

I am being pressured to complete this form. What should I do? Do not complete this form under pressure. Seek help from a trusted family member, friend or lawyer.

I have other questions about this form. What should I do? This form is designed to fit some but not all situations. If you have other questions, consult a lawyer."."

## **Chapter 38 Section 18 Laws 2013**

SECTION 18. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2014.

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Senate Bill 107, aa

Approved March 26, 2013

## **LAWS 2013, CHAPTER 39**

AN ACT

RELATING TO MENTAL HEALTH; AMENDING SECTIONS OF THE MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES CODE TO ALLOW QUALIFIED MENTAL HEALTH PROFESSIONALS LICENSED FOR INDEPENDENT PRACTICE TO CERTIFY THAT A PERSON PRESENTS A DANGER TO THAT PERSON OR OTHERS AND THAT IMMEDIATE DETENTION IS NECESSARY TO PREVENT SUCH HARM AND TO AUTHORIZE TRANSPORT OF THAT PERSON TO AN EVALUATION FACILITY; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2007.

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

## **Chapter 39 Section 1 Laws 2013**

SECTION 1. Section 43-1-3 NMSA 1978 (being Laws 1977, Chapter 279, Section 2, as amended by Laws 2007, Chapter 46, Section 42 and by Laws 2007, Chapter 325, Section 9) is amended to read:

"43-1-3. DEFINITIONS.--As used in the Mental Health and Developmental Disabilities Code:

A. "aversive stimuli" means anything that, because it is believed to be unreasonably unpleasant, uncomfortable or distasteful to the client, is administered or done to the client for the purpose of reducing the frequency of a behavior, but does not include verbal therapies, physical restrictions to prevent imminent harm to self or others or psychotropic medications that are not used for purposes of punishment;

B. "client" means any patient who is requesting or receiving mental health services or any person requesting or receiving developmental disabilities services or who is present in a mental health or developmental disabilities facility for the purpose of receiving such services or who has been placed in a mental health or developmental disabilities facility by the person's parent or guardian or by any court order;

C. "code" means the Mental Health and Developmental Disabilities Code;

D. "consistent with the least drastic means principle" means that the habilitation or treatment and the conditions of habilitation or treatment for the client, separately and in combination:

(1) are no more harsh, hazardous or intrusive than necessary to achieve acceptable treatment objectives for the client;

(2) involve no restrictions on physical movement and no requirement for residential care except as reasonably necessary for the administration of treatment or for the protection of the client or others from physical injury; and

(3) are conducted at the suitable available facility closest to the client's place of residence;

E. "convulsive treatment" means any form of mental health treatment that depends upon creation of a convulsion by any means, including but not limited to electroconvulsive treatment and insulin coma treatment;

F. "court" means a district court of New Mexico;

G. "department" or "division" means the behavioral health services division of the human services department;

H. "developmental disability" means a disability of a person that is attributable to mental retardation, cerebral palsy, autism or neurological dysfunction that requires treatment or habilitation similar to that provided to persons with mental retardation;

I. "evaluation facility" means a community mental health or developmental disability program or a medical facility that has psychiatric or developmental disability services available, including the New Mexico behavioral health institute at Las Vegas, the Los Lunas medical center or, if none of the foregoing is reasonably available or appropriate, the office of a physician or a certified psychologist, and that is capable of performing a mental status examination adequate to determine the need for involuntary treatment;

J. "experimental treatment" means any mental health or developmental disabilities treatment that presents significant risk of physical harm, but does not include

accepted treatment used in competent practice of medicine and psychology and supported by scientifically acceptable studies;

K. "grave passive neglect" means failure to provide for basic personal or medical needs or for one's own safety to such an extent that it is more likely than not that serious bodily harm will result in the near future;

L. "habilitation" means the process by which professional persons and their staff assist a client with a developmental disability in acquiring and maintaining those skills and behaviors that enable the person to cope more effectively with the demands of the person's self and environment and to raise the level of the person's physical, mental and social efficiency. "Habilitation" includes but is not limited to programs of formal, structured education and treatment;

M. "likelihood of serious harm to oneself" means that it is more likely than not that in the near future the person will attempt to commit suicide or will cause serious bodily harm to the person's self by violent or other self-destructive means, including but not limited to grave passive neglect;

N. "likelihood of serious harm to others" means that it is more likely than not that in the near future a person will inflict serious, unjustified bodily harm on another person or commit a criminal sexual offense, as evidenced by behavior causing, attempting or threatening such harm, which behavior gives rise to a reasonable fear of such harm from the person;

O. "mental disorder" means substantial disorder of a person's emotional processes, thought or cognition that grossly impairs judgment, behavior or capacity to recognize reality, but does not mean developmental disability;

P. "mental health or developmental disabilities professional" means a physician or other professional who by training or experience is qualified to work with persons with a mental disorder or a developmental disability;

Q. "physician" or "certified psychologist", when used for the purpose of hospital admittance or discharge, means a physician or certified psychologist who has been granted admitting privileges at a hospital licensed by the department of health, if such privileges are required;

R. "psychosurgery":

(1) means those operations currently referred to as lobotomy, psychiatric surgery and behavioral surgery and all other forms of brain surgery if the surgery is performed for the purpose of the following:

(a) modification or control of thoughts, feelings, actions or behavior rather than the treatment of a known and diagnosed physical disease of the brain;

(b) treatment of abnormal brain function or normal brain tissue in order to control thoughts, feelings, actions or behavior; or

(c) treatment of abnormal brain function or abnormal brain tissue in order to modify thoughts, feelings, actions or behavior when the abnormality is not an established cause for those thoughts, feelings, actions or behavior; and

(2) does not include prefrontal sonic treatment in which there is no destruction of brain tissue;

S. "qualified mental health professional licensed for independent practice" means an independent social worker, a licensed professional clinical mental health counselor, a marriage and family therapist, a certified nurse practitioner or a clinical nurse specialist with a specialty in mental health, all of whom by training and experience are qualified to work with persons with a mental disorder;

T. "residential treatment or habilitation program" means diagnosis, evaluation, care, treatment or habilitation rendered inside or on the premises of a mental health or developmental disabilities facility, hospital, clinic, institution or supervisory residence or nursing home when the client resides on the premises; and

U. "treatment" means any effort to accomplish a significant change in the mental or emotional condition or behavior of the client."

## **Chapter 39 Section 2 Laws 2013**

SECTION 2. Section 43-1-10 NMSA 1978 (being Laws 1977, Chapter 279, Section 9, as amended) is amended to read:

"43-1-10. EMERGENCY MENTAL HEALTH EVALUATION AND CARE.--

A. A peace officer may detain and transport a person for emergency mental health evaluation and care in the absence of a legally valid order from the court only if:

(1) the person is otherwise subject to lawful arrest;

(2) the peace officer has reasonable grounds to believe the person has just attempted suicide;

(3) the peace officer, based upon the peace officer's own observation and investigation, has reasonable grounds to believe that the person, as a

result of a mental disorder, presents a likelihood of serious harm to himself or herself or to others and that immediate detention is necessary to prevent such harm. Immediately upon arrival at the evaluation facility, the peace officer shall be interviewed by the admitting physician or the admitting physician's designee; or

(4) a physician, a psychologist or a qualified mental health professional licensed for independent practice who is affiliated with a community mental health center or core service agency has certified that the person, as a result of a mental disorder, presents a likelihood of serious harm to himself or herself or to others and that immediate detention is necessary to prevent such harm. Such certification shall constitute authority to transport the person.

B. An emergency evaluation under this section shall be accomplished upon the request of a peace officer or jail or detention facility administrator or that person's designee or upon the certification of a physician, a psychologist or a qualified mental health professional licensed for independent practice who is affiliated with a community mental health center or core service agency. A court order is not required under this section. If an application is made to a court, the court's power to act in furtherance of an emergency admission shall be limited to ordering that:

(1) the client be seen by a certified psychologist or psychiatrist prior to transport to an evaluation facility; and

(2) a peace officer transport the person to an evaluation facility.

C. An evaluation facility may accept for an emergency-based admission any person when a physician or certified psychologist certifies that such person, as a result of a mental disorder, presents a likelihood of serious harm to himself or herself or to others and that immediate detention is necessary to prevent such harm. Such certification shall constitute authority to transport the person.

D. A person detained under this section shall, whenever possible, be taken immediately to an evaluation facility. Detention facilities shall be used as temporary shelter for such persons only in cases of extreme emergency for protective custody, and no person taken into custody under the provisions of the code shall remain in a detention facility longer than necessary and in no case longer than twenty-four hours. If use of a detention facility is necessary, the proposed client:

(1) shall not be held in a cell with prisoners;

(2) shall not be identified on records used to record custody of prisoners;

(3) shall be provided adequate protection from possible suicide attempts; and

(4) shall be treated with the respect and dignity due every citizen who is neither accused nor convicted of a crime.

E. The admitting physician or certified psychologist shall evaluate whether reasonable grounds exist to detain the proposed client for evaluation and treatment, and, if reasonable grounds are found, the proposed client shall be detained. If the admitting physician or certified psychologist determines that reasonable grounds do not exist to detain the proposed client for evaluation and treatment, the proposed client shall not be detained.

F. Upon arrival at an evaluation facility, the proposed client shall be informed orally and in writing by the evaluation facility of the purpose and possible consequences of the proceedings, the right to a hearing within seven days, the right to counsel and the right to communicate with an attorney and a mental health professional of the proposed client's own choosing and shall have the right to receive necessary and appropriate treatment.

G. A peace officer who transports a proposed client to an evaluation facility under the provisions of this section shall not require a court order to be reimbursed by the referring county."

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SJC/SPAC/Senate Bill 271, aa

Approved March 26, 2013

## **LAWS 2013, CHAPTER 40**

### **AN ACT**

RELATING TO PROCUREMENT; EXEMPTING FROM THE PROCUREMENT CODE PROCUREMENTS OTHERWISE EXEMPTED UNDER OTHER LAW; REQUIRING ADDITIONAL PROCEDURES FOR SOLE SOURCE AND EMERGENCY PROCUREMENT; RESTRICTING WHO MAY MAKE EMERGENCY PROCUREMENTS; EXPANDING WHO MAY PROTEST A PROCUREMENT AWARD; INCREASING PENALTIES FOR VIOLATING THE PROCUREMENT CODE.

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

### **Chapter 40 Section 1 Laws 2013**

SECTION 1. Section 13-1-98 NMSA 1978 (being Laws 1984, Chapter 65, Section 71, as amended) is amended to read:

"13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The provisions of the Procurement Code shall not apply to:

A. procurement of items of tangible personal property or services by a state agency or a local public body from a state agency, a local public body or external procurement unit except as otherwise provided in Sections 13-1-135 through 13-1-137 NMSA 1978;

B. procurement of tangible personal property or services for the governor's mansion and grounds;

C. printing and duplicating contracts involving materials that are required to be filed in connection with proceedings before administrative agencies or state or federal courts;

D. purchases of publicly provided or publicly regulated gas, electricity, water, sewer and refuse collection services;

E. purchases of books and periodicals from the publishers or copyright holders thereof;

F. travel or shipping by common carrier or by private conveyance or to meals and lodging;

G. purchase of livestock at auction rings or to the procurement of animals to be used for research and experimentation or exhibit;

H. contracts with businesses for public school transportation services;

I. procurement of tangible personal property or services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978, by the corrections industries division of the corrections department pursuant to rules adopted by the corrections industries commission, which shall be reviewed by the purchasing division of the general services department prior to adoption;

J. minor purchases not exceeding five thousand dollars (\$5,000) consisting of magazine subscriptions, conference registration fees and other similar purchases where prepayments are required;

K. municipalities having adopted home rule charters and having enacted their own purchasing ordinances;

L. the issuance, sale and delivery of public securities pursuant to the applicable authorizing statute, with the exception of bond attorneys and general financial consultants;



M. contracts entered into by a local public body with a private independent contractor for the operation, or provision and operation, of a jail pursuant to Sections 33-3-26 and 33-3-27 NMSA 1978;

N. contracts for maintenance of grounds and facilities at highway rest stops and other employment opportunities, excluding those intended for the direct care and support of persons with handicaps, entered into by state agencies with private, nonprofit, independent contractors who provide services to persons with handicaps;

O. contracts and expenditures for services or items of tangible personal property to be paid or compensated by money or other property transferred to New Mexico law enforcement agencies by the United States department of justice drug enforcement administration;

P. contracts for retirement and other benefits pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

Q. contracts with professional entertainers;

R. contracts and expenditures for litigation expenses in connection with proceedings before administrative agencies or state or federal courts, including experts, mediators, court reporters, process servers and witness fees, but not including attorney contracts;

S. contracts for service relating to the design, engineering, financing, construction and acquisition of public improvements undertaken in improvement districts pursuant to Subsection L of Section 3-33-14.1 NMSA 1978 and in county improvement districts pursuant to Subsection L of Section 4-55A-12.1 NMSA 1978;

T. works of art for museums or for display in public buildings or places;

U. contracts entered into by a local public body with a person, firm, organization, corporation or association or a state educational institution named in Article 12, Section 11 of the constitution of New Mexico for the operation and maintenance of a hospital pursuant to

Chapter 3, Article 44 NMSA 1978, lease or operation of a county hospital pursuant to the Hospital Funding Act or operation and maintenance of a hospital pursuant to the Special Hospital District Act;

V. purchases of advertising in all media, including radio, television, print and electronic;

W. purchases of promotional goods intended for resale by the tourism department;

X. procurement of printing services for materials produced and intended for resale by the cultural affairs department;

Y. procurement by or through the public education department from the federal department of education relating to parent training and information centers designed to increase parent participation, projects and initiatives designed to improve outcomes for students with disabilities and other projects and initiatives relating to the administration of improvement strategy programs pursuant to the federal Individuals with Disabilities Education Act; provided that the exemption applies only to procurement of services not to exceed two hundred thousand dollars (\$200,000);

Z. procurement of services from community rehabilitation programs or qualified individuals pursuant to the State Use Act;

AA. purchases of products or services for eligible persons with disabilities pursuant to the federal Rehabilitation Act of 1973;

BB. procurement, by either the department of health or Grant county or both, of tangible personal property, services or construction that are exempt from the Procurement Code pursuant to Section 9-7-6.5 NMSA 1978;

CC. contracts for investment advisory services, investment management services or other investment-related services entered into by the educational retirement board, the state investment officer or the retirement board created pursuant to the Public Employees Retirement Act;

DD. the purchase for resale by the state fair commission of feed and other items necessary for the upkeep of livestock;

EE. contracts entered into by the crime victims reparation commission to distribute federal grants to assist victims of crime, including grants from the federal Victims of Crime Act of 1984 and the federal Violence Against Women Act; and

FF. procurements exempt from the Procurement Code as otherwise provided by law."

## **Chapter 40 Section 2 Laws 2013**

SECTION 2. Section 13-1-126 NMSA 1978 (being Laws 1984, Chapter 65, Section 99, as amended) is amended to read:

"13-1-126. SOLE SOURCE PROCUREMENT.--

A. A contract may be awarded without competitive sealed bids or competitive sealed proposals regardless of the estimated cost when the state purchasing agent or a central purchasing office determines, in writing, that:

(1) there is only one source for the required service, construction or item of tangible personal property;

(2) the service, construction or item of tangible personal property is unique and this uniqueness is substantially related to the intended purpose of the contract; and

(3) other similar services, construction or items of tangible personal property cannot meet the intended purpose of the contract.

B. The state purchasing agent or a central purchasing office shall use due diligence in determining the basis for the sole source procurement, including reviewing available sources and consulting the using agency, and shall include its written determination in the procurement file.

C. The state purchasing agent or a central purchasing office shall conduct negotiations, as appropriate, as to price, delivery and quantity in order to obtain the price most advantageous to the state agency or a local public body.

D. A contract for the purchase of research consultant services by institutions of higher learning constitutes a sole source procurement.

E. The state purchasing agent or a central purchasing office shall not circumvent this section by narrowly drafting specifications so that only one predetermined source would satisfy those specifications."

## **Chapter 40 Section 3 Laws 2013**

SECTION 3. Section 13-1-127 NMSA 1978 (being Laws 1984, Chapter 65, Section 100, as amended) is amended to read:

"13-1-127. EMERGENCY PROCUREMENTS.--

A. The state purchasing agent or a central purchasing office may make emergency procurements when there exists a threat to public health, welfare, safety or property requiring procurement under emergency conditions; provided that emergency procurements shall be made with competition as is practicable under the circumstances.

B. An emergency condition is a situation that creates a threat to public health, welfare or safety such as may arise by reason of floods, fires, epidemics, riots, acts of terrorism, equipment failures or similar events and includes the planning and preparing for an emergency response. The existence of the emergency condition creates an immediate and serious need for services, construction or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten:

- (1) the functioning of government;
- (2) the preservation or protection of property; or
- (3) the health or safety of any person.

C. Emergency procurements shall not include the purchase or lease purchase of heavy road equipment.

D. The state purchasing agent or a central purchasing office shall use due diligence in determining the basis for the emergency procurement and for the selection of the particular contractor. The determination shall be in writing and included in the procurement file.

E. Money expended for planning and preparing for an emergency response shall be accounted for and reported to the legislative finance committee and the department of finance and administration within sixty days after the end of each fiscal year."

## **Chapter 40 Section 4 Laws 2013**

SECTION 4. Section 13-1-128 NMSA 1978 (being Laws 1984, Chapter 65, Section 101, as amended) is amended to read:

"13-1-128. SOLE SOURCE AND EMERGENCY PROCUREMENTS--  
PUBLICATION OF AWARD TO AGENCY WEB SITE AND SUNSHINE PORTAL--  
CONTENT AND SUBMISSION OF RECORD.--

A. Prior to award of a sole source procurement contract, the state purchasing agent or central purchasing office shall:

- (1) provide the information described in Subsection E of this section to the department of information technology for posting on the sunshine portal; and
- (2) forward the same information to the legislative finance committee.

B. Prior to the award of a sole source procurement contract, the local public body central purchasing office shall post the information described in Subsection E of this section on the local public body web site, if one exists.

C. Within three business days of awarding an emergency procurement contract, the awarding central purchasing office within a state agency shall:

- (1) provide the information described in Subsection E of this section to the department of information technology for posting on the sunshine portal; and

(2) forward the same information to the legislative finance committee.

D. Within three business days of awarding an emergency procurement contract, the local public body central purchasing office shall post the information described in Subsection E of this section on the local public body web site, if one exists.

E. All central purchasing offices shall maintain, for a minimum of three years, records of sole source and emergency procurements. The record of each such procurement shall be public record and shall contain:

(1) the contractor's name and address;

(2) the amount and term of the contract;

(3) a listing of the services, construction or items of tangible personal property procured under the contract;

(4) whether the contract was a sole source or emergency procurement contract; and

(5) the justification for the procurement method."

## **Chapter 40 Section 5 Laws 2013**

SECTION 5. Section 13-1-199 NMSA 1978 (being Laws 1984, Chapter 65, Section 172) is amended to read:

"13-1-199. PENALTIES.--Any business or person that willfully violates the Procurement Code is guilty of:

A. a misdemeanor if the transaction involves fifty thousand dollars (\$50,000) or less; or

B. a fourth degree felony if the transaction involves more than fifty thousand dollars (\$50,000)."

## **Chapter 40 Section 6 Laws 2013**

SECTION 6. A new section of the Procurement Code is enacted to read:

"SOLE SOURCE CONTRACTS--NOTICE--PROTEST.--

A. At least thirty days before a sole source contract is awarded, the state purchasing agent, a central purchasing office or a designee of either shall post notice of the intent to award a sole source contract on its web site. If a central purchasing office

does not maintain a web site, it shall post the notice on the state purchasing agent's web site. The notice shall identify at a minimum:

- (1) the parties to the proposed contract;
- (2) the nature and quantity of the service, construction or item of tangible personal property being contracted for; and
- (3) the contract amount.

B. Any qualified potential contractor who was not awarded a sole source contract may protest to the state purchasing agent or a central purchasing office. The protest shall be submitted in writing within fifteen calendar days of the notice of intent to award a contract being posted by the state purchasing agent or a central purchasing office."

## **Chapter 40 Section 7 Laws 2013**

SECTION 7. A new section of the Procurement Code is enacted to read:

"COMPETITIVE SEALED BIDS AND PROPOSALS--RECORD MAINTENANCE.-  
-A central purchasing office shall maintain, for a minimum of three years, all records relating to the award of a contract through a competitive sealed bid or competitive sealed proposal process."

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Senate Bill 182

Approved March 27, 2013

## **LAWS 2013, CHAPTER 41**

AN ACT

RELATING TO PROCUREMENT; REVISING PROVISIONS RELATED TO DEBARMENT AND SUSPENSION; INCLUDING CIVIL VIOLATIONS AS CAUSE FOR DEBARMENT OR SUSPENSION; PROVIDING LIMITATIONS ON CONTINUATION OF CONTRACTS AND SUBCONTRACTING WITH DEBARRED OR SUSPENDED PARTIES.

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

## **Chapter 41 Section 1 Laws 2013**

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

"DEFINITION--PERSON.--"Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture or other legal or commercial entity."

## **Chapter 41 Section 2 Laws 2013**

SECTION 2. Section 13-1-177 NMSA 1978 (being Laws 1984, Chapter 65, Section 150) is amended to read:

"13-1-177. AUTHORITY TO SUSPEND OR DEBAR.--

A. The state purchasing agent or a central purchasing office, after consultation with the using agency, may suspend a person from consideration for award of contracts if the state purchasing agent or central purchasing office, after reasonable investigation, finds that a person has engaged in conduct that constitutes cause for debarment pursuant to Section 13-1-178 NMSA 1978.

B. The term of a suspension pursuant to this section shall not exceed three months; however, if a person, including a bidder, offeror or contractor, has been charged with a criminal offense that would be a cause for debarment pursuant to Section 13-1-178 NMSA 1978, the suspension shall remain in effect until the criminal charge is resolved and the person is debarred or the reason for suspension no longer exists.

C. The state purchasing agent or a central purchasing office, after reasonable notice to the person involved, shall have authority to recommend to the governing authority of a state agency or a local public body the debarment of a person for cause from consideration for award of contracts, other than contracts for professional services. The debarment shall not be for a period of more than three years. The authority to debar shall be exercised by the governing authority of a state agency or a local public body in accordance with rules that shall provide for reasonable notice and a fair hearing prior to debarment.

D. As used in this section, the terms "person", "bidder", "offeror" and "contractor" include principals, officers, directors, owners, partners and managers of the person, bidder, offeror or contractor."

## **Chapter 41 Section 3 Laws 2013**

SECTION 3. Section 13-1-178 NMSA 1978 (being Laws 1984, Chapter 65, Section 151) is amended to read:

"13-1-178. CAUSES FOR DEBARMENT OR SUSPENSION--TIME LIMIT.--

A. The causes for debarment or suspension occurring within three years of the date final action on a procurement is taken include but are not limited to the following:

(1) criminal conviction of a bidder, offeror or contractor for commission of a criminal offense related to obtaining unlawfully or attempting to obtain a public or private contract or subcontract, or related to the unlawful performance of such contract or subcontract;

(2) civil judgment against a bidder, offeror or contractor for a civil violation related to obtaining unlawfully or attempting to obtain a public or private contract or subcontract, or related to the unlawful performance of such contract or subcontract;

(3) conviction of a bidder, offeror or contractor under state or federal statutes related to embezzlement, theft, forgery, bribery, fraud, falsification or destruction of records, making false statements or receiving stolen property or for violation of federal or state tax laws;

(4) conviction of a bidder, offeror or contractor under state or federal antitrust statutes relating to the submission of offers;

(5) criminal conviction against a bidder, offeror or contractor for any other offense related to honesty, integrity or business ethics;

(6) civil judgment against a bidder, offeror or contractor for a civil violation related to honesty, integrity or business ethics;

(7) civil judgment against a bidder, offeror or contractor pursuant to the Unfair Practices Act;

(8) violation by a bidder, offeror or contractor of contract provisions, as set forth in this paragraph, of a character that is reasonably regarded by the state purchasing agent or a central purchasing office to be so serious as to justify suspension or debarment action, including:

(a) willful failure to perform in accordance with one or more contracts; or

(b) a history of failure to perform or of unsatisfactory performance of one or more contracts; provided that this failure or unsatisfactory performance has occurred within a reasonable time preceding the decision to impose debarment; and provided further that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;



(9) any other cause that the state purchasing agent or a central purchasing office determines to be so serious and compelling as to affect responsibility as a contractor; or

(10) for a willful violation by a bidder, offeror or contractor of the provisions of the Procurement Code.

B. As used in this section, the terms "bidder", "offeror" and "contractor" include principals, officers, directors, owners, partners and managers of the bidder, offeror or contractor."

## **Chapter 41 Section 4 Laws 2013**

SECTION 4. Section 13-1-180 NMSA 1978 (being Laws 1984, Chapter 65, Section 153) is amended to read:

"13-1-180. DEBARMENT OR SUSPENSION--NOTICE OF DETERMINATION.--  
A copy of the determination made pursuant to Section 13-1-179 NMSA 1978 shall be:

A. mailed to the last known address on file with the state purchasing agent or central purchasing office, by first class mail, within three business days after issuance of the written determination; or

B. transmitted electronically within three business days after issuance of the written determination."

## **Chapter 41 Section 5 Laws 2013**

SECTION 5. A new section of the Procurement Code is enacted to read:

"CONTINUATION OF CURRENT CONTRACTS--RESTRICTIONS ON  
SUBCONTRACTING.--

A. Notwithstanding the debarment, suspension or proposed debarment of a person, a state agency or local public body may continue contracts or subcontracts in existence at the time that the person is debarred, suspended or proposed for debarment unless the governing authority of the state agency or local public body directs otherwise.

B. Unless the governing authority of a state agency or local public body issues a written determination based on compelling reasons holding otherwise, a person that has been debarred or suspended or whose debarment has been proposed shall not, after the date that the person is debarred, suspended or proposed for debarment:

(1) incur financial obligations, including those for materials, services and facilities, unless the person is specifically authorized to do so under the terms and conditions of the person's contract; or

(2) extend the duration of the person's contract by adding new work, by exercising options or by taking other action.

C. Unless pursuant to written authorization based on the compelling reasons of the governing authority of a state agency or local public body, the state purchasing agent or a central purchasing office shall not consent to enter a subcontract subject to the Procurement Code with a person that has been debarred, suspended or proposed for debarment.

D. A person that has entered into a contract subject to the Procurement Code shall not subcontract with another person that has been debarred, suspended or proposed for debarment without the written authorization of the state purchasing agent or a central purchasing office. A person that wishes to subcontract with another person that has been debarred, suspended or proposed for debarment shall make a request to the applicable state agency or local public body that includes the following:

(1) the name of the proposed subcontractor;

(2) information about the proposed subcontractor's debarment, suspension or proposed debarment;

(3) the requester's compelling reasons for seeking a subcontract with the proposed subcontractor; and

(4) a statement of how the person will protect the interests of the state agency or local public body considering the proposed subcontractor's debarment, suspension or proposed debarment."

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Senate Bill 448, aa

Approved March 27, 2013

## **LAWS 2013, CHAPTER 42**

### **AN ACT**

**RELATING TO THE OPEN MEETINGS ACT; REQUIRING AGENDAS TO BE AVAILABLE TO THE PUBLIC AT LEAST SEVENTY-TWO HOURS PRIOR TO A PUBLIC MEETING; REQUIRING THE ATTORNEY GENERAL TO REVIEW A PUBLIC BODY'S ACTION ON EMERGENCY MATTERS.**

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

## **Chapter 42 Section 1 Laws 2013**

SECTION 1. Section 10-15-1 NMSA 1978 (being Laws 1974, Chapter 91, Section 1, as amended) is amended to read:

"10-15-1. FORMATION OF PUBLIC POLICY--PROCEDURES FOR OPEN MEETINGS--EXCEPTIONS AND PROCEDURES FOR CLOSED MEETINGS.--

A. In recognition of the fact that a representative government is dependent upon an informed electorate, it is declared to be public policy of this state that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them. The formation of public policy or the conduct of business by vote shall not be conducted in closed meeting. All meetings of any public body except the legislature and the courts shall be public meetings, and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings. Reasonable efforts shall be made to accommodate the use of audio and video recording devices.

B. All meetings of a quorum of members of any board, commission, administrative adjudicatory body or other policymaking body of any state agency or any agency or authority of any county, municipality, district or political subdivision, held for the purpose of formulating public policy, including the development of personnel policy, rules, regulations or ordinances, discussing public business or taking any action within the authority of or the delegated authority of any board, commission or other policymaking body are declared to be public meetings open to the public at all times, except as otherwise provided in the constitution of New Mexico or the Open Meetings Act. No public meeting once convened that is otherwise required to be open pursuant to the Open Meetings Act shall be closed or dissolved into small groups or committees for the purpose of permitting the closing of the meeting.

C. If otherwise allowed by law or rule of the public body, a member of a public body may participate in a meeting of the public body by means of a conference telephone or other similar communications equipment when it is otherwise difficult or impossible for the member to attend the meeting in person, provided that each member participating by conference telephone can be identified when speaking, all participants are able to hear each other at the same time and members of the public attending the meeting are able to hear any member of the public body who speaks during the meeting.

D. Any meetings at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs and at which a majority or quorum of the body is in attendance, and any closed meetings, shall be held only after reasonable notice to the public. The affected body shall determine at least annually in a public meeting what notice for a public meeting is reasonable when applied to that body. That

notice shall include broadcast stations licensed by the federal communications commission and newspapers of general circulation that have provided a written request for such notice.

E. A public body may recess and reconvene a meeting to a day subsequent to that stated in the meeting notice if, prior to recessing, the public body specifies the date, time and place for continuation of the meeting and, immediately following the recessed meeting, posts notice of the date, time and place for the reconvened meeting on or near the door of the place where the original meeting was held and in at least one other location appropriate to provide public notice of the continuation of the meeting. Only matters appearing on the agenda of the original meeting may be discussed at the reconvened meeting.

F. Meeting notices shall include an agenda containing a list of specific items of business to be discussed or transacted at the meeting or information on how the public may obtain a copy of such an agenda. Except in the case of an emergency or in the case of a public body that ordinarily meets more frequently than once per week, at least seventy-two hours prior to the meeting, the agenda shall be available to the public and posted on the public body's web site, if one is maintained. A public body that ordinarily meets more frequently than once per week shall post a draft agenda at least seventy-two hours prior to the meeting and a final agenda at least thirty-six hours prior to the meeting. Except for emergency matters, a public body shall take action only on items appearing on the agenda. For purposes of this subsection, "emergency" refers to unforeseen circumstances that, if not addressed immediately by the public body, will likely result in injury or damage to persons or property or substantial financial loss to the public body. Within ten days of taking action on an emergency matter, the public body shall report to the attorney general's office the action taken and the circumstances creating the emergency; provided that the requirement to report to the attorney general is waived upon the declaration of a state or national emergency.

G. The board, commission or other policymaking body shall keep written minutes of all its meetings. The minutes shall include at a minimum the date, time and place of the meeting, the names of members in attendance and those absent, the substance of the proposals considered and a record of any decisions and votes taken that show how each member voted. All minutes are open to public inspection. Draft minutes shall be prepared within ten working days after the meeting and shall be approved, amended or disapproved at the next meeting where a quorum is present. Minutes shall not become official until approved by the policymaking body.

H. The provisions of Subsections A, B and G of this section do not apply to:

(1) meetings pertaining to issuance, suspension, renewal or revocation of a license, except that a hearing at which evidence is offered or rebutted shall be open. All final actions on the issuance, suspension, renewal or revocation of a license shall be taken at an open meeting;

(2) limited personnel matters; provided that for purposes of the Open Meetings Act, "limited personnel matters" means the discussion of hiring, promotion, demotion, dismissal, assignment or resignation of or the investigation or consideration of complaints or charges against any individual public employee; provided further that this paragraph is not to be construed as to exempt final actions on personnel from being taken at open public meetings, nor does it preclude an aggrieved public employee from demanding a public hearing. Judicial candidates interviewed by any commission shall have the right to demand an open interview;

(3) deliberations by a public body in connection with an administrative adjudicatory proceeding. For purposes of this paragraph, "administrative adjudicatory proceeding" means a proceeding brought by or against a person before a public body in which individual legal rights, duties or privileges are required by law to be determined by the public body after an opportunity for a trial-type hearing. Except as otherwise provided in this section, the actual administrative adjudicatory proceeding at which evidence is offered or rebutted and any final action taken as a result of the proceeding shall occur in an open meeting;

(4) the discussion of personally identifiable information about any individual student, unless the student or the student's parent or guardian requests otherwise;

(5) meetings for the discussion of bargaining strategy preliminary to collective bargaining negotiations between the policymaking body and a bargaining unit representing the employees of that policymaking body and collective bargaining sessions at which the policymaking body and the representatives of the collective bargaining unit are present;

(6) that portion of meetings at which a decision concerning purchases in an amount exceeding two thousand five hundred dollars (\$2,500) that can be made only from one source is discussed and that portion of meetings at which the contents of competitive sealed proposals solicited pursuant to the Procurement Code are discussed during the contract negotiation process. The actual approval of purchase of the item or final action regarding the selection of a contractor shall be made in an open meeting;

(7) meetings subject to the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant;

(8) meetings for the discussion of the purchase, acquisition or disposal of real property or water rights by the public body;

(9) those portions of meetings of committees or boards of public hospitals where strategic and long-range business plans or trade secrets are discussed; and

(10) that portion of a meeting of the gaming control board dealing with information made confidential pursuant to the provisions of the Gaming Control Act.

I. If any meeting is closed pursuant to the exclusions contained in Subsection H of this section:

(1) the closure, if made in an open meeting, shall be approved by a majority vote of a quorum of the policymaking body; the authority for the closure and the subject to be discussed shall be stated with reasonable specificity in the motion calling for the vote on a closed meeting; the vote shall be taken in an open meeting; and the vote of each individual member shall be recorded in the minutes. Only those subjects announced or voted upon prior to closure by the policymaking body may be discussed in a closed meeting; or

(2) if a closure is called for when the policymaking body is not in an open meeting, the closed meeting shall not be held until public notice, appropriate under the circumstances, stating the specific provision of the law authorizing the closed meeting and stating with reasonable specificity the subject to be discussed is given to the members and to the general public.

J. Following completion of any closed meeting, the minutes of the open meeting that was closed or the minutes of the next open meeting if the closed meeting was separately scheduled shall state that the matters discussed in the closed meeting were limited only to those specified in the motion for closure or in the notice of the separate closed meeting. This statement shall be approved by the public body under Subsection G of this section as part of the minutes."

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House Bill 21, aa

Approved March 27, 2013

## **LAWS 2013, CHAPTER 43**

AN ACT

RELATING TO LOCAL ECONOMIC DEVELOPMENT; REQUIRING SECURITY FOR STATE CONTRIBUTIONS TO LOCAL ECONOMIC DEVELOPMENT PROJECTS.

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

### **Chapter 43 Section 1 Laws 2013**

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

"5-10-10. PROJECT PARTICIPATION AGREEMENT--DUTIES AND REQUIREMENTS.--

A. The local or regional government and the qualifying entity shall enter into a project participation agreement.

B. The local or regional government shall require a substantive contribution from the qualifying entity for each economic development project. Public support provided for an economic development project shall be in exchange for a substantive contribution from the qualifying entity. The contribution shall be of value and may be paid in money, in-kind services, jobs, expanded tax base, property or other thing or service of value for the expansion of the economy.

C. The qualifying entity shall provide security to each local or regional government, the state or any other New Mexico governmental entity providing public support for an economic development project. The security shall secure the qualifying entity's obligations based on terms stated in the project participation agreement with the local or regional government and shall reflect the amount of public support provided to the qualifying entity and the substantive contribution expected from the qualifying entity.

D. If a qualifying entity fails to perform its substantive contribution, the local or regional government shall enforce the project participation agreement to recover that portion of the public support for which the qualifying entity failed to provide a substantive contribution. The recovery shall be 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. The project participation agreement for an economic development project that uses public support provided by the state to a local or regional government shall include a recapture agreement for the state.

E. The project participation agreement at a minimum shall set out:

(1) the contributions to be made by each party to the participation agreement;

(2) the security provided to each governmental entity that provides public support for an economic development project by the qualifying entity in the form of a lien, mortgage or other indenture and the pledge of the qualifying business'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; and

(4) provisions for performance review and actions to be taken upon a determination that project performance is unsatisfactory."

## **Chapter 43 Section 2 Laws 2013**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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House Bill 352, aa

Approved March 27, 2013

## **LAWS 2013, CHAPTER 44**

AN ACT

RELATING TO DISABILITY; ENACTING A NEW SECTION OF CHAPTER 27 NMSA 1978 TO PLACE ADMINISTRATION OF THE BRAIN INJURY SERVICES FUND WITH THE HUMAN SERVICES DEPARTMENT; ENACTING A TEMPORARY PROVISION TO TRANSFER THE BRAIN INJURY SERVICES FUND AND ALL OF ITS PROPERTY, CONTRACTS AND REFERENCES IN LAW TO THE HUMAN SERVICES DEPARTMENT; REPEALING A SECTION OF THE PUBLIC HEALTH ACT.

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

## **Chapter 44 Section 1 Laws 2013**

SECTION 1. A new section of Chapter 27 NMSA 1978 is enacted to read:

"BRAIN INJURY SERVICES FUND CREATED.--

A. There is created in the state treasury the "brain injury services fund". The fund shall be invested in accordance with the provisions of Section 6-10-10 NMSA 1978, and all income earned on the fund shall be credited to the fund.

B. The brain injury services fund shall be used to institute and maintain a statewide brain injury services program designed to increase the independence of persons with traumatic brain injuries.

C. The human services department shall adopt all rules, regulations and policies necessary to administer a statewide brain injury services program. The human services department shall coordinate with and seek advice from the brain injury advisory



council to ensure that the statewide brain injury services program is appropriate for persons with traumatic brain injuries.

D. All money credited to the brain injury services fund shall be appropriated to the human services department for the purpose of carrying out the provisions of this section and shall not revert to the general fund.

E. Disbursements from the brain injury services fund shall be made upon warrant drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of human services."

## **Chapter 44 Section 2 Laws 2013**

SECTION 2. TEMPORARY PROVISION--BRAIN INJURY SERVICES FUND--TRANSFER OF PROPERTY, CONTRACTS AND REFERENCES IN LAW.--On July 1, 2013:

A. the brain injury services fund and all appropriations, money, records, equipment, supplies and other property of the aging and long-term services department directly related to the brain injury services fund or the provision of a statewide brain injury services program shall be transferred to the human services department;

B. all contracts directly related to the programs listed in Subsection A of this section currently binding and effective upon the aging and long-term services department or on the brain injury services fund shall be binding and effective upon the human services department; and

C. all references in law to the brain injury services fund or the statewide brain injury services program shall be deemed to be references to the brain injury services fund and the statewide brain injury services program established and maintained by the human services department.

## **Chapter 44 Section 3 Laws 2013**

SECTION 3. REPEAL.--Section 24-1-24 NMSA 1978 (being Laws 1997, Chapter 242, Section 7 and Laws 1997, Chapter 247, Section 4) is repealed.

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House Bill 130

Approved March 27, 2013

# **LAWS 2013, CHAPTER 45**

## AN ACT

RELATING TO PROPERTY; LIMITING THE ISSUANCE OF GENERAL OBLIGATION BONDS FOR INFRASTRUCTURE IMPROVEMENTS IN PUBLIC IMPROVEMENT DISTRICTS; REQUIRING AN APPLICATION FOR FORMATION OF A PUBLIC IMPROVEMENT DISTRICT TO BE SUBMITTED TO THE MUNICIPALITY OR COUNTY IN WHICH THE DISTRICT IS TO BE LOCATED; REQUIRING NOTICE TO BE PROVIDED TO A PURCHASER OF PROPERTY IN A PUBLIC IMPROVEMENT DISTRICT; PROVIDING FOR REMEDIES; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

### **Chapter 45 Section 1 Laws 2013**

SECTION 1. Section 5-11-1 NMSA 1978 (being Laws 2001, Chapter 305, Section 1) is amended to read:

"5-11-1. SHORT TITLE.--Chapter 5, Article 11 NMSA 1978 may be cited as the "Public Improvement District Act"."

### **Chapter 45 Section 2 Laws 2013**

SECTION 2. Section 5-11-2 NMSA 1978 (being Laws 2001, Chapter 305, Section 2, as amended) is amended to read:

"5-11-2. DEFINITIONS.--As used in the Public Improvement District Act:

A. "allowable base" means the sum of the appraised value, not including the value of public infrastructure improvements, of:

(1) taxable property in a district that is owned by persons other than the applicant or the applicant's related entities;

(2) commercial, industrial or retail property in a district that is owned by the applicant or the applicant's related entities for which a certificate of completion has been issued; and

(3) all other taxable property in a district not described in Paragraphs (1) and (2) of this subsection, to the extent that its appraised value is less than or equal to the appraised value of property described in Paragraph (1) of this subsection;

B. "applicant" means a person that applies for the formation of a district pursuant to the Public Improvement District Act;

C. "clerk" means the clerk of the municipality or county, or any person appointed by the district board to be the district clerk pursuant to Section 5-11-6 NMSA 1978;

D. "county" means a county that forms a public improvement district pursuant to the Public Improvement District Act in an unincorporated area or in an incorporated area with the municipality's consent;

E. "debt service" means the principal of, interest on and premium, if any, on the bonds, when due, whether at maturity or prior redemption; the fees and costs of registrars, trustees, paying agents or other agents necessary to handle the bonds; and the costs of credit enhancement or liquidity support;

F. "development agreement" means an agreement between a property owner or developer and the county, municipality or district, concerning the improvement of specific property within the district, which agreement may be used to establish obligations of the owner or developer, the county or municipality or the district concerning the zoning, subdivision, improvement, impact fees, financial responsibilities and other matters relating to the development, improvement and use of real property within a district;

G. "district" means a public improvement district formed pursuant to the Public Improvement District Act by a municipality or by a county in an unincorporated area or in an incorporated area with the municipality's consent;

H. "district board" means the board of directors of the district, which shall be composed of members of the governing body, ex officio, or, at the option of the governing body, five directors appointed by the governing body of the municipality or county in which the district is located, until replaced by elected directors, which shall occur not later than six years after the date on which the resolution establishing the district is enacted, as provided in Section 5-11-9 NMSA 1978;

I. "election" means an election held in compliance with the provisions of Sections 5-11-6 and 5-11-7 NMSA 1978;

J. "enhanced services" means public services provided by a municipality or county within the district at a higher level or to a greater degree than otherwise available to the land located in the district from the municipality or county, including such services as public safety, fire protection, street or sidewalk cleaning or landscape maintenance in public areas. "Enhanced services" does not include the basic operation and maintenance related to infrastructure improvements financed by the district pursuant to the Public Improvement District Act;

K. "general plan" means the general plan described in Section 5-11-3 NMSA 1978, as the plan may be amended from time to time;

L. "governing body" means the body or board that by law is constituted as the governing body of the municipality or county in which the public improvement district is located;

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

N. "owner" means:

(1) the person who is listed as the owner of real property in the district on the current property tax assessment roll in effect at the time that the action, proceeding, hearing or election has begun. For purposes of voting in elections held pursuant to the Public Improvement District Act, when the owner of record title is a married person, only one spouse in whose name title is held may vote at such election. Where record title is held in more than one name, each owner may vote the number of fractions of acres represented by the owner's legal interest or proportionate share of and in the lands within the district;

(2) the administrator or executor of an estate holding record title to land within the district;

(3) the guardian of a minor or incompetent person holding record title to land within the district, appointed and qualified under the laws of the state;

(4) an officer of a corporation holding record title to land within the district, which officer has been authorized by resolution of the corporation's board of directors to act with respect to such land;

(5) the general partner of a partnership holding record title to land within the district;

(6) the trustee of a trust holding record title to land within the district; or

(7) the manager or member of a limited liability company holding record title to land within the district who has been authorized to represent the company;

O. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, joint venture, syndicate or other association;

P. "public infrastructure improvements" means all improvements listed in this subsection and includes both on-site improvements and off-site improvements that directly or indirectly benefit the district. Such improvements include necessary or incidental work, whether newly constructed, renovated or existing, and all necessary or desirable appurtenances. "Public infrastructure improvements" includes:

(1) sanitary sewage systems, including collection, transport, storage, treatment, dispersal, effluent use and discharge;

(2) drainage and flood control systems, including collection, transport, diversion, storage, detention, retention, dispersal, use and discharge;

(3) water systems for domestic, commercial, office, hotel or motel, industrial, irrigation, municipal or fire protection purposes, including production, collection, storage, treatment, transport, delivery, connection and dispersal;

(4) highways, streets, roadways, bridges, crossing structures and parking facilities, including all areas for vehicular use for travel, ingress, egress and parking;

(5) trails and areas for pedestrian, equestrian, bicycle or other nonmotor vehicle use for travel, ingress, egress and parking;

(6) pedestrian malls, parks, recreational facilities and open space areas for the use of members of the public for entertainment, assembly and recreation;

(7) landscaping, including earthworks, structures, lakes and other water features, plants, trees and related water delivery systems;

(8) public buildings, public safety facilities and fire protection and police facilities;

(9) electrical generation, transmission and distribution facilities;

(10) natural gas distribution facilities;

(11) lighting systems;

(12) cable or other telecommunications lines and related equipment;

(13) traffic control systems and devices, including signals, controls, markings and signage;

(14) school sites and facilities with the consent of the governing board of the public school district for which the site or facility is to be acquired, constructed or renovated;

(15) library and other public educational or cultural facilities;

(16) equipment, vehicles, furnishings and other personalty related to the items listed in this subsection; and

(17) inspection, construction management and program management costs;

Q. "public infrastructure purpose" means:

(1) planning, design, engineering, construction, acquisition or installation of public infrastructure, including the costs of applications, impact fees and other fees, permits and approvals related to the construction, acquisition or installation of such infrastructure;

(2) acquiring, converting, renovating or improving existing facilities for public infrastructure, including facilities owned, leased or installed by an owner;

(3) acquiring interests in real property or water rights for public infrastructure, including interests of an owner;

(4) establishing, maintaining and replenishing reserves in order to secure payment of debt service on bonds;

(5) funding and paying from bond proceeds interest accruing on bonds for a period not to exceed three years from their date of issuance;

(6) funding and paying from bond proceeds fiscal, financial and legal consultant fees, trustee fees, discount fees, district formation and election costs and all costs of issuance of bonds issued pursuant to the Public Improvement District Act, including, but not limited to, fees and costs for bond counsel, financial advisors, consultants and underwriters, costs of obtaining credit ratings, bond insurance premiums, fees for letters of credit and other credit enhancement costs and printing costs;

(7) providing for the timely payment of debt service on bonds or other indebtedness of the district;

(8) refinancing any outstanding bonds with new bonds, including through the formation of a new public improvement district; and

(9) incurring expenses of the district incident to and reasonably necessary to carry out the purposes specified in this subsection;

R. "related entities" means two or more entities that are owned in an amount greater than fifty percent by the same person, either directly or through one or more persons;

S. "resident qualified elector" means a person who resides within the boundaries of a district or proposed district and who is qualified to vote in the general elections held in the state pursuant to Section 1-1-4 NMSA 1978;

T. "special levy" means a levy imposed against real property within a district that may be apportioned according to direct or indirect benefits conferred upon affected real property, as well as acreage, front footage, the cost of providing public infrastructure for affected real property, or other reasonable method, as determined by the governing body or district board, as applicable; and

U. "treasurer" means the treasurer of the governing body or the person appointed by the district board as the district treasurer pursuant to Section 5-11-6 NMSA 1978."

## **Chapter 45 Section 3 Laws 2013**

SECTION 3. Section 5-11-3 NMSA 1978 (being Laws 2001, Chapter 305, Section 3, as amended) is amended to read:

### **"5-11-3. RESOLUTION DECLARING INTENTION TO FORM DISTRICT.--**

A. If the public convenience and necessity require, and on presentation of an application required by Section 10 of this 2013 act that is supported by a petition signed by the owners of at least twenty-five percent of the real property by assessed valuation proposed to be included in the district, the governing body may adopt a resolution declaring its intention to form a public improvement district to include contiguous or noncontiguous property, which shall be wholly within the corporate boundaries of the municipality or county. If the governing body fails to act within ninety days following presentation of a petition to create a public improvement district, the petition shall be deemed to have been accepted by the governing body, which shall adopt a resolution and hold a public hearing pursuant to this section. The resolution shall state the following:

(1) the area or areas to be included in the district;

(2) the purposes for which the district is to be formed;

(3) that a general plan for the district is on file with the clerk that includes a map depicting the boundaries of the district and the real property proposed to be included in the district, a general description of anticipated improvements and their locations, general cost estimates, proposed financing methods and anticipated tax levies, special levies or charges, and that may include possible alternatives, modifications or substitutions concerning locations, improvements, financing methods and other information provided in the general plan;

(4) the rate, method of apportionment and manner of collection of a special levy, if one is proposed, in sufficient detail to enable each owner or resident within the district to estimate the maximum amount of the proposed levy;

(5) a notice of public hearing in conformity with the requirements of Section 5-11-4 NMSA 1978;

(6) the place where written objections to the formation of the district may be filed by an owner;

(7) that formation of the district may result in the levy of property taxes or the imposition of special levies to pay the costs of public infrastructure constructed by the district and for their operation and maintenance and may result in the assessment of fees or charges to pay the cost of providing enhanced services;

(8) a reference to the Public Improvement District Act; and

(9) whether the district will be governed by a district board comprised of the members of the governing body, ex officio, or comprised of five directors initially appointed by the governing body.

B. The resolution shall direct that a hearing on formation of the district be scheduled and that notice be mailed and published as provided in Section 5-11-4 NMSA 1978.

C. Before adopting a resolution pursuant to this section, a general plan for the district shall be filed with the clerk."

## **Chapter 45 Section 4 Laws 2013**

SECTION 4. Section 5-11-6 NMSA 1978 (being Laws 2001, Chapter 305, Section 6) is amended to read:

"5-11-6. ORDER FORMING DISTRICT--ELECTION.--

A. After the hearing, the governing body shall determine whether the district should be formed based upon the interests, convenience or necessity of the owners, residents of the district and citizens of the municipality or county in which the proposed district would be located. If the governing body determines that the district should be formed, it shall adopt a resolution ordering that the district be formed, deleting any property determined not to be directly or indirectly benefited by the district or modifying the general plan and then ordering that an election be held on the question whether to form the district. A resolution ordering a formation of the district shall state that the district will be governed by a district board consisting of members of the governing body, ex officio, or, upon determination of the governing body, five directors appointed by the governing body, and shall contain the names of the five initial directors and the terms of office of each. If the governing body appoints a district board, it shall appoint a treasurer and a clerk from the appointed members.



B. A formation election shall include the owners unless a petition is presented to the governing body pursuant to Subsection I of Section 5-11-7 NMSA 1978. Each owner shall have the number of votes or portions of votes equal to the number of acres or portions of acres rounded upward to the nearest one-fifth of an acre owned by that owner in the submitted district. The right to vote on the question of formation of the district shall not be assigned or delegated to the property owners signing a petition submitted to the governing body for formation of a district or related entities of such property owners. The question shall also be submitted to a vote of the resident qualified electors. The conduct of a formation election shall meet the requirements of Section 5-11-7 NMSA 1978."

## **Chapter 45 Section 5 Laws 2013**

SECTION 5. Section 5-11-9 NMSA 1978 (being Laws 2001, Chapter 305, Section 9, as amended) is amended to read:

"5-11-9. APPOINTMENT OF DIRECTORS--QUALIFICATIONS--TERMS--RESUMPTION OF GOVERNANCE BY GOVERNING BODY.--

A. The governing body, at its option, may authorize the appointment of a separate district board. In the case of an appointed district board, three of the appointed directors shall serve an initial term of six years. Two of the appointed directors shall serve an initial term of four years. The resolution forming the district shall state which directors shall serve four-year terms and which shall serve six-year terms. If a vacancy occurs on the district board because of death, resignation or inability of the director to discharge the duties of director, the governing body shall appoint a director to fill the vacancy, who shall hold office for the remainder of the unexpired term until a successor is appointed or elected.

B. A director may be a director of more than one district.

C. At the end of the appointed directors' terms, the governing body shall resume governance of the district as its board either directly or through the governing body's designees or, at the governing body's option, shall hold an election of new directors by majority vote of the qualified electors and owners."

## **Chapter 45 Section 6 Laws 2013**

SECTION 6. Section 5-11-16 NMSA 1978 (being Laws 2001, Chapter 305, Section 16) is amended to read:

"5-11-16. PROJECT APPROVAL.--

A. Before constructing or acquiring any public infrastructure improvement, the district board shall have approved a study of the feasibility and benefits of the public infrastructure improvement project to be prepared, which shall include:

(1) a description of the public infrastructure improvement to be constructed or acquired and enhanced services to be provided and estimated costs thereof, if any, and other information reasonably necessary to understand the project;

(2) a map showing, in general, the location of the project within the district;

(3) an estimate of the cost to construct, acquire, operate and maintain the project;

(4) an estimated schedule for completion of the project, a map or description of the area to be benefited by the project and a plan for financing the project;

(5) an estimated or projected annual mill or special levy for all owners in the proposed district;

(6) the current, direct and overlapping tax and assessment burden on taxable property that is proposed to be taxed and the assessed valuation of the taxable property as shown on the most recent assessment roll;

(7) the expected market absorption of the development within the district and the effect of the bond issuance by the district on tax rates within the district, calculated at the beginning, middle and end of the market absorption period or based on the phasing of the project to be financed, as applicable;

(8) projections of working capital needs for a period that shall be the longer of:

(a) thirty years following the creation of a tax upon the district taxable property; or

(b) the final maturity date of any bonds issued by the district;

(9) an analysis of:

(a) the impact of the proposed debt financing, operation and maintenance costs, user charges and other district costs on the ultimate end users of the property, including projected property tax rates, special levies, fees, charges and other costs that would be borne by the property in the district;

(b) the impact that the costs described in Subparagraph (a) of this paragraph will have on the marketability of the private development; and

(c) a comparison of proposed tax rates and charges in adjoining and similar areas outside of the proposed district;

(10) a financing plan for any private development in the district that is not to be dedicated to the municipality or county; and

(11) a market absorption study for the private development in the district prepared by an independent consultant, which shall include the ability of the market to absorb the private development and a market absorption calendar for the private development.

B. Prior to approval of a project, the district board shall provide notice and opportunity to comment to the owners and the municipality or county.

C. In the event that project approval and formation of the public improvement district are occurring concurrently, a single feasibility study may be used to satisfy the requirement in Subsection A of this section and Paragraph (3) of Subsection A of Section 10 of this 2013 act.

D. For public infrastructure improvement projects undertaken by a district after formation, the district board shall hold a public hearing on the study and provide notice of the hearing by publication not less than two weeks in advance in the official newspaper of the municipality or county or, if there are none in the municipality or county, a newspaper of general circulation in the county. If the district board is composed of members other than the governing body, the notice shall be mailed to the governing body of the municipality or county in which the district is located. After the hearing, the district board may reject, amend or approve the report. If the report is amended substantially, a new hearing shall be held before approval. If the report is approved, the district board shall adopt a resolution approving the public infrastructure improvement of the project, identifying the areas benefited, the expected method of financing and an appropriate system of providing revenues to operate and maintain the project."

## **Chapter 45 Section 7 Laws 2013**

SECTION 7. Section 5-11-18 NMSA 1978 (being Laws 2001, Chapter 305, Section 18) is amended to read:

"5-11-18. RECORDING DOCUMENTS.--

A. The district shall file and record with the county clerk the resolution ordering formation of the district, the general plan of the district and the canvass of any general obligation bond election.

B. Upon formation of a district, and within thirty days before June 1 and December 1 of each year, a district shall file and record with the county clerk the notice requirements described in Subsection A of Section 11 of this 2013 act and include contact information for the district board."

## Chapter 45 Section 8 Laws 2013

SECTION 8. Section 5-11-19 NMSA 1978 (being Laws 2001, Chapter 305, Section 19, as amended) is amended to read:

### "5-11-19. GENERAL OBLIGATION BONDS--TAX LEVY--EXCEPTION.--

A. At any time after the hearing on formation of the district, the district board, or, if before formation, the governing body may from time to time order and call a general obligation bond election to submit to the owners and qualified electors the question of authorizing the district to issue general obligation bonds of the district to provide money for any public infrastructure purposes consistent with the general plan. The question shall include authorization for a levy, including a limitation on the levy, of a property tax to pay debt service on the bonds. The election may be held in conjunction with the formation election.

B. If general obligation bonds are approved at an election, the district board may issue and sell general obligation bonds of the district; provided that the district board shall have determined by resolution that the principal amount of all district general obligation bonds currently outstanding and the district general obligation bonds proposed for issuance and sale shall not result in a total annual debt service that exceeds five-tenths percent of the allowable base.

C. Bonds may be sold in a public offering or in a negotiated sale.

D. After the bonds are issued, the district board shall enter in its minutes a record of the bonds sold and their numbers and dates and shall annually levy and cause a property tax to be collected, at the same time and in the same manner as other property taxes are levied and collected on all taxable property in the district, sufficient, together with any money from the sources described in Section 5-11-17 NMSA 1978 to pay debt service on the bonds when due. Money derived from the levy of property taxes that are pledged to pay the debt service on the bonds shall be kept separately from other funds of the district. Property tax revenues not pledged to pay debt service on bonds may be used to pay other costs of the district, including costs of formation, administration, operation and maintenance, services or enhanced services. A district's levy of property taxes shall constitute a lien on all taxable property within the district, including, without limitation, all leased property or improvements to leased land, which shall be subject to foreclosure in the same manner as other property tax liens under the laws of this state. The lien shall include delinquencies and interest thereon at a rate not to exceed ten percent per year, the actual costs of foreclosure and any other costs of the district resulting from the delinquency. The proceeds of any foreclosure sale shall be deposited in the special bond fund for payment of any obligations secured thereby.

E. Subject to the election requirements of this section, a district may issue general obligation bonds at such times and in such amounts as the district deems appropriate to carry out a project or projects in phases.

F. Pursuant to this section, the district may issue and sell refunding bonds to refund general obligation bonds of the district authorized by the Public Improvement District Act. No election is required in connection with the issuance and sale of refunding bonds. Refunding bonds issued pursuant to this section shall have a final maturity date no later than the final maturity date of the bonds being refunded."

## **Chapter 45 Section 9 Laws 2013**

SECTION 9. Section 5-11-20 NMSA 1978 (being Laws 2001, Chapter 305, Section 20) is amended to read:

### "5-11-20. SPECIAL LEVY--BONDS--IMPOSITION.--

A. At any time after the hearing on formation of the district, the district board may from time to time order that a hearing be held to determine whether a special levy should be imposed and special levy bonds issued to provide money for any public infrastructure purpose consistent with the general plan. The question of imposing a special levy may be considered at the hearing on district formation upon notice that both issues will be heard at that time, which notice shall include the information required in Subsection B of this section.

B. Notice of hearing shall be provided at least two weeks in advance of the hearing itself in a newspaper of general circulation in the municipality or county in which the district is located. The notice shall include the following:

(1) a description of the method by which the amount of the proposed special levy will be determined for each class of property to which the levy is proposed to apply, in sufficient detail to enable the owner of the affected parcel to determine the amount of the special levy;

(2) a description of the project to be financed with special levy bonds or revenues; and

(3) a statement that any person affected by the proposed special levy may object in writing or in person at the hearing.

C. Prior to issuing special levy bonds, the district board shall set a maximum levy for each class of property that may be imposed for debt service on the special levy bonds.

D. Unless a local government has enacted an ordinance providing a greater limitation, no special levy bonds may be issued if at the time of issuance of such bonds the estimated total tax and assessment obligation for a class of property, including projected ad valorem taxes and special levies as provided in the feasibility study, exceeds one and ninety-five hundredths percent of the anticipated, average

market value of each class of property at the time of issuance of a certificate of occupancy as determined by a member appraiser of the appraisal institute.

E. Special levy bonds may be sold in a public offering or in a negotiated sale.

F. After the bonds are issued, the district board shall enter in its minutes a record of the bonds sold and their numbers and dates and shall annually impose and cause a special levy to be collected, at the same time and in the same manner as property taxes are levied and collected on all property within the district that may be subject to the levy, including, without limitation, all leased property or improvements to leased land, sufficient, together with any other money lawfully available to pay debt service on the bonds when due, except to the extent that the district board has provided for other imposition, collection and foreclosure procedures in connection with special levies. Money derived from the imposition of the special levy when collected that is pledged to pay the debt service on the bonds shall be kept separately from other funds of the district. Special levy revenues not pledged to pay debt service on bonds may be used to pay other costs of the district, including costs of formation, administration, operation and maintenance, service or enhanced services.

G. The district board shall specify conditions under which the obligation to pay special levies may be prepaid and permanently satisfied.

H. Special levies against privately owned residential property shall be subject to the following provisions:

(1) the amount of special levy that may be imposed shall not be increased over time by an amount exceeding two percent per year, except that the amount of special levy actually imposed may be increased by up to ten percent as a result of the delinquency or default by the owner of any other parcel within the district, but in no case shall the amount of the special levy imposed exceed the maximum special levy provided in the rate and method of apportionment;

(2) the special levy shall be imposed for a specified time period, after which no further special levy shall be imposed and collected, except that special levies imposed solely to finance the cost of ongoing district services, maintenance or operations or enhanced services may be levied while such services, maintenance or operations or enhanced services are continuing; and

(3) nothing in this subsection shall preclude the establishment of different categories of residential property or changing the amount of the special levies for a parcel whose size or use is changed. A change in the amount of a special levy imposed upon a parcel due to a change in its size or use shall not require voter approval if the method for changing the amount of special levy was approved in the election approving the special levy in sufficient detail to enable the owner of the affected

parcel to determine how the change in size or use of the parcel would affect the amount of the special levy.

I. A district's imposition of a special levy shall constitute a lien on the property within the district subject to the special levy, including property acquired by the state or its political subdivisions after imposition of the special levy, which shall be effective during the period in which the special levy is imposed and shall have priority co-equal to the lien of property taxes. A special levy shall be subject to foreclosure by the district at any time after six months following written notice of delinquency to the owner of the real property to which the delinquency applies. The lien shall include delinquencies, penalties and interest thereon at a rate not to exceed the maximum legal rate of interest per year and penalties otherwise applicable for delinquent property taxes, the district's actual costs of foreclosure and any other costs of the district resulting from the delinquency. All rights of redemption applicable to property sold in connection with property tax foreclosures pursuant to the laws of this state shall apply to property sold following foreclosure of a special levy lien. The portion of proceeds of any foreclosure sale necessary to discharge the lien for the special levy shall be deposited in the special bond fund for payment of any obligations secured thereby.

J. No holder of special levy bonds issued pursuant to the Public Improvement District Act may compel any exercise of the taxing power of the district, municipality or county to pay the bonds or the interest on the bonds. Special levy bonds issued pursuant to that act are not a debt of the district, municipality or county, nor is the payment of special levy bonds enforceable out of any money other than the revenue pledged to the payment of the bonds.

K. Subject to the requirements of this section, a district may issue special levy bonds at such times and in such amounts as the district deems appropriate to carry out a project or projects in phases.

L. Pursuant to this section, the district may issue and sell refunding bonds to refund any special levy bonds of the district authorized by the Public Improvement District Act. Refunding bonds issued pursuant to this section shall have a final maturity date no later than the final maturity date of the bonds being refunded."

## **Chapter 45 Section 10 Laws 2013**

SECTION 10. A new section of the Public Improvement District Act is enacted to read:

**"FORMATION OF A PUBLIC IMPROVEMENT DISTRICT--APPLICATION REQUIREMENTS.--**

A. An application for the formation of a district shall be submitted to the governing body. Each application shall be supported by a petition signed by the owners

of at least twenty-five percent of the real property by assessed valuation proposed to be included in the district and shall contain, at a minimum, the following:

(1) a description of the proposed district, including:

(a) a legal description of its boundaries;

(b) the identity and addresses of all persons or entities with any interest in the property, including submitting a current title report on the property as evidence of the names of persons with any interest in the property;

(c) the names and addresses of any resident qualified electors located within the proposed boundaries, if applicable;

(d) an explanation as to how the district boundaries were chosen;

(e) adequate information to establish financial parameters for the operation of the district, if applicable; and

(f) information regarding the future ownership and maintenance of the public infrastructure improvements or enhanced services;

(2) a detailed description of the types of public infrastructure improvements or enhanced services to be provided by the district, including, if applicable:

(a) the estimated construction or acquisition costs of the public infrastructure improvements, including costs for repair and replacement of public infrastructure improvements;

(b) the estimated annual operation and maintenance costs of the public infrastructure improvements;

(c) projection of working capital needs for enhanced services; and

(d) any governmental approvals and licenses that are expected to be required for both the public and private improvements to be constructed and operated;

(3) a feasibility study containing the information required in Subsection A of Section 5-11-16 NMSA 1978;

(4) a description of the applicant's professional experience and evidence demonstrating its financial capacity to undertake the development associated



with the public infrastructure, enhanced services and private development, as applicable;

(5) a disclosure form to owners describing:

(a) that the applicant intends to file an application for formation of a public improvement district;

(b) the purpose of the proposed public improvement district;

(c) a description of what a public improvement district is; and

(d) the rate, method of apportionment and manner of collection of a special levy, if one is proposed, in sufficient detail to enable each owner or resident within the district to estimate the maximum amount of the proposed levy;

(6) certification that the disclosure pursuant to Paragraph (5) of this subsection has been provided to each owner;

(7) a description of how the proposed district meets the existing development objectives of the municipality or county, to the extent that the municipality or county has adopted policies identifying such objectives, including how the district is consistent with:

(a) the goals of promoting orderly development;

(b) the municipality's or county's comprehensive plan;

(c) growth management policies and zoning requirements;

and

(d) the municipality's or county's applicable policies for development, growth management and zoning; and

(8) any other information that the governing body may reasonably require after its initial review of the application.

B. The requirements of Paragraph (5) of Subsection A of this section shall not apply if the petition is signed by the owner of all the land in the district described in the petition submitted to the governing body.

C. The governing body may charge a fee to be applied by the governing body to the costs incurred in connection with the processing and review of the application and formation of the district in accordance with this section. Upon formation of the district, the governing body may charge an additional administrative expense fee to be applied by the governing body to the costs and expenses incurred in the formation

of the district, specifically the review of the feasibility study and current appraisal of the project."

## **Chapter 45 Section 11 Laws 2013**

SECTION 11. A new section of the Public Improvement District Act is enacted to read:

"NOTICE OBLIGATIONS TO PURCHASER--REQUIREMENTS--REMEDIES.--

A. Prior to accepting an offer to purchase, a seller or an agent or broker of a seller of residential real property that is located in a district established pursuant to the Public Improvement District Act has an affirmative duty to provide to the purchaser of the property a written notice of information filed with the county clerk pursuant to Subsection B of Section 5-11-18 NMSA 1978, in addition to the disclosure required by Section 47-13-4 NMSA 1978, that includes:

(1) information that the property is within a public improvement district;

(2) the purpose of the district;

(3) an explanation that the purchaser is obligated to pay any property tax or special levy that is imposed by the district board;

(4) an explanation that the property tax or special levy imposed by the district board is in addition to any other state, county or other local governmental taxes and assessments;

(5) for special levies:

(a) if a special levy has not been authorized by the district board, information that a special levy has not been authorized; or

(b) if a special levy has been authorized by the district board:  
1) the maximum special levy that is authorized to be imposed upon the property in the district; or 2) that the special levy to be imposed on the property in the district has been prepaid in full as provided in the rate or method of apportionment;

(6) for general obligation bonds:

(a) if general obligation bonds have not been issued, information that general obligation bonds have not been issued; or

(b) if general obligation bonds have been issued: 1) the amount of general obligation bonds that are outstanding; 2) the amount of annual debt

service on outstanding general obligation bonds; 3) that the maximum rate and amount of property taxes that may be imposed upon the property in the district are limited only by the amount of debt outstanding; and 4) the estimated or projected annual mill levy or special levy per one thousand dollars (\$1,000) of assessed value as of the date of the disclosure with an explanation that the estimated levy or rate may be increased by the district board when necessary to meet debt obligations;

(7) information that the failure to pay the property tax or special levy could result in the foreclosure of the property;

(8) information that more information concerning the rate of the property tax or the amount of the assessment and the due dates of each may be obtained from the governing body that authorized the formation of the district; and

(9) information that a feasibility study was completed as part of the formation of the district and that the feasibility study is available through the governing body that authorized the formation of the district.

B. The provisions of Paragraphs (5) through (7) of Subsection A of this section shall be set apart in a clear and conspicuous manner and in at least twelve-point bold type.

C. This section does not apply to a transfer:

(1) of property under a court order or foreclosure sale;

(2) of property by a trustee in bankruptcy;

(3) of property to a mortgagee by a mortgagor or successor in interest or to a beneficiary of a deed of trust by a trustor or successor in interest;

(4) of property by a mortgagee or a beneficiary under a deed of trust who has acquired the land at a sale conducted under a power of sale under a deed of trust or a sale under a court-ordered foreclosure or has acquired the land by a deed in lieu of foreclosure;

(5) of property by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship or trust;

(6) of property from one co-owner to another co-owner of an undivided interest in the real property; or

(7) of only a mineral interest or leasehold interest.

D. In the event of a finalized sale, any person who suffers any loss of money or property, real or personal, as a result of a violation of Subsection A or B of

this section by a seller or an agent or broker of a seller may bring an action to recover actual damages and may be granted injunctive relief under the principles of equity and on terms that the court considers reasonable. The court shall award attorney fees and costs to the party complaining of a violation if the party prevails and actual damages are awarded. The court shall award attorney fees and costs to the party charged with a violation of Subsection A or B of this section if the court finds that the party complaining of such violation brought an action that was groundless. The relief provided in this subsection is in addition to remedies otherwise available against the same conduct under the common law or other laws of this state."

## **Chapter 45 Section 12 Laws 2013**

SECTION 12. APPLICABILITY.--The provisions of Sections 1 through 4 and 6 through 10 of this act do not apply to an application for formation of a public improvement district submitted to a governing body prior to January 1, 2014.

## **Chapter 45 Section 13 Laws 2013**

SECTION 13. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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HFL/HJC/HTRC/House Bills 371 & 355, w/cc

Approved March 27, 2013

# **LAWS 2013, CHAPTER 46**

AN ACT

RELATING TO PUBLIC FINANCING; PROVIDING A PROCESS FOR ALLOCATING AND ISSUING QUALIFIED ENERGY CONSERVATION BONDS PURSUANT TO THE FEDERAL INTERNAL REVENUE CODE.

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

## **Chapter 46 Section 1 Laws 2013**

SECTION 1. QUALIFIED ENERGY CONSERVATION BONDS--ALLOCATION--ISSUANCE.--

A. As used in this section:

(1) "board" means the state board of finance;

(2) "federal act" means Section 54D of the federal Internal Revenue Code and includes federal rules and guidelines adopted to carry out the provisions of that section;

(3) "large local government" means:

(a) a municipality or county with a population greater than one hundred thousand, as determined pursuant to the provisions of the federal act; or

(b) an Indian tribal government;

(4) "qualified conservation purpose" means:

(a) capital expenditures incurred for purposes of: 1) reducing energy consumption in publicly owned buildings by at least twenty percent; 2) implementing green community programs, including the use of loans, grants or other repayment mechanisms to implement the programs; 3) rural development involving the production of electricity from renewable energy resources; or 4) any qualified facility, as determined under Section 45 (d) of the federal Internal Revenue Code without regard to Paragraphs (8) and (10) of that subsection and without regard to any placed in service date;

(b) expenditures with respect to research facilities and research grants to support research in: 1) development of cellulosic ethanol or other nonfossil fuels; 2) technologies for the capture and sequestration of carbon dioxide produced through the use of fossil fuel; 3) increasing the efficiency of existing technologies for producing nonfossil fuels; 4) automobile battery technologies and other technologies to reduce fossil fuel consumption in transportation; or 5) technologies to reduce energy use in buildings;

(c) mass commuting facilities and related facilities that reduce the consumption of energy, including expenditures to reduce pollution from vehicles used for mass commuting;

(d) demonstration projects designed to promote the commercialization of: 1) green building technology; 2) conversion of agricultural waste for use in the production of fuel or otherwise; 3) advanced battery manufacturing technologies; 4) technologies to reduce peak use of electricity; or 5) technologies for the capture and sequestration of carbon dioxide emitted from combusting fossil fuels in order to produce electricity; or

(e) public education campaigns to promote energy efficiency;

(5) "qualified energy conservation bond" means a bond of a qualified issuer, the net proceeds from the sale of which are used exclusively for

qualified conservation purposes and that meets all of the other requirements of the federal act for a qualified energy conservation bond;

(6) "qualified issuer" means the state, a county, a municipality or an Indian tribal government;

(7) "remaining allocation" means the state allocation:

(a) less the amounts required by the federal act to be allocated to large local governments; and

(b) plus any amount not used by a large local government and reallocated by that large local government to the state; and

(8) "state allocation" means the maximum amount of qualified energy conservation bonds that may be issued by qualified issuers in New Mexico pursuant to the federal act.

B. The board shall determine the amount of the state allocation that is required by the federal act to be allocated to each large local government. The aggregate face amount of all qualified energy conservation bonds issued by a large local government shall not exceed the required allocated amount determined for that large local government unless the large local government applies for and receives an additional allocation pursuant to Subsection D of this section.

C. Excluding qualified energy conservation bonds issued by large local governments from their allocation required by the federal act, the aggregate face amount of all qualified energy conservation bonds issued by qualified issuers shall not exceed the remaining allocation. The board is the state agency responsible for ensuring compliance with the limitation of this subsection and for ensuring compliance with the provisions of the federal act.

D. If a qualified issuer that has been authorized to issue bonds, or is in the process of obtaining authorization to issue bonds, desires to designate all or any portion of the bonds as qualified energy conservation bonds, unless exempted pursuant to Subsection E of this section, it shall submit an application to the board for an allocation distribution. The board shall, by rule, establish deadlines for receiving applications from qualified issuers desiring to designate bonds as qualified energy conservation bonds and deadlines for issuing bonds that have been allocated by the board. The application shall include:

(1) evidence that the requirements of the federal act have been satisfied; and

(2) such other information as is required by rule of the board.

E. A large local government for which an allocation is required by the federal act shall be exempt from the application requirement to the extent that the amount of qualified energy conservation bonds to be issued by that large local government does not exceed the required allocation.

F. In the event that the face amount of all proposed qualified energy conservation bonds in valid, timely submitted applications exceeds the remaining allocation, the board shall decide how the remaining allocation shall be distributed to applicants by considering:

(1) the dates anticipated for the initial expenditure of bond proceeds and for completion of the project;

(2) the percent of the bond proceeds that are likely to be expended within three years of the date of the issuance of the bonds;

(3) whether the bond proceeds, together with all other money available for the project, are sufficient to complete the project; and

(4) such other criteria as deemed by rule of the board to be relevant.

G. If the remaining allocation exceeds the total amount of qualified energy conservation bonds allocated to applicants and issued within the time frame required by the board, the excess shall revert to the board and, together with any unused amount reallocated by a large local government to the state, shall be carried forward and included in another application cycle pursuant to this section, if determined by the board to be necessary.

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Senate Bill 101

Approved March 27, 2013

## **LAWS 2013, CHAPTER 47**

### **AN ACT**

**RELATING TO LAW ENFORCEMENT; ENACTING THE UNIFORM INTERSTATE ENFORCEMENT OF DOMESTIC VIOLENCE PROTECTION ORDERS ACT; PERMITTING REGISTRATION OF FOREIGN DOMESTIC VIOLENCE PROTECTION ORDERS.**

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

## **Chapter 47 Section 1 Laws 2013**

SECTION 1. SHORT TITLE.--Sections 1 through 9 of this act may be cited as the "Uniform Interstate Enforcement of Domestic Violence Protection Orders Act".

## **Chapter 47 Section 2 Laws 2013**

SECTION 2. DEFINITIONS.--As used in the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act:

A. "foreign protection order" means a protection order issued by a tribunal of another state;

B. "issuing state" means the state whose tribunal issues a protection order;

C. "mutual foreign protection order" means a foreign protection order that includes provisions in favor of both the protected individual seeking enforcement of the order and the respondent;

D. "protected individual" means a person protected by a protection order;

E. "protection order" means an injunction or other order, issued by a tribunal under the domestic violence, family violence or antistalking laws of the issuing state, to prevent a person from engaging in a violent or threatening act against, harassment of, contact or communication with or physical proximity to another person;

F. "respondent" means the person against whom enforcement of a protection order is sought;

G. "state" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States. "State" includes an Indian pueblo, tribe, nation or band that has jurisdiction to issue protection orders; and

H. "tribunal" means a court, agency or other entity authorized by law to issue or modify a protection order.

## **Chapter 47 Section 3 Laws 2013**

SECTION 3. JUDICIAL ENFORCEMENT OF A FOREIGN PROTECTION ORDER.--

A. A person may seek enforcement of a valid foreign protection order in a New Mexico tribunal. The tribunal shall enforce the terms of the order, including terms that provide relief that a New Mexico tribunal would lack power to provide but for this



section. The tribunal shall enforce the order, whether the order was obtained by independent action or in another proceeding, if it is an order issued in response to a complaint, petition or motion filed by or on behalf of a person seeking protection. In a proceeding to enforce a foreign protection order, the tribunal shall follow New Mexico procedures for the enforcement of protection orders.

B. A New Mexico tribunal shall not enforce a foreign protection order issued by a tribunal of a state that does not recognize the standing of a protected individual to seek enforcement of the order.

C. A New Mexico tribunal shall enforce the provisions of a valid foreign protection order governing custody and visitation, if the order was issued in accordance with the jurisdictional requirements governing the issuance of custody and visitation orders in the issuing state.

D. A foreign protection order is valid if it:

(1) identifies the protected individual and the respondent;

(2) is currently in effect;

(3) was issued by a tribunal that had jurisdiction over the parties and subject matter under the law of the issuing state; and

(4) was issued after the respondent was given reasonable notice and had an opportunity to be heard before the tribunal issued the order or, in the case of an ex parte order, the respondent was given notice and has had or will have an opportunity to be heard within a reasonable time after the order was issued in a manner consistent with the due process rights of the respondent.

E. A foreign protection order valid on its face is prima facie evidence of its validity.

F. Absence of any of the criteria for validity of a foreign protection order is an affirmative defense in an action seeking enforcement of the order.

G. A New Mexico tribunal may enforce provisions of a mutual foreign protection order only if:

(1) both parties filed a written pleading seeking a protection order from the tribunal of the issuing state; and

(2) the tribunal of the issuing state made specific findings that each party was entitled to a protection order.

## **Chapter 47 Section 4 Laws 2013**

#### SECTION 4. NONJUDICIAL ENFORCEMENT OF FOREIGN PROTECTION ORDER.--

A. A New Mexico law enforcement officer, upon determining that there is probable cause to believe that a valid foreign protection order exists and that the order has been violated, shall enforce the order as if it were the order of a New Mexico tribunal. Presentation of a foreign protection order that identifies both the protected individual and the respondent and that, on its face, appears to be in effect constitutes probable cause to believe that a valid foreign protection order exists. For the purposes of this section, a protection order may be inscribed on a tangible medium or may have been stored in an electronic or other medium if it is retrievable in perceivable form. Presentation of a certified copy of a protection order is not required for enforcement.

B. If a foreign protection order is not presented, a New Mexico law enforcement officer may consider other information in determining whether there is probable cause to believe that a valid foreign protection order exists.

C. If a New Mexico law enforcement officer determines that an otherwise valid foreign protection order cannot be enforced because the respondent has not been notified or served with the order, the officer shall inform the respondent of the order, make a reasonable effort to serve the order upon the respondent and allow the respondent a reasonable opportunity to comply with the order before enforcing the order.

D. Registration or filing of a foreign protection order in New Mexico is not required for the enforcement of a valid foreign protection order pursuant to the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

### **Chapter 47 Section 5 Laws 2013**

#### SECTION 5. REGISTRATION OF FOREIGN PROTECTION ORDER.--

A. A person may register a foreign protection order in New Mexico. To register a foreign protection order, a person shall present to the clerk of the district court:

(1) a copy of the foreign protection order that has been certified by the issuing tribunal; and

(2) an affidavit by the protected individual stating that, to the best of the protected individual's knowledge, the foreign protection order is currently in effect.

B. The clerk shall register the foreign protection order in accordance with this section. After the foreign protection order is registered, the clerk shall furnish to the person registering the order a certified copy of the registered order and shall send a copy of the registered order to the local law enforcement agency. The clerk shall not

notify the respondent that the foreign protection order has been registered in New Mexico unless requested to do so by the protected individual.

C. A registered foreign protection order that is inaccurate or is not currently in effect shall be corrected or removed from the tribunal's records in accordance with New Mexico law.

D. A foreign protection order registered under the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act may be entered in any state or federal registry of protection orders in accordance with applicable law.

E. A fee shall not be charged for the registration of a foreign protection order.

### **Chapter 47 Section 6 Laws 2013**

SECTION 6. LIMITS ON INTERNET PUBLICATION.--A state agency, court or political subdivision of the state, including a magistrate or municipal court, judicial district, law enforcement agency, county, municipality or home-rule municipality, shall not make available publicly on the internet any information regarding the registration of, filing of a petition for or issuance of a protection order, restraining order or injunction pursuant to the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, whether the filing or issuance occurred in New Mexico or any other state. However, the provisions of the preceding sentence shall not apply to a filing or issuance on the New Mexico state judiciary's statewide case management and e-filing system, but the address of a protected person shall be redacted from any such filing or issuance. A state agency, court or political subdivision may share court-generated and law enforcement-generated information contained in secure, governmental registries for protection order enforcement purposes.

### **Chapter 47 Section 7 Laws 2013**

SECTION 7. OTHER REMEDIES.--A protected individual who pursues remedies under the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act is not precluded from pursuing other legal or equitable remedies against the respondent.

### **Chapter 47 Section 8 Laws 2013**

SECTION 8. UNIFORMITY OF APPLICATION AND CONSTRUCTION.--In applying and construing the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact that act.

### **Chapter 47 Section 9 Laws 2013**

SECTION 9. TRANSITIONAL PROVISION.--The Uniform Interstate Enforcement of Domestic Violence Protection Orders Act applies to protection orders issued before July 1, 2013 and to continuing actions for enforcement of foreign protection orders commenced before July 1, 2013. A request for enforcement of a foreign protection order made on or after July 1, 2013 for violations of a foreign protection order occurring before July 1, 2013 is governed by the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

## **Chapter 47 Section 10 Laws 2013**

SECTION 10. Section 40-13-6 NMSA 1978 (being Laws 1987, Chapter 286, Section 6, as amended) is amended to read:

"40-13-6. SERVICE OF ORDER--DURATION--PENALTY--REMEDIES NOT EXCLUSIVE.--

A. An order of protection granted under the Family Violence Protection Act shall be filed with the clerk of the court, and a copy shall be sent by the clerk to the local law enforcement agency. The order shall be personally served upon the restrained party, unless the restrained party or the restrained party's attorney was present at the time the order was issued. The order shall be filed and served without cost to the protected party.

B. A local law enforcement agency receiving an order of protection from the clerk of the court that was issued under the Family Violence Protection Act shall have the order entered in the national crime information center's order of protection file within seventy-two hours of receipt. This does not include temporary orders of protection entered pursuant to the provisions of Section 40-13-4 NMSA 1978.

C. An order of protection granted by the court involving custody or support shall be effective for a fixed period of time not to exceed six months. The order may be extended for good cause upon motion of the protected party for an additional period of time not to exceed six months. Injunctive orders shall continue until modified or rescinded upon motion by either party or until the court approves a subsequent consent agreement entered into by the parties.

D. A peace officer may arrest without a warrant and take into custody a restrained party whom the peace officer has probable cause to believe has violated an order of protection that is issued pursuant to the Family Violence Protection Act or entitled to full faith and credit.

E. A restrained party convicted of violating an order of protection granted by a court under the Family Violence Protection Act is guilty of a misdemeanor and shall be sentenced in accordance with Section 31-19-1 NMSA 1978. Upon a second or subsequent conviction, an offender shall be sentenced to a jail term of not less than

seventy-two consecutive hours that shall not be suspended, deferred or taken under advisement.

F. In addition to any other punishment provided in the Family Violence Protection Act, the court shall order a person convicted to make full restitution to the party injured by the violation of an order of protection and shall order the person convicted to participate in and complete a program of professional counseling, at the person's own expense, if possible.

G. In addition to charging the person with violating an order of protection, a peace officer shall file all other possible criminal charges arising from an incident of domestic abuse when probable cause exists.

H. The remedies provided in the Family Violence Protection Act are in addition to any other civil or criminal remedy available to the protected party or the state.

## **Chapter 47 Section 11 Laws 2013**

SECTION 11. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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Senate Bill 132, aa

Approved March 27, 2013

## **LAWS 2013, CHAPTER 48**

AN ACT

RELATING TO CORRECTIONS; INCREASING THE MAXIMUM CASE LOAD OF A PROBATION AND PAROLE OFFICER WORKING IN INTENSIVE SUPERVISION PROGRAMS FROM TWENTY TO FORTY OFFENDERS.

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

## **Chapter 48 Section 1 Laws 2013**

SECTION 1. Section 31-21-13.1 NMSA 1978 (being Laws 1988, Chapter 62, Section 3, as amended) is amended to read:

"31-21-13.1. INTENSIVE SUPERVISION PROGRAMS.--

A. As used in this section, "intensive supervision programs" means programs that provide highly structured and intense supervision, with stringent reporting requirements, of certain individuals who represent an excessively high assessment of risk of violation of probation or parole, emphasize meaningful rehabilitative activities and reasonable alternatives without seriously increasing the risk of recidivist crime and facilitate the payment of restitution by the offender to the victim. "Intensive supervision programs" include house arrest programs or electronic surveillance programs or both.

B. The corrections department shall implement and operate intensive supervision programs in various local communities. The programs shall provide services for appropriate individuals by probation and parole officers of the corrections department. The corrections department shall promulgate rules and regulations to provide that the officers providing these services have a maximum case load of forty offenders and to provide for offender selection and other criteria. The corrections department may cooperate with all recognized law enforcement authorities and share all necessary and pertinent information, records or documents regarding probationers or parolees in order to implement and operate these intensive supervision programs.

C. For purposes of this section, a judge contemplating imposition of an intensive supervision program for an individual shall consult with the adult probation and parole division of the corrections department and consider the recommendations before imposing such probation. The adult probation and parole division of the corrections department shall recommend only those individuals who would have otherwise been recommended for incarceration for intensive supervision programs. A judge has discretion to impose an intensive supervision program for an individual, regardless of recommendations made by the adult probation and parole division. Inmates eligible for parole, or within twelve months of eligibility for parole, or inmates who would otherwise remain in a correctional institution for lack of a parole plan or those parolees whose parole the board would otherwise revoke are eligible for intensive supervision programs. The provisions of this section do not limit or reduce the statutory authority vested in probation and parole supervision as defined by any other section of the Probation and Parole Act.

D. There is created in the state treasury the "corrections department intensive supervision fund" to be administered by the corrections department upon vouchers signed by the secretary of corrections. Balances in the corrections department intensive supervision fund shall not revert to the general fund. Beginning July 1, 1988, the intensive supervision programs established pursuant to this section shall be funded by those supervision costs collected pursuant to the provisions of Sections 31-20-6 and 31-21-10 NMSA 1978. The corrections department is specifically authorized to hire additional permanent or term full-time equivalent positions for the purpose of implementing the provisions of this section."

Approved March 27, 2013

## **LAWS 2013, CHAPTER 49**

AN ACT

RELATING TO ANIMALS; CREATING THE HORSE SHELTER RESCUE FUND; CREATING AN OPTIONAL DESIGNATION FOR A PERSONAL INCOME TAX CONTRIBUTION FOR THE HORSE SHELTER RESCUE FUND; MAKING AN APPROPRIATION.

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

### **Chapter 49 Section 1 Laws 2013**

SECTION 1. A new section of The Livestock Code is enacted to read:

"HORSE SHELTER RESCUE FUND--CREATED.--

A. The "horse shelter rescue fund" is created as a nonreverting fund in the state treasury. The fund consists of appropriations, gifts, grants, donations and amounts designated pursuant to Section 2 of this 2013 act. The board shall administer the fund, and money in the fund is appropriated to the board to carry out the intent of aiding horse rescues and homeless horses in the state.

B. The board shall establish by rule the distribution of funds from the horse shelter rescue fund to horse rescue and retirement facilities registered by the board pursuant to Section 77-2-30 NMSA 1978, taking into consideration the number of horses being cared for in each facility and the need of each facility."

### **Chapter 49 Section 2 Laws 2013**

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

"OPTIONAL DESIGNATION OF TAX REFUND CONTRIBUTION--HORSE SHELTER RESCUE FUND.--

A. Any individual whose state income tax liability after application of allowable credits and tax rebates in any year is lower than the amount of money held by the department to the credit of such individual for that tax year may designate any portion of the income tax refund due to the individual to be paid to the horse shelter rescue fund. In the case of a joint return, both individuals must make such a designation.

B. The department shall revise the state income tax form to allow the designation of such contributions in the following form:

"Horse Shelter Rescue Fund - Check [ ] if you wish to contribute a part or all of your tax refund to the horse shelter rescue fund. Enter here \$\_\_\_\_\_ the amount of your contribution."

C. The provisions of this section do not apply to income tax refunds subject to interception under the provisions of the Tax Refund Intercept Program Act, and any designation made under the provisions of this section to such refunds is void."

## **Chapter 49 Section 3 Laws 2013**

SECTION 3. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2013.

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Senate Bill 274

Approved March 27, 2013

## **LAWS 2013, CHAPTER 50**

AN ACT

RELATING TO EMERGENCY PLACEMENT OF CHILDREN; ALLOWING THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT TO CONDUCT FEDERAL CRIMINAL HISTORY RECORD CHECKS OF ADULTS RESIDING IN THE HOME; DECLARING AN EMERGENCY.

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

## **Chapter 50 Section 1 Laws 2013**

SECTION 1. A new section of the Children's Code is enacted to read:

"EMERGENCY PLACEMENT--CRIMINAL HISTORY RECORD CHECK.--

A. In an emergency placement situation, when a child must be placed in a home due to the absence of parents or custodians, the department shall request that a criminal justice agency perform a federal name-based criminal history record check of each adult residing in the home. The results of the name-based check shall be provided to the department, and, within fifteen days from the date that the name-based check was conducted, the department shall provide a complete set of each adult resident's



fingerprints to the department of public safety for immediate submission to the federal bureau of investigation. The department of public safety shall positively identify the fingerprint subject, if possible, and forward the fingerprints to the federal bureau of investigation within fifteen calendar days from the date that the name-based search was conducted. The child may be removed from the home immediately if any adult resident fails to provide fingerprints or written permission to perform a federal criminal history record check when requested to do so.

B. When placement of a child in a home is denied as a result of a name-based criminal history record check of a resident and the resident contests that denial, the resident shall, within five business days, submit to the department a complete set of the resident's fingerprints with written permission allowing the department to forward the fingerprints to the department of public safety for submission to the federal bureau of investigation.

C. The department of public safety may charge a reasonable fee for processing a fingerprint-based criminal history record check.

D. As used in this section, "emergency placement" refers to those limited instances when the department is placing a child in the home of private individuals, including neighbors, friends or relatives, as a result of sudden unavailability of the child's primary caretaker."

## **Chapter 50 Section 2 Laws 2013**

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

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Senate Bill 41, aa, w/ec

Approved March 28, 2013

## **LAWS 2013, CHAPTER 51**

AN ACT

RELATING TO LAW ENFORCEMENT; EXPANDING REASONS FOR DECLARING AN AMBER ALERT.

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

## **Chapter 51 Section 1 Laws 2013**

SECTION 1. Section 29-15A-3 NMSA 1978 (being Laws 2003, Chapter 93, Section 3, as amended) is amended to read:

"29-15A-3. STATE POLICE--AMBER ALERT NOTIFICATION PLAN--  
DECLARATION OF AMBER ALERT.--

A. The state police shall develop and implement an AMBER alert notification plan for the purpose of disseminating, as rapidly as possible, information about a child abduction so that law enforcement agencies and citizens throughout the state may be aware and vigilant. The plan shall:

(1) provide a procedure for notifying the lead station by the authorized requester that an AMBER alert has been declared. The procedure shall include codes for use by the authorized requester in communicating with the lead station to prevent false alerts;

(2) provide a procedure in which other state and private print, radio, television or other media may alert the members of the public of the abduction;

(3) include a procedure for notifying the department of information technology that an AMBER alert has been declared. The department of information technology shall immediately transmit the notification and related information to all state field operations employees so that they may be aware and vigilant in the course of their regular activities;

(4) include a procedure for notifying a representative of each cellular service company and paging service company operating in New Mexico so that a text message may be sent to the company's customers at no additional expense to the recipient or to any service that accepts the information from the authorized requester and delivers it to the cellular service or paging service company;

(5) include a procedure for notifying all local and federal law enforcement agencies that an AMBER alert has been declared; and

(6) provide for dissemination of information about a child or a child's abductor to the lead station, the department of information technology and local law enforcement agencies when an AMBER alert has been declared.

B. The state police shall distribute the AMBER alert notification plan to all local law enforcement agencies and provide such training and other assistance as is necessary to ensure that the plan can be properly implemented.

C. The authorized requester may declare an AMBER alert when the requester has reason to believe that:

(1) a child under the age of eighteen has been abducted;

(2) the child is in imminent danger of serious bodily harm or death;  
and

(3) there is specific information available about the child or the child's abductor that may assist in an expedient and successful end to the abduction.

D. Once an AMBER alert has been declared, only the authorized requester may terminate the AMBER alert."

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House Bill 104, aa

Approved March 28, 2013

## **LAWS 2013, CHAPTER 52**

### **AN ACT**

RELATING TO COMMERCIAL MOTOR VEHICLE LEASING; CLARIFYING THAT TERMINAL RENTAL ADJUSTMENT CLAUSES DO NOT CREATE A SALE OF OR SECURITY INTEREST IN THE LEASED VEHICLE; DECLARING AN EMERGENCY.

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

### **Chapter 52 Section 1 Laws 2013**

SECTION 1. A new section of Chapter 66, Article 3 NMSA 1978 is enacted to read:

"TERMINAL RENTAL ADJUSTMENT CLAUSES--VEHICLE LEASES THAT ARE NOT SALES NOR CREATE SECURITY INTERESTS.--Notwithstanding any other provision of law, in the case of motor vehicles or trailers that are leased, except for those motor vehicles or trailers leased for personal, family or household purposes, a lease transaction does not create a sale of or security interest in a motor vehicle or trailer, or transfer ownership to the lessee, merely because the lease contains a terminal rental adjustment clause that provides that the rental price is permitted or required to be adjusted up or down in respect to the amount of money realized upon the sale of the motor vehicle or trailer. Nothing in this section exempts a leaseholder of a motor vehicle or trailer from payment of fees or taxes otherwise required pursuant to New Mexico law."

### **Chapter 52 Section 2 Laws 2013**

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

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House Bill 72, w/ec

Approved March 28, 2013

## **LAWS 2013, CHAPTER 53**

AN ACT

RELATING TO CAMPAIGN FINANCE; AUTHORIZING THE EXPENDITURE OF CAMPAIGN FUNDS BY ADDITIONAL MEANS THAT AUTOMATICALLY RECORD TRANSACTIONS.

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

### **Chapter 53 Section 1 Laws 2013**

SECTION 1. Section 1-19-34 NMSA 1978 (being Laws 1979, Chapter 360, Section 10, as amended) is amended to read:

"1-19-34. CANDIDATES--POLITICAL COMMITTEES--TREASURER--BANK ACCOUNT--ANONYMOUS CONTRIBUTIONS--CONTRIBUTIONS FROM SPECIAL EVENTS.--

A. It is unlawful for the members of any political committee or any candidate to make any expenditure or solicit or accept any contribution for a political purpose unless:

(1) a treasurer has been appointed and is constantly maintained; provided, however, when a duly appointed treasurer is unable for any reason to continue as treasurer, the candidate or political committee shall appoint a successor; and provided further that a candidate may serve as the candidate's own treasurer;

(2) all disbursements of money and receipts of contributions are authorized by and through the candidate or treasurer;

(3) a separate bank account has been established and all receipts of money contributions and all expenditures of money are deposited in and disbursed from the one bank account maintained by the treasurer in the name of the candidate or political committee; provided that nothing in this section shall prohibit investments from the bank account to earn interest as long as the investments and earnings are fully reported. All disbursements except for disbursements made from a petty cash fund of

one hundred dollars (\$100) or less shall be made in a form such that the date, amount and payee of the transaction are automatically recorded or by check made payable to the person or entity receiving the disbursement and not to "cash" or "bearer"; and

(4) the treasurer upon disbursing or receiving money or other things of value immediately enters and thereafter keeps a proper record preserved by the treasurer, including a full, true and itemized statement and account of each sum disbursed or received, the date of such disbursement or receipt, to whom disbursed or from whom received and the object or purpose for which it was disbursed or received.

B. No anonymous contributions may be accepted in excess of one hundred dollars (\$100). The aggregate amount of anonymous contributions received by a reporting individual during a primary or general election or a statewide special election shall not exceed two thousand dollars (\$2,000) for statewide races and five hundred dollars (\$500) for all other races.

C. Cash contributions received at special events that are unidentifiable as to specific contributor but identifiable as to the special event are not subject to the anonymous contribution limits provided for in this section so long as no single special event raises, after expenses, more than one thousand dollars (\$1,000) in such cash contributions. For those contributions, due diligence and best efforts shall be made to disclose on a special prescribed form the sponsor, date, place, total amount received, expenses incurred, estimated number of persons in attendance and other identifiable factors that describe the special event. For purposes of this subsection, "special event" includes an event such as a barbecue or similar fundraiser where tickets costing fifteen dollars (\$15.00) or less are sold or an event such as a coffee, tea or similar reception.

D. Any contributions received pursuant to this section in excess of the limits established in Subsections B and C of this section shall be donated to the state general fund or an organization to which a federal income tax deduction would be available under Subparagraph (A) of Paragraph (1) of Subsection (b) of Section 170 of the Internal Revenue Code of 1986, as amended."

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House Bill 93, aa

Approved March 28, 2013

## **LAWS 2013, CHAPTER 54**

AN ACT

RELATING TO HEALTH INSURANCE; ENACTING THE NEW MEXICO HEALTH INSURANCE EXCHANGE ACT; CREATING THE NEW MEXICO HEALTH INSURANCE EXCHANGE; PROVIDING FOR THE APPOINTMENT, POWERS AND

DUTIES OF A BOARD OF DIRECTORS FOR THE EXCHANGE; PROVIDING THE SUPERINTENDENT OF INSURANCE WITH RULEMAKING POWERS RELATING TO THE EXCHANGE; PROVIDING FOR POWERS AND DUTIES OF THE EXCHANGE; PROVIDING FOR TRANSPARENCY OF EXCHANGE FUNDING AND OPERATIONS; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2009; DECLARING AN EMERGENCY.

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

### **Chapter 54 Section 1 Laws 2013**

SECTION 1. SHORT TITLE.--Sections 1 through 8 of this act may be cited as the "New Mexico Health Insurance Exchange Act".

### **Chapter 54 Section 2 Laws 2013**

SECTION 2. DEFINITIONS.--As used in the New Mexico Health Insurance Exchange Act:

A. "agent" means a person appointed by a health insurance issuer authorized to transact business in this state to act as its representative in any given locality;

B. "board" means the board of directors of the exchange;

C. "broker" means a person licensed as a broker pursuant to the New Mexico Insurance Code;

D. "exchange" means the New Mexico health insurance exchange, composed of an exchange for the individual market and a small business health options program or "SHOP" exchange under a single governance and administrative structure;

E. "health insurance issuer" means an insurance company, insurance service or insurance organization, including a health maintenance organization, that is licensed to engage in the business of insurance in the state;

F. "Native American" means:

(1) an individual who is a member of any federally recognized Indian nation, tribe or pueblo or who is an Alaska native; or

(2) an individual who has been deemed eligible for services and programs provided to Native Americans by the United States public health service or the bureau of Indian affairs;

G. "navigator" means a person that, in a manner culturally and linguistically appropriate to the state's diverse populations, conducts public education, distributes tax credit and qualified health plan enrollment information, facilitates enrollment in qualified health plans or provides referrals to consumer assistance or ombudsman services. "Navigator" does not mean a health insurance issuer or a person that receives any consideration, directly or indirectly, from any health insurance issuer in connection with the enrollment of a qualified individual in a qualified health plan; provided that a broker or an agent may be a navigator if the broker or the agent receives no consideration, directly or indirectly, from any health insurance issuer in connection with the enrollment of a qualified individual or qualified employer in a qualified health plan, an approved health plan or any other health coverage; and

H. "superintendent" means the superintendent of insurance.

## **Chapter 54 Section 3 Laws 2013**

### **SECTION 3. NEW MEXICO HEALTH INSURANCE EXCHANGE CREATED-- BOARD CREATED.--**

A. The "New Mexico health insurance exchange" is created as a nonprofit public corporation to provide qualified individuals and qualified employers with increased access to health insurance in the state and shall be governed by a board of directors constituted pursuant to the provisions of the New Mexico Health Insurance Exchange Act. The exchange is a governmental entity for purposes of the Tort Claims Act, and neither the exchange nor the board shall be considered a governmental entity for any other purpose.

B. The exchange shall not duplicate, impair, enhance, supplant, infringe upon or replace, in whole or in any part, the powers, duties or authority of the superintendent, including the superintendent's authority to review and approve premium rates pursuant to the provisions of the New Mexico Insurance Code.

C. The exchange shall not purchase qualified health plans from insurance health issuers to offer for purchase through the exchange.

D. All health insurance issuers and health maintenance organizations authorized to conduct business in this state and meeting the requirements of the rules promulgated by the superintendent pursuant to Section 7 of the New Mexico Health Insurance Exchange Act, as well as meeting the rules under the federal act, shall be eligible to participate in the exchange.

E. The "board of directors of the New Mexico health insurance exchange" is created. The board consists of thirteen voting directors as follows:

(1) one voting director is the superintendent or the superintendent's designee;

(2) six voting directors appointed by the governor, including the secretary of human services or the secretary's designee, a health insurance issuer and a consumer advocate; and

(3) six voting directors, three appointed by the president pro tempore of the senate, including one health care provider, and three appointed by the speaker of the house of representatives, including one health insurance issuer. One of the directors appointed by the president pro tempore of the senate and one of the directors appointed by the speaker of the house of representatives shall be from a list of at least two candidates provided, respectively, by the minority leader of the senate and by the minority leader of the house of representatives.

F. Except as provided in Subsection G of this section, managerial and full-time staff of the exchange shall be subject to applicable provisions of the Governmental Conduct Act and shall not have any direct or indirect affiliation with any health care provider, health insurance issuer or health care service provider.

G. Each director shall comply with the conflict-of-interest provisions of Subsection F of this section, except as follows:

(1) directors who may be appointed from the boards of directors of the New Mexico medical insurance pool and the New Mexico health insurance alliance shall not be considered to have a conflict of interest with respect to their association with those entities;

(2) the secretary of human services, or the secretary's designee, shall not be considered to have a conflict of interest with respect to the secretary's performance of the secretary's duties as secretary of human services;

(3) the director who is a health care provider shall not be considered to have a conflict of interest arising from that director's receipt of payment for services as a health care provider; and

(4) directors who are representatives of health insurance issuers shall not be considered to have a conflict of interest with respect to those directors' association with their respective health insurance issuers.

H. Each director and employee of the exchange shall have a fiduciary duty to the exchange.

I. The board shall be composed, as a whole, to assure representation of the state's Native American population, ethnic diversity, cultural diversity and geographic diversity.

J. Directors shall have demonstrated knowledge or experience in at least one of the following areas:



- (1) purchasing coverage in the individual market;
- (2) purchasing coverage in the small employer market;
- (3) health care finance;
- (4) health care economics or health care actuarial science;
- (5) health care policy;
- (6) the enrollment of underserved residents in health care coverage;
- (7) administration of a private or public health care delivery system;
- (8) information technology;
- (9) starting a small business with fifty or fewer employees; or
- (10) provision of health care services.

K. The governor shall appoint no more than four directors from the same political party.

L. Except for the secretary of human services, the non-health insurance issuer directors appointed by the governor shall be appointed for initial terms of three years or less, staggered so that the term of at least one director expires on June 30 of each year. The non-health insurance insurer directors appointed by the legislature shall be appointed for initial terms of three years or less, staggered so that the term of at least one director expires on June 30 of each year. The health insurance issuers appointed to the board shall, upon appointment, select one of them by lot to have an initial term ending on June 30 following one year of service and one to have an initial term ending on June 30 following two years of service. Following the initial terms, health insurance issuer directors shall be appointed for terms of two years. A director whose term has expired shall continue to serve until a successor is appointed by the respective appointing authority. Health insurance issuer directors shall not serve two consecutive terms.

M. The exchange and the board shall operate consistent with provisions of the Governmental Conduct Act, the Inspection of Public Records Act, the Financial Disclosure Act and the Open Meetings Act and shall not be subject to the Procurement Code or the Personnel Act.

N. A majority of directors constitutes a quorum. The board may allow members to attend meetings by telephone or other electronic media. A decision by the

board requires a quorum and a majority of directors in attendance voting in favor of the decision.

O. Within thirty days of the effective date of the New Mexico Health Insurance Exchange Act, the board shall be fully appointed and the superintendent shall convene an organizational meeting of the board, during which the board shall elect a chair and vice chair from among the directors. Thereafter, every three years, the board shall elect in open meeting a chair and vice chair from among the directors. The chair and vice chair shall serve no more than two consecutive three-year terms as chair and vice chair.

P. A vacancy on the board shall be filled by appointment by the original appointing authority for the remainder of the director's unexpired term.

Q. A director may be removed from the board by a two-thirds majority vote of the directors. The board shall set standards for attendance and may remove a director for lack of attendance, neglect of duty or malfeasance in office. A director shall not be removed without proceedings consisting of at least one ten-day notice of hearing and an opportunity to be heard. Removal proceedings shall be before the board and in accordance with procedures adopted by the board.

R. Appointed directors may receive per diem and mileage in accordance with the Per Diem and Mileage Act, subject to the travel policy set by the board. Appointed directors shall receive no other compensation, perquisite or allowance.

S. The board shall:

(1) meet at the call of the chair and no less often than once per calendar quarter. There shall be at least seven days' notice given to directors prior to any meeting. There shall be sufficient notice provided to the public prior to meetings pursuant to the Open Meetings Act;

(2) create, make appointments to and duly consider recommendations of an advisory committee or committees made up of stakeholders, including health insurance issuers, health care consumers, health care providers, health care practitioners, brokers, qualified employer representatives and advocates for low-income or underserved residents;

(3) create an advisory committee made up of members insured through the New Mexico health insurance alliance and the New Mexico medical insurance pool to make recommendations to the board regarding the transition of each organization's insured members into the exchange. The advisory committee shall only exist until a transition plan has been adopted by the board;

(4) create an advisory committee made up of Native Americans, some of whom live on a reservation and some of whom do not live on a reservation, to

guide the implementation of the Native American-specific provisions of the federal Patient Protection and Affordable Care Act and the federal Indian Health Care Improvement Act;

(5) designate a Native American liaison, who shall assist the board in developing and ensuring implementation of communication and collaboration between the exchange and Native Americans in the state. The Native American liaison shall serve as a contact person between the exchange and New Mexico Indian nations, tribes and pueblos and shall ensure that training is provided to the staff of the exchange, which may include training in:

(a) cultural competency;

(b) state and federal law relating to Indian health; and

(c) other matters relating to the functions of the exchange with respect to Native Americans in the state; and

(6) establish at least one walk-in customer service center where persons may, if eligible, enroll in qualified health plans or public coverage programs.

## **Chapter 54 Section 4 Laws 2013**

### **SECTION 4. BOARD OF DIRECTORS--POWERS.--The board may:**

A. seek and receive grant funding from federal, state or local governments or private philanthropic organizations to defray the costs of operating the exchange;

B. generate funding, including charging assessments or fees, to support its operations in accordance with provisions of the New Mexico Health Insurance Exchange Act solely for the reasonable administrative costs of the exchange; provided that no assessment or user fee shall be imposed upon a carrier that exclusively offers policies, plans or contracts outside the exchange intended to supplement major medical coverage, including medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or other limited-benefit health insurance policy;

C. establish a Native American service center to ensure that the exchange:

(1) is accessible to Native Americans;

(2) complies with the provisions of the federal Indian Health Care Improvement Act and Indian-specific provisions of the federal Patient Protection and Affordable Care Act; and

(3) facilitates meaningful, ongoing consultation with Native Americans;

D. create ad hoc advisory councils;

E. request assistance from other boards, commissions, departments, agencies and organizations as necessary to provide appropriate expertise to accomplish the exchange's duties;

F. enter into contracts with persons or other organizations as necessary or proper to carry out the provisions and purposes of the New Mexico Health Insurance Exchange Act, including the authority to contract or employ staff for the performance of administrative, legal, actuarial, accounting and other functions; provided that no contractor shall be a health insurance issuer or a producer;

G. enter into contracts with similar exchanges of other states for the joint performance of common administrative functions;

H. enter into information-sharing agreements with federal and state agencies and other state exchanges to carry out its responsibilities; provided that these agreements include adequate protections of the confidentiality of the information to be shared and comply with all state and federal laws and regulations;

I. sue or be sued or otherwise take any necessary or proper legal action in the execution of its duties and powers;

J. appoint board committees, which may include non-board members, to provide technical assistance in the operation of the exchange and any other function within the authority of the exchange; and

K. conduct periodic audits to assure the general accuracy of the financial data submitted to the exchange.

## **Chapter 54 Section 5 Laws 2013**

### **SECTION 5. PLAN OF OPERATION.--**

A. Within sixty days of the effective date of the New Mexico Health Insurance Exchange Act, the board shall create a preliminary plan of operation containing provisions to ensure the fair, reasonable and equitable administration of the exchange. Within six months of the effective date of the New Mexico Health Insurance Exchange Act, the board shall create and implement a final plan of operation containing provisions to ensure the fair, reasonable and equitable administration of the exchange.

B. The board shall provide for public notice and hearing prior to approving the plan of operation.

C. The preliminary plan of operation shall:

(1) establish procedures to implement the provisions of the New Mexico Health Insurance Exchange Act, consistent with state and federal law;

(2) establish procedures for handling and accounting for the exchange's assets and money; and

(3) establish regular times and meeting places for meetings of the board.

D. The final plan of operation shall:

(1) establish a statewide consumer assistance program, including a navigator program;

(2) establish consumer complaint and grievance procedures for issues relating to the exchange;

(3) establish procedures for alternative dispute resolution between the exchange and contractors or health insurance issuers;

(4) develop and implement policies that:

(a) promote effective communication and collaboration between the exchange and Indian nations, tribes and pueblos, including communicating and collaborating on those nations', tribes' and pueblos' plans for creating or participating in health insurance exchanges; and

(b) promote cultural competency in providing effective services to Native Americans;

(5) establish conflict-of-interest policies and procedures; and

(6) contain additional provisions necessary and proper for the execution of the powers and duties of the board.

## **Chapter 54 Section 6 Laws 2013**

SECTION 6. BOARD DUTIES--REPORTING.--The board shall:

A. between July 1, 2013 and January 1, 2015, provide quarterly reports to the legislature, the governor and the superintendent on the implementation of the exchange and report annually and upon request thereafter;

B. keep an accurate accounting of all of the activities, receipts and expenditures of the exchange and submit this information annually to the superintendent and as required by federal law to the federal secretary of health and human services;

C. beginning with the first year of operation in which access to health insurance coverage is provided, obtain an annual audit of the exchange's operations from an independent certified public accountant;

D. publish the administrative costs of the exchange as required by state or federal law; and

E. discharge those duties required to implement and operate the exchange in accordance with the provisions of the New Mexico Health Insurance Exchange Act consistent with state and federal law.

### **Chapter 54 Section 7 Laws 2013**

SECTION 7. SUPERINTENDENT OF INSURANCE--RULEMAKING.--The superintendent shall promulgate rules necessary to implement and carry out the provisions of the New Mexico Health Insurance Exchange Act, including rules to establish the criteria for certification of qualified health plans.

### **Chapter 54 Section 8 Laws 2013**

#### SECTION 8. FUNDING.--

A. To fund the planning, implementation and operation of the exchange, the board shall contract with the human services department or any other state agency that receives federal funds allocated, appropriated or granted to the state for purposes of funding the planning, implementation or operation of a health insurance exchange.

B. The human services department or any other state agency that receives federal funds allocated, appropriated or granted to the state for purposes of funding the planning, implementation or operation of a health insurance exchange shall contract with the board to provide those funds to the exchange in consideration for its planning, implementation or operation.

### **Chapter 54 Section 9 Laws 2013**

SECTION 9. COOPERATION WITH THE NEW MEXICO HEALTH INSURANCE EXCHANGE.--The medical assistance division of the human services department shall cooperate with the New Mexico health insurance exchange to share information and facilitate transitions in enrollment between the exchange and medicaid.

## **Chapter 54 Section 10 Laws 2013**

SECTION 10. A new section of the New Mexico Insurance Code is enacted to read:

"OFFICE OF SUPERINTENDENT OF INSURANCE--COOPERATION WITH NEW MEXICO HEALTH INSURANCE EXCHANGE.--The office of superintendent of insurance shall cooperate with the New Mexico health insurance exchange to share information and assist in the implementation of the functions of the exchange."

## **Chapter 54 Section 11 Laws 2013**

SECTION 11. Section 41-4-3 NMSA 1978 (being Laws 1976, Chapter 58, Section 3, as amended by Laws 2009, Chapter 8, Section 2 and by Laws 2009, Chapter 129, Section 2 and also by Laws 2009, Chapter 249, Section 2) is amended to read:

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

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

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

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

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

E. "maintenance" does not include:

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

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

F. "public employee" means an officer, employee or servant of a governmental entity, excluding independent contractors except for individuals defined in Paragraphs (7), (8), (10), (14) and (17) of this subsection, or of a corporation organized pursuant to the Educational Assistance Act, the Small Business Investment Act or the

Mortgage Finance Authority Act or a licensed health care provider, who has no medical liability insurance, providing voluntary services as defined in Paragraph (16) of this subsection and including:

- (1) elected or appointed officials;
- (2) law enforcement officers;
- (3) persons acting on behalf or in service of a governmental entity in any official capacity, whether with or without compensation;
- (4) licensed foster parents providing care for children in the custody of the human services department, corrections department or department of health, but not including foster parents certified by a licensed child placement agency;
- (5) members of state or local selection panels established pursuant to the Adult Community Corrections Act;
- (6) members of state or local selection panels established pursuant to the Juvenile Community Corrections Act;
- (7) licensed medical, psychological or dental arts practitioners providing services to the corrections department pursuant to contract;
- (8) members of the board of directors of the New Mexico medical insurance pool;
- (9) individuals who are members of medical review boards, committees or panels established by the educational retirement board or the retirement board of the public employees retirement association;
- (10) licensed medical, psychological or dental arts practitioners providing services to the children, youth and families department pursuant to contract;
- (11) members of the board of directors of the New Mexico educational assistance foundation;
- (12) members of the board of directors of the New Mexico student loan guarantee corporation;
- (13) members of the New Mexico mortgage finance authority;
- (14) volunteers, employees and board members of court-appointed special advocate programs;



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

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

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

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

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

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

## **Chapter 54 Section 12 Laws 2013**

SECTION 12. Section 59A-56-4 NMSA 1978 (being Laws 1994, Chapter 75, Section 4, as amended) is amended to read:

"59A-56-4. ALLIANCE CREATED--BOARD CREATED.--

A. The "New Mexico health insurance alliance" is created as a nonprofit public corporation for the purpose of providing increased access to health insurance in the state. All insurance companies authorized to transact health insurance business in this state, nonprofit health care plans, health maintenance organizations and self-insurers not subject to federal preemption shall organize and be members of the alliance as a condition of their authority to offer health insurance in this state, except for an insurance company that is licensed under the Prepaid Dental Plan Law or a company that is solely engaged in the sale of dental insurance and is licensed under a provision of the Insurance Code.

B. The alliance shall be governed by the board of directors of the New Mexico health insurance exchange appointed pursuant to the New Mexico Health Insurance Exchange Act."

## **Chapter 54 Section 13 Laws 2013**

SECTION 13. TEMPORARY PROVISION.--On the effective date of this act, the board of directors of the New Mexico health insurance alliance, appointed pursuant to the Health Insurance Alliance Act prior to the effective date of this act, shall cease to exist and the New Mexico health insurance alliance shall be governed pursuant to the Health Insurance Alliance Act by the board of directors of the New Mexico health insurance exchange appointed pursuant to the New Mexico Health Insurance Exchange Act. In exercising its duties, the board of directors of the New Mexico health insurance exchange shall neither apply any provisions of the Health Insurance Alliance Act to the New Mexico health insurance exchange nor apply any provisions of the New Mexico Health Insurance Exchange Act to the New Mexico health insurance alliance.

### **Chapter 54 Section 14 Laws 2013**

SECTION 14. TEMPORARY PROVISION--NEW MEXICO HEALTH INSURANCE ALLIANCE--NEW MEXICO HEALTH INSURANCE EXCHANGE--TRANSFER OF CONTRACTS.--On July 1, 2013, all contracts of the New Mexico health insurance alliance relating to the development and implementation of a health insurance exchange shall be binding and effective on the New Mexico health insurance exchange.

### **Chapter 54 Section 15 Laws 2013**

SECTION 15. DELAYED REPEAL.--Sections 59A-56-1 through 59A-56-25 NMSA 1978 (being Laws 1994, Chapter 75, Sections 1 through 25, as amended) are repealed effective January 1, 2015.

### **Chapter 54 Section 16 Laws 2013**

SECTION 16. 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.

### **Chapter 54 Section 17 Laws 2013**

SECTION 17. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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SCORC/SPAC/Senate Bill 221 & SPAC/Senate Bill 589, aa, w/ec

Approved March 28, 2013

## **LAWS 2013, CHAPTER 55**

AN ACT

RELATING TO CORRECTIONS; PROVIDING THAT ELECTRONIC COMMUNICATION DEVICES ARE CONTRABAND AND PROHIBITED IN JAILS AND PRISONS; PROVIDING EXCEPTIONS.

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

### **Chapter 55 Section 1 Laws 2013**

SECTION 1. Section 30-22-14 NMSA 1978 (being Laws 1976, Chapter 15, Section 1) is amended to read:

"30-22-14. BRINGING CONTRABAND INTO PLACES OF IMPRISONMENT--PENALTIES--DEFINITIONS.--

A. Bringing contraband into a prison consists of knowingly and voluntarily carrying, transporting or depositing contraband onto the grounds of the penitentiary of New Mexico or any other institution designated by the corrections department for the confinement of adult prisoners. Whoever commits bringing contraband into a prison is guilty of a third degree felony.

B. Bringing contraband into a jail consists of knowingly and voluntarily carrying contraband into the confines of a county or municipal jail. Whoever commits bringing contraband into a jail is guilty of a fourth degree felony.

C. As used in this section, "contraband" means:

(1) a deadly weapon, as defined in Section 30-1-12 NMSA 1978, or an essential component part thereof, including ammunition, explosive devices and explosive materials, but does not include a weapon carried by a peace officer in the lawful discharge of duties;

(2) currency brought onto the grounds of the institution for the purpose of transfer to a prisoner, but does not include currency carried into areas designated by the warden as areas for the deposit and receipt of currency for credit to a prisoner's account before contact is made with the prisoner;

(3) an alcoholic beverage;

(4) a controlled substance, as defined in the Controlled Substances Act, but does not include a controlled substance carried into a prison through regular prison channels and pursuant to the direction or prescription of a regularly licensed physician; or

(5) an electronic communication or recording device brought onto the grounds of the institution for the purpose of transfer to or use by a prisoner.

D. As used in this section, "electronic communication or recording device" means any type of instrument, device, machine or equipment that is designed to transmit or receive telephonic, electronic, digital, cellular, satellite or radio signals or communications or that is designed to have sound or image recording abilities or any part or component of such instrument, device, machine or equipment. "Electronic communication or recording device" does not include a device that is or will be used by prison or jail personnel in the regular course of business or that is otherwise authorized by the warden.

E. Nothing in this section shall prohibit the use of hearing aids, voice amplifiers or other equipment necessary to aid prisoners who have documented hearing or speech deficiencies or their visitors. Rules for such devices shall be established by the warden or director of each jail, detention center and prison."

## **Chapter 55 Section 2 Laws 2013**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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Senate Bill 40, aa

Approved March 28, 2013

## **LAWS 2013, CHAPTER 56**

AN ACT

RELATING TO PUBLIC HEALTH; CREATING THE NEW MEXICO POISON AND DRUG INFORMATION CENTER.

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

## **Chapter 56 Section 1 Laws 2013**

SECTION 1. NEW MEXICO POISON AND DRUG INFORMATION CENTER CREATED.--The "New Mexico poison and drug information center" is created as part of the university of New Mexico health sciences center.

## **Chapter 56 Section 2 Laws 2013**

SECTION 2. CERTIFICATION.--The New Mexico poison and drug information center shall maintain certification by the American association of poison control centers.

## Chapter 56 Section 3 Laws 2013

SECTION 3. DUTIES.--The New Mexico poison and drug information center shall:

A. provide expert, twenty-four-hour, seven-day-a-week assistance to the residents of New Mexico during possible poisoning emergencies;

B. provide expert, twenty-four-hour, seven-day-a-week emergency management and treatment referral of victims of poisoning to determine whether treatment can be accomplished at the scene of the incident or if transport to an emergency treatment or other facility is required;

C. provide expert, twenty-four-hour, seven-day-a-week treatment recommendations for all types of poisonings, chemical exposures, drug overdoses and exposure to chemical weapons of mass destruction. This information shall be provided to medical and nonmedical providers;

D. carry out follow-up for hospitalized and non-hospitalized poison patients to assess progress and recommend additional treatment as necessary;

E. carry out follow-up to families and other individuals, where practicable, to ensure that adequate care is provided;

F. work to improve the health of the residents of New Mexico by reducing illness and death associated with poisoning and by encouraging proper use of medications;

G. identify and address problems associated with poisoning and medication-related illness through education and public service;

H. work to reduce the costs associated with poisoning by treating people with less severe exposures at their homes with the center's guidance;

I. train health care professionals in the field of clinical toxicology;

J. expand knowledge in the field of clinical toxicology through an active research program;

K. prevent poisonings through surveillance of toxic events, education, regulation and collaboration with local, state and federal agencies;

L. offer drug information services that provide individualized, accurate, relevant and unbiased information to consumers and health care professionals regarding medication-related inquiries;

M. help train pharmacists to become drug information providers;

N. seek to effectively use the center's resources; and

O. work to advance the center's institutional mission while supporting professional and personal growth.

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Senate Bill 140, aa

Approved March 28, 2013

## **LAWS 2013, CHAPTER 57**

### **AN ACT**

RELATING TO DISABILITY; RENAMING THE ASSISTANCE ANIMAL ACT AS THE "SERVICE ANIMAL ACT"; AMENDING THE SERVICE ANIMAL ACT TO PROVIDE FOR QUALIFIED SERVICE DOGS AND QUALIFIED SERVICE MINIATURE HORSES; ENACTING A NEW SECTION OF THE SERVICE ANIMAL ACT TO PROHIBIT A PERSON FROM KNOWINGLY PRESENTING AS A QUALIFIED SERVICE ANIMAL ANY ANIMAL OTHER THAN A QUALIFIED SERVICE ANIMAL; PRESCRIBING CIVIL AND CRIMINAL PENALTIES.

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

### **Chapter 57 Section 1 Laws 2013**

SECTION 1. Section 28-11-1.1 NMSA 1978 (being Laws 2005, Chapter 224, Section 1) is amended to read:

"28-11-1.1. SHORT TITLE.--Chapter 28, Article 11 NMSA 1978 may be cited as the "Service Animal Act"."

### **Chapter 57 Section 2 Laws 2013**

SECTION 2. Section 28-11-2 NMSA 1978 (being Laws 1989, Chapter 242, Section 1, as amended) is amended to read:

"28-11-2. DEFINITIONS.--As used in the Service Animal Act:

A. "emotional support animal", "comfort animal" or "therapy animal" means an animal selected to accompany an individual with a disability that does not work or

perform tasks for the benefit of an individual with a disability and does not accompany at all times an individual with a disability;

B. "qualified service animal" means any qualified service dog or qualified service miniature horse that has been or is being trained to provide assistance to an individual with a disability; but "qualified service animal" does not include a pet, an emotional support animal, a comfort animal or a therapy animal;

C. "qualified service dog" means a dog that has been trained or is being trained to work or perform tasks for the benefit of an individual with a disability who has a physical or mental impairment that substantially limits one or more major life activities; and

D. "qualified service miniature horse" means a miniature horse that has been trained or is being trained to work or perform tasks for the benefit of an individual with a disability who has a physical or mental impairment that substantially limits one or more major life activities."

## **Chapter 57 Section 3 Laws 2013**

SECTION 3. Section 28-11-3 NMSA 1978 (being Laws 1989, Chapter 242, Section 2, as amended) is amended to read:

"28-11-3. ADMITTANCE OF QUALIFIED SERVICE ANIMAL.--

A. Notwithstanding any other provision of law:

(1) a person with a disability who is using a qualified service animal shall be admitted to any building open to the public and to all other public accommodations and shall be allowed access to all common carriers; provided that the qualified service animal is under the control of an owner, a trainer or a handler of the qualified service animal. A person shall not deny an individual with a qualified service animal entry to a building open to the public or to any public accommodation or deny access to a common carrier, regardless of any policy of denying to pets entry to that building, public accommodation or common carrier. A person shall not be required to pay any additional charges for the qualified service animal, but may be liable for any damage done by the qualified service animal; provided that persons without disabilities would be liable for similar damage; and

(2) in an emergency requiring transportation or relocation of the owner or trainer of the qualified service animal, to the extent practicable, accommodations shall be made for the qualified service animal to remain or be reunited with the owner, trainer or handler. When accommodations cannot be made for allowing the qualified service animal to remain with the owner, trainer or handler, the qualified service animal shall be placed pursuant to instructions provided by the owner, trainer or handler.

B. This section does not require a public accommodation or common carrier to permit an owner, trainer or handler using a qualified service animal to have access to a public accommodation or common carrier in circumstances in which the individual's use of the qualified service animal poses a direct threat of significant harm to the health or safety of others."

## **Chapter 57 Section 4 Laws 2013**

SECTION 4. Section 28-11-4 NMSA 1978 (being Laws 1989, Chapter 242, Section 3, as amended) is amended to read:

"28-11-4. PENALTY.--

A. A person who violates a provision of the Service Animal Act is guilty of a misdemeanor and, upon conviction, shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.

B. Nothing in this section shall be construed to preclude any other remedy otherwise available pursuant to common law or other law of this state."

## **Chapter 57 Section 5 Laws 2013**

SECTION 5. Section 28-11-5 NMSA 1978 (being Laws 1999, Chapter 113, Section 1, as amended) is amended to read:

"28-11-5. FINDINGS AND PURPOSE--INTERFERENCE WITH QUALIFIED SERVICE ANIMALS PROHIBITED--CRIMINAL AND CIVIL PENALTIES.--

A. The legislature finds that unrestrained animals constitute a danger to qualified service animals and public safety. The purpose of this section is to protect persons with disabilities and qualified service animals from attack by unrestrained animals.

B. It is unlawful for any person, with no legitimate reason, to:

(1) intentionally interfere with the use of a qualified service animal by harassing or obstructing the owner, trainer or handler of the qualified service animal or the qualified service animal; or

(2) intentionally fail or refuse to control the person's unrestrained animal, which animal interferes with or obstructs the owner, trainer or handler of the qualified service animal.

C. The provisions of this section shall not apply to unrestrained animals on private property not open to the public.



D. A person who violates the provisions of this section is guilty of a misdemeanor and upon conviction shall be punished pursuant to Section 31-19-1 NMSA 1978. A person convicted under this section may be ordered to pay restitution, including, but not limited to, actual damages.

E. Nothing in this section shall be construed to preclude any other remedies otherwise available pursuant to common law or the NMSA 1978."

## **Chapter 57 Section 6 Laws 2013**

SECTION 6. A new section of the Service Animal Act is enacted to read:

"PROHIBITION OF FALSE PRESENTATION OF ANIMAL AS A QUALIFIED SERVICE ANIMAL.--

A. A person shall not knowingly present as a qualified service animal any animal that does not meet a definition of "qualified service animal" pursuant to Section 28-11-2 NMSA 1978. A person who violates the provisions of this section is guilty of a misdemeanor and upon conviction shall be punished pursuant to Section 31-19-1 NMSA 1978.

B. Nothing in this section shall be construed to preclude any other remedies otherwise available pursuant to common law or the NMSA 1978."

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Senate Bill 320, aa

Approved March 28, 2013

## **LAWS 2013, CHAPTER 58**

AN ACT

RELATING TO TAXATION; CLARIFYING THE APPLICATION OF THE RURAL JOB TAX CREDIT; PROVIDING A PURPOSE FOR THE RURAL JOB TAX CREDIT; DEFINING "WAGES".

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

## **Chapter 58 Section 1 Laws 2013**

SECTION 1. Section 7-2E-1.1 NMSA 1978 (being Laws 2007, Chapter 172, Section 2) 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 allow, 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 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 the amount of wages paid to each eligible employee during each qualifying period, the number of weeks during the qualifying period the position was occupied and whether the qualifying job was in a tier one or tier two area.

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 must apply to the taxation and revenue department on forms and in the manner the department may prescribe. The application shall include a certification made pursuant to Subsection D of this section. If all the requirements of this section have been complied with, the taxation and revenue department may 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 apply 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 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. An eligible employer that creates a qualifying job in the period beginning on or after July 1, 2006 but before July 1, 2007 or creates a qualifying job, the qualifying period of which includes a part of the period between July 1, 2006 and July 1, 2007, for which the eligible employer has not received a rural job tax credit document pursuant to this section may submit an application for, and the taxation and revenue department may issue to the eligible employer applying, a document granting a tax credit for the appropriate qualifying period. Claims for a rural job tax credit submitted pursuant to the provisions of this subsection shall be submitted within three years from the date of issuance of the rural job tax credit document.

K. A qualifying job shall not be eligible for a rural job 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; and

(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.

L. Notwithstanding Subsection K of this section, a qualifying job that was created by another employer and for which the rural job tax credit claim 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.

M. 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.

N. As used in this section:

(1) "eligible employee" means any individual other than an individual who:

(a) bears any of the relationships described in Paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to the employer or, if the employer is a corporation, to an individual who owns, directly or indirectly, more than fifty percent in value of the outstanding stock of the corporation or, if the employer is an entity other than a corporation, to any individual who owns, directly or indirectly, more than fifty percent of the capital and profits interests in the entity;

(b) if the employer is an estate or trust, is a grantor, beneficiary or fiduciary of the estate or trust or is an individual who bears any of the relationships described in Paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to a grantor, beneficiary or fiduciary of the estate or trust; or

(c) is a dependent, as that term is described in 26 U.S.C. Section 152(a)(9), of the employer or, if the taxpayer is a corporation, of an individual who owns, directly or indirectly, more than fifty percent in value of the outstanding stock of the corporation or, if the employer is an entity other than a corporation, of any individual who owns, directly or indirectly, more than fifty percent of the capital and profits interests in the entity or, if the employer is an estate or trust, of a grantor, beneficiary or fiduciary of the estate or trust;

(2) "eligible employer" means an employer who is eligible for in-plant training assistance pursuant to Section 21-19-7 NMSA 1978;

(3) "metropolitan statistical area" means a metropolitan statistical area in New Mexico as determined by the United States bureau of the census;

(4) "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 local option gross receipts taxes;

(5) "qualifying job" means a job established by the employer that is occupied by an eligible employee for at least forty-eight weeks of a qualifying period;

(6) "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;

(7) "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;

(8) "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;

(9) "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

(10) "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 58 Section 2 Laws 2013**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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Senate Bill 557, aa

Approved March 28, 2013

## **LAWS 2013, CHAPTER 59**

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;  
REQUIRING REGISTRATION BY THE HIGHER EDUCATION DEPARTMENT OF  
PRIVATE COLLEGES AND UNIVERSITIES THAT ARE REGIONALLY ACCREDITED;  
COMPLYING WITH UNITED STATES DEPARTMENT OF EDUCATION  
REQUIREMENTS.

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

## **Chapter 59 Section 1 Laws 2013**

SECTION 1. Section 21-23-2 NMSA 1978 (being Laws 1971, Chapter 303, Section 2, as amended) is amended to read:

"21-23-2. PURPOSE OF ACT.--The purpose of the Post-Secondary Educational Institution Act is to improve the quality of private post-secondary education, to prevent misrepresentation, fraud and collusion in offering educational programs to persons over the compulsory school attendance age and to protect consumers enrolled in private post-secondary educational institutions when those schools cease operation or fail to meet standards of quality established by the department."

## **Chapter 59 Section 2 Laws 2013**

SECTION 2. Section 21-23-3 NMSA 1978 (being Laws 1971, Chapter 303, Section 3, as amended) is amended to read:

"21-23-3. DEFINITIONS.--As used in the Post-Secondary Educational Institution Act:

A. "career school" means a private post-secondary educational institution offering a formal educational curriculum in New Mexico for a fee to members of the general public beyond compulsory school age, terminating in a certificate, diploma, associate degree or comparable confirmation of completion of the curriculum;

B. "college" or "university" means a private post-secondary educational institution offering a formal educational curriculum in New Mexico for a fee to members of the general public beyond compulsory school age, terminating in a baccalaureate, master's or doctoral degree or comparable confirmation of completion of the curriculum;

C. "department" means the higher education department;

D. "license" means a written acknowledgment by the department that a career school or nonregionally accredited college or university has met the requirements of the department for offering a formal educational curriculum within New Mexico;

E. "post-secondary educational institution" includes an academic, vocational, technical, business, professional or other school, college or university or other organization or person offering or purporting to offer courses, instruction, training or education from a physical site in New Mexico, through distance education, correspondence or in person; and

F. "registration" means a written acknowledgment by the department that a regionally accredited college or university has filed pertinent curriculum and enrollment information, as required by the department, and is authorized to operate a private post-secondary educational institution."

## **Chapter 59 Section 3 Laws 2013**

SECTION 3. Section 21-23-4 NMSA 1978 (being Laws 1971, Chapter 303, Section 4, as amended) is amended to read:

"21-23-4. EXCEPTIONS.--

A. The Post-Secondary Educational Institution Act does not apply to or affect:

(1) a post-secondary educational institution that is established by name as an educational institution by the state through a charter, constitutional provision or other action and is supported in whole or in part by state or local taxation;

(2) an occupational, trade or professional school operating pursuant to any New Mexico occupational licensing law;

(3) a course of instruction provided by an employer to its own employees for training purposes;

(4) institutions that exclusively offer education that is solely avocational or recreational in nature;

(5) a course of instruction or study sponsored by a recognized fraternal, trade, business or professional organization or labor union for the instruction of its members;

(6) chartered, nonprofit religious institutions whose sole purpose is to train students in religious disciplines to prepare them to assume a vocational objective relating primarily to religion;

(7) institutions that exclusively offer instruction at any level from preschool through the twelfth grade;

(8) an institution funded in full or in part by an Indian tribe or pueblo in the state of New Mexico; and

(9) an organization that provides only brief courses of instruction designed to teach specific skills that may be applicable in a work setting but are not sufficient in themselves to be a program of training in employment.

B. An institution, school or program described in this section shall not be entitled to an exemption unless it presents satisfactory evidence to the department that it qualifies."

## **Chapter 59 Section 4 Laws 2013**

SECTION 4. Section 21-23-5 NMSA 1978 (being Laws 1994, Chapter 108, Section 6, as amended) is amended to read:

"21-23-5. DUTIES OF THE DEPARTMENT.--

A. The department is charged with oversight of all private post-secondary educational institutions operating within the state.



B. The department shall provide for the registration of all regionally accredited colleges and universities operating in the state pursuant to the Post-Secondary Educational Institution Act.

C. The department shall provide for the licensure of all career schools and all nonregionally accredited colleges and universities operating in the state pursuant to the Post-Secondary Educational Institution Act."

## **Chapter 59 Section 5 Laws 2013**

SECTION 5. Section 21-23-6 NMSA 1978 (being Laws 1994, Chapter 108, Section 7, as amended) is amended to read:

"21-23-6. REGISTRATION OF COLLEGES AND UNIVERSITIES--SUBMISSION OF MATERIALS.--

A. Every college or university operating in New Mexico that is regionally accredited or seeking regional accreditation by an accrediting agency approved by the department shall register with the department.

B. A college or university registering with the department pursuant to this section shall provide curriculum and enrollment information, financial information and all publication materials requested by the department.

C. A college or university registering with the department shall adopt a procedure for the resolution of student complaints.

D. A college's or university's registration is valid for the same period as its grant of regional accreditation from its accrediting agency."

## **Chapter 59 Section 6 Laws 2013**

SECTION 6. Section 21-23-6.1 NMSA 1978 (being Laws 1994, Chapter 108, Section 8, as amended) is amended to read:

"21-23-6.1. LICENSURE OF CAREER SCHOOLS--LICENSURE OF CERTAIN COLLEGES AND UNIVERSITIES.--

A. A career school or nonregionally accredited college or university operating in New Mexico shall be licensed by the department. It is unlawful to operate a career school or nonregionally accredited college or university without first obtaining a license from the department.

B. A college or university operating in New Mexico that is not regionally accredited or is not seeking regional accreditation by an accrediting agency approved by the department shall be licensed by the department in the manner provided for

career schools or other nonregionally accredited colleges or universities. It is unlawful to operate a college or university that is not accredited or seeking accreditation by an accrediting agency approved by the department without first obtaining a license from the department.

C. No person other than an employee of an institution licensed pursuant to this section shall, for a salary or fee, solicit attendance at that institution."

## **Chapter 59 Section 7 Laws 2013**

SECTION 7. Section 21-23-6.2 NMSA 1978 (being Laws 1994, Chapter 108, Section 9, as amended) is amended to read:

"21-23-6.2. LICENSURE STANDARDS--REQUIREMENTS--FEE AUTHORIZATION.--

A. Every career school and nonregionally accredited college and university operating in the state shall annually apply to the department for licensure. The career school and nonregionally accredited college or university shall apply on forms approved by the department, shall supply all information requested by the department and shall pay an annual licensure fee set by the department.

B. The department or its designee shall consider information submitted by the career school and nonregionally accredited college or university, information from independent accreditation bodies and information gathered during visits to the career school and nonregionally accredited college or university in determining eligibility for licensure.

C. The department shall promulgate and file, in accordance with the State Rules Act, rules that:

(1) require each career school and nonregionally accredited college and university to supply annually information regarding enrollment, program completion by students, employment and other educational placements of students and operating revenue budgets;

(2) provide standards and methods for the evaluation and appraisal of career schools and nonregionally accredited colleges and universities;

(3) provide for a tuition refund policy;

(4) require maintenance of adequate records by each career school and nonregionally accredited college and university and provide reasonable availability of records for inspection;

(5) regulate the use of deceptive and misleading advertising and determine what information shall be furnished each student prior to enrollment;

(6) assure that any career school or nonregionally accredited college or university licensed pursuant to the Post-Secondary Educational Institution Act has entered into a teach-out agreement with at least one other private or public institution operating in the state unless the department determines that such an agreement is not feasible;

(7) provide standards for the award of associate, baccalaureate, master's and doctoral degrees;

(8) require all degree-granting schools to seek appropriate external accreditation by an agency recognized by the federal department of education as a means of assuring quality instruction;

(9) name an advisory committee of education providers and consumers, including owners and operators of career schools and nonregionally accredited colleges and universities;

(10) provide for the maintenance of records for career schools and nonregionally accredited colleges and universities no longer in operation;

(11) provide standards for the evaluation of the financial stability and ability to meet the commitments of career schools and nonregionally accredited colleges and universities;

(12) require each career school and nonregionally accredited college and university to adopt a procedure for the resolution of student complaints; and

(13) establish other requirements necessary to carry out the provisions of the Post-Secondary Educational Institution Act.

D. The department may solicit information pertaining to the financial history and stability of a career school or nonregionally accredited college or university and its owners, including information pertaining to actions of bankruptcy filed within the immediately preceding five years. The department may consider such information in determining eligibility for licensure."

## **Chapter 59 Section 8 Laws 2013**

SECTION 8. Section 21-23-6.3 NMSA 1978 (being Laws 1994, Chapter 108, Section 10, as amended) is amended to read:

"21-23-6.3. FEE AUTHORIZATION.--

A. The department may establish initial application fees for all colleges, universities or career schools seeking to operate in New Mexico. The initial application fee shall be not less than two hundred dollars (\$200) or more than five thousand dollars (\$5,000). In setting the fee, the department shall consider the projected revenue of the institution and the projected cost of performing the review.

B. The department may establish an annual licensing fee for all career schools or nonregionally accredited colleges or universities licensed by the department. The licensing fee shall be proportionate to each school's gross annual tuition revenue; provided the fee shall be not less than two hundred dollars (\$200) or more than five thousand dollars (\$5,000).

C. The department may charge a reasonable administrative fee not to exceed the actual cost of providing the administrative service.

D. All fees imposed and collected by the department shall be deposited in the post-secondary educational institution fund."

## **Chapter 59 Section 9 Laws 2013**

SECTION 9. Section 21-23-7 NMSA 1978 (being Laws 1971, Chapter 303, Section 7, as amended) is amended to read:

"21-23-7. CLAIMS--LIMITATIONS--APPEALS.--

A. Any person having a claim against a college, university or career school registered or licensed by the department or that college's, university's or career school's agents, instructors or other personnel shall first seek resolution of the claim with the college, university or career school; thereafter, a person may file a verified complaint with the department, setting forth the basis of the claim and the name and address of the college, university or career school complained against and any other persons involved or having knowledge of the claim. All claims shall be limited to the amount of tuition actually paid or to any charge or fee received by the college, university or career school or its agents or employees.

B. Upon the receipt of a verified complaint, the department or its authorized employee shall attempt to resolve the claim outlined in the complaint. The department or its authorized employee may convene a hearing and shall give written notice to the college, university or career school and to all persons involved of the hearing and its time, date and place. The notice shall state that the hearing is an informal one for the purpose of determining the facts surrounding the claim and, if the claim is correct, to effect a settlement by persuasion and conciliation.

C. In the event that the party complained against refuses to attend the hearing or effect the settlement of any claim determined by the department to be

correct, the department shall invoke its powers to take such action as shall be necessary for the indemnification of the claimant.

D. Any person aggrieved by a department decision rendered subsequent to a claim hearing may appeal to the district court in the judicial district in which the hearing was conducted. The appeal shall be based upon the record established at the claim hearing."

## **Chapter 59 Section 10 Laws 2013**

SECTION 10. Section 21-23-7.1 NMSA 1978 (being Laws 1994, Chapter 108, Section 12) is amended to read:

"21-23-7.1. SURETY BOND REQUIRED--ALTERNATIVE SURETY.--

A. A college, university or career school registered or licensed by the department shall post with the department and maintain in effect a surety bond. The bond shall be payable to the department and shall be sufficient in amount to indemnify any student damaged as a result of fraud or misrepresentation by a registered or licensed college, university or career school or as a result of the college, university or career school ceasing operation prior to its students having completed the programs for which they have contracted.

B. The department is authorized to establish the amount of bond required on an individual basis, taking into consideration factors such as the college's, university's or career school's size, number of students and total income and assets of the college, university or career school in the state. In no case shall the bond be less than five thousand dollars (\$5,000) nor shall it exceed twenty percent of a college's, university's or career school's gross annual tuition revenue in New Mexico.

C. Surety bonds may be canceled only following delivery of written notice to the department no less than ninety days prior to the date of cancellation. In case of cancellation, the college, university or career school shall provide the department with a like surety or acceptable alternative in order to maintain licensure.

D. As an alternative to a surety bond, a college, university or career school may elect to and the department may require that a college, university or career school establish and maintain a cash deposit escrow account, irrevocable letter of credit or alternative payable to the department in an amount set by the department and subject to rules promulgated by the department. In no case shall the deposit or account required exceed twenty percent of the college's, university's or career school's gross tuition annual revenue in New Mexico."

## **Chapter 59 Section 11 Laws 2013**

SECTION 11. Section 21-23-8 NMSA 1978 (being Laws 1975, Chapter 148, Section 8, as amended) is amended to read:

"21-23-8. FUND CREATED.--There is created in the state treasury the "post-secondary educational institution fund". Money appropriated to this fund or accruing to it through gifts, grants or bequests shall not be transferred to another fund or encumbered or disbursed in any manner except for the administration of the Post-Secondary Educational Institution Act or the Out-of-State Proprietary School Act. The fund shall not revert at the end of the fiscal year. Disbursements from the fund shall be made only upon warrant drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of higher education or the secretary's authorized representative."

### **Chapter 59 Section 12 Laws 2013**

SECTION 12. Section 21-23-10 NMSA 1978 (being Laws 1971, Chapter 303, Section 9, as amended) is amended to read:

"21-23-10. DISCIPLINARY ACTIONS--CIVIL PENALTIES.--

A. A person shall not:

(1) operate a career school or nonregionally accredited college or university within the state until that school has been licensed by the department;

(2) operate a regionally accredited college or university within the state until that college or university has registered with the department;

(3) deny enrollment to or make any distinction or classification of students in the program or practices of any post-secondary educational institution under the jurisdiction of the department on account of race, color, culture, ancestry, national origin, sex, age, religion or disability; or

(4) solicit, directly or through an agent or employee, the enrollment of any person in a post-secondary educational institution within the state by the use of fraud, misrepresentation or collusion.

B. Whoever violates any provision of this section may be assessed a civil penalty not to exceed five hundred dollars (\$500) per day per violation. Civil penalties shall be credited to the current school fund as provided in Article 12, Section 4 of the constitution of New Mexico.

C. After an investigation, the department may take any one or a combination of the following disciplinary actions against a post-secondary educational institution registered or licensed in accordance with the Post-Secondary Educational Institution Act:

(1) revoke a license;

(2) revoke the registration, if the institution has had its regional accreditation revoked by its accrediting agency;

(3) assess a civil penalty as provided in Subsection B of this section; or

(4) impose probation requirements."

### **Chapter 59 Section 13 Laws 2013**

SECTION 13. Section 21-23-10.1 NMSA 1978 (being Laws 1994, Chapter 108, Section 14) is amended to read:

"21-23-10.1. ENFORCEMENT.--The department or any state or local prosecuting officer may, by request or on the officer's own motion, bring an appropriate action in any court of competent jurisdiction to enforce the provisions of the Post-Secondary Educational Institution Act."

### **Chapter 59 Section 14 Laws 2013**

SECTION 14. Section 21-23-12 NMSA 1978 (being Laws 1975, Chapter 148, Section 12, as amended) is amended to read:

"21-23-12. COOPERATION.--The department shall cooperate with federal and other state agencies in administering the provisions of the Post-Secondary Educational Institution Act. The secretary of state shall cooperate with the department by identifying post-secondary educational institutions that apply for corporate charters. The public education department shall cooperate with the department by providing the technical assistance necessary to develop minimum standards that post-secondary educational institutions shall meet and any other assistance that would be of aid in the administration of the Post-Secondary Educational Institution Act."

### **Chapter 59 Section 15 Laws 2013**

SECTION 15. Section 21-23-13 NMSA 1978 (being Laws 1975, Chapter 148, Section 13, as amended) is amended to read:

"21-23-13. PROCEDURE.--The department shall follow the procedures set out in the Uniform Licensing Act in administering the provisions of the Post-Secondary Educational Institution Act. When the Uniform Licensing Act refers to the process of examination, that process means the process of application for the purposes of the administration of the Post-Secondary Educational Institution Act."

## **Chapter 59 Section 16 Laws 2013**

SECTION 16. Section 21-23-14 NMSA 1978 (being Laws 1975, Chapter 148, Section 14, as amended) is amended to read:

"21-23-14. PROHIBITION.--The issuance of a license by the department does not constitute accreditation by it for any purpose. Any representation to the contrary is a misrepresentation for the purposes of Section 21-23-10 NMSA 1978 and is prohibited."

## **Chapter 59 Section 17 Laws 2013**

SECTION 17. Section 21-23-15 NMSA 1978 (being Laws 1979, Chapter 355, Section 1, as amended) is amended to read:

"21-23-15. POST-SECONDARY EDUCATIONAL INSTITUTIONS--  
TERMINATION.--

A. No post-secondary educational institution shall terminate its operation within the state until:

(1) the institution has made reasonable efforts with another public or private post-secondary educational institution that provides a comparable education to facilitate and provide for the transfer of the students, with a minimum loss of credit;

(2) the post-secondary educational institution has made contractual arrangements for the perpetual care, maintenance and accessibility of all records, transcripts, reports and evaluations of all students receiving credit from the institution during the period of its existence; and

(3) the post-secondary educational institution has met all rules of the department pertaining to the termination of operations by post-secondary educational institutions.

B. Before any post-secondary educational institution terminates its services or sells, transfers or disposes of substantially all of its assets, it shall submit to the department a summary of all actions taken pursuant to the requirements set forth in Subsection A of this section."

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SJC/Senate Bill 638

Approved March 28, 2013

**LAWS 2013, CHAPTER 60**



AN ACT

RELATING TO ECONOMIC DEVELOPMENT; CREATING THE FRONTIER COMMUNITIES PROGRAM.

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

**Chapter 60 Section 1 Laws 2013**

SECTION 1. Section 3-60B-1 NMSA 1978 (being Laws 1985, Chapter 88, Section 1) is amended to read:

"3-60B-1. SHORT TITLE.--Chapter 3, Article 60B NMSA 1978 may be cited as the "Main Street Act"."

**Chapter 60 Section 2 Laws 2013**

SECTION 2. Section 3-60B-4 NMSA 1978 (being Laws 1985, Chapter 88, Section 4, as amended) is amended to read:

"3-60B-4. MAIN STREET PROGRAM--CREATED--COORDINATOR--POWERS AND DUTIES.--

A. There is created the "main street program" in the economic development department. The secretary of economic development shall employ a coordinator to oversee the program.

B. The coordinator shall:

(1) carry out state responsibilities pursuant to contract with the national main street center of the national trust for historic preservation;

(2) coordinate activities of the program in consultation with the historic preservation division of the cultural affairs department;

(3) advise the New Mexico community development council on the development of criteria for requests for proposals and selection of local government grantees for the program to be funded through community development block grants;

(4) monitor the progress of main street projects;

(5) assist local main street project managers;

(6) assist in the development of the frontier communities program;

and

(7) perform other duties necessary to carry out the provisions of the Main Street Act."

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House Bill 76, aa

Approved March 29, 2013

## **LAWS 2013, CHAPTER 61**

### **AN ACT**

RELATING TO PENSIONS; AMENDING THE EDUCATIONAL RETIREMENT ACT; INCREASING CERTAIN MEMBERS' CONTRIBUTION RATES; CHANGING THE BENEFITS FOR NEW MEMBERS BY IMPOSING A MINIMUM RETIREMENT AGE, DELAYING THE COST-OF-LIVING ADJUSTMENT ELIGIBILITY AND INCREASING THE AGE AND SERVICE RETIREMENT REQUIREMENTS; PROVIDING FOR A REDUCTION IN THE COST-OF-LIVING ADJUSTMENT; ADDING DEFINITIONS.

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

### **Chapter 61 Section 1 Laws 2013**

SECTION 1. Section 22-11-21 NMSA 1978 (being Laws 1967, Chapter 16, Section 144, as amended) is amended to read:

"22-11-21. CONTRIBUTIONS--MEMBERS--LOCAL ADMINISTRATIVE UNITS.--

A. Except as provided in Subsection D of this section, for a member whose annual salary is greater than twenty thousand dollars (\$20,000), the member shall make contributions to the fund according to the following schedule:

(1) from July 1, 2013 through June 30, 2014, the member contribution rate shall be ten and one-tenth percent of the member's annual salary; and

(2) on and after July 1, 2014, the member contribution rate shall be ten and seven-tenths percent of the member's annual salary.

B. On and after July 1, 2008, for a member whose annual salary is twenty thousand dollars (\$20,000) or less, the member contribution rate shall be 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, 2013 through June 30, 2014, a sum equal to thirteen and fifteen-hundredths percent of the annual salary of each member employed by the local administrative unit; and

(2) on and after July 1, 2014, a sum equal to thirteen and nine-tenths 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 the provisions of this subsection; and

(2) the amount of the annual compensation limit shall be divided into four equal portions, and, for purposes of attributing contributory employment and crediting service credit, each portion shall be attributable to one of the four quarters of the calendar year."

## **Chapter 61 Section 2 Laws 2013**

SECTION 2. Section 22-11-23 NMSA 1978 (being Laws 1981, Chapter 293, Section 2, as amended by Laws 2009, Chapter 286, Section 1 and by Laws 2009, Chapter 288, Section 14) is amended to read:

"22-11-23. RETIREMENT ELIGIBILITY--INITIAL MEMBERSHIP PRIOR TO JULY 1, 2010.--

A. A member who was a member on June 30, 2010, or was a member at any time prior to that date and had not, on that date, been refunded all member contributions pursuant to Subsection A of Section 22-11-15 NMSA 1978, shall be eligible for retirement benefits when:

(1) the member is any age and has twenty-five or more years of earned and allowed service credit;

(2) the member is at least sixty-five years of age and has five or more years of earned service credit; or

(3) the sum of the member's age and years of earned service credit equals at least seventy-five; provided that a member who retires pursuant to this

paragraph shall be subject to the benefit reductions provided in Subsection G of Section 22-11-30 NMSA 1978.

B. A member shall be subject to the provisions of Subsection A of this section as they existed at the beginning of the member's last cumulated four quarters of earned service credit, regardless of later amendment."

### **Chapter 61 Section 3 Laws 2013**

SECTION 3. Section 22-11-23.1 NMSA 1978 (being Laws 2009, Chapter 286, Section 2 and Laws 2009, Chapter 288, Section 15) is amended to read:

"22-11-23.1. RETIREMENT ELIGIBILITY--INITIAL MEMBERSHIP ON OR AFTER JULY 1, 2010.--

A. A member who initially became a member on or after July 1, 2010, or a member who was a member at any time prior to that date and had, before that date, been refunded all member contributions pursuant to Subsection A of Section 22-11-15 NMSA 1978, shall be eligible for retirement benefits pursuant to the Educational Retirement Act when:

(1) the member is any age and has thirty or more years of earned service credit;

(2) the member is at least sixty-seven years of age and has five or more years of earned service credit; or

(3) the sum of the member's age and years of earned service credit equals at least eighty; provided that a member who retires pursuant to this paragraph shall be subject to the benefit reductions provided in Subsection H of Section 22-11-30 NMSA 1978.

B. A member shall be subject to the provisions of this section as they existed at the beginning of the member's last cumulated four quarters of earned service credit, regardless of later amendment."

### **Chapter 61 Section 4 Laws 2013**

SECTION 4. A new section of the Educational Retirement Act, Section 22-11-23.2 NMSA 1978, is enacted to read:

"22-11-23.2. RETIREMENT ELIGIBILITY MEMBERSHIP ON OR AFTER JULY 1, 2013.--

A. A member who initially became a member on or after July 1, 2013 or a member who was a member at any time prior to July 1, 2013 and had, before that date,

been refunded all member contributions pursuant to Subsection A of Section 22-11-15 NMSA 1978, and had not restored all refunded contributions and interest before July 1, 2013, shall be eligible for retirement benefits when:

(1) the member is any age and has thirty or more years of earned service credit; provided that the benefits of a member who retires pursuant to this paragraph prior to attaining the age of fifty-five years shall be reduced to an amount equal to the actuarial equivalent of the benefit the member would receive if the member had retired at the age of fifty-five years. The board shall recalculate the actuarial factors on which benefits are reduced no less frequently than every ten years beginning July 1, 2013. The benefits of a retired member that have been reduced at the time of retirement pursuant to this paragraph shall not be subject to further change based upon the board's recalculation of the actuarial factors;

(2) the member is at least sixty-seven years of age and has five or more years of earned service credit; or

(3) the sum of the member's age and years of earned service credit equals at least eighty; provided that a member who retires pursuant to this paragraph shall be subject to the benefit reductions provided in Subsection I of Section 22-11-30 NMSA 1978.

B. A member shall be subject to the provisions of this section as they existed at the beginning of the member's last cumulated four quarters of earned service credit, regardless of later amendment."

## **Chapter 61 Section 5 Laws 2013**

SECTION 5. Section 22-11-27 NMSA 1978 (being Laws 1967, Chapter 16, Section 150, as amended) is amended to read:

"22-11-27. DEFERRED RETIREMENT--RESTRICTION.--

A. A member who is eligible for retirement may continue in employment and shall continue to pay contributions as provided by the Educational Retirement Act.

B. Provided that the contributions that the member has made are left in the fund, a member eligible for retirement benefits pursuant to the provisions of Section 22-11-23, 22-11-23.1 or 22-11-23.2 NMSA 1978 may terminate employment and retire at any time upon satisfying the applicable age and earned service requirements for retirement.

C. A member shall not be on a retirement status while engaged in employment unless the employment falls within an exception established by statute or rule of the board."

## Chapter 61 Section 6 Laws 2013

SECTION 6. Section 22-11-30 NMSA 1978 (being Laws 1967, Chapter 16, Section 153, as amended by Laws 2009, Chapter 286, Section 3 and by Laws 2009, Chapter 288, Section 17) is amended to read:

### "22-11-30. RETIREMENT BENEFITS--REDUCTIONS.--

A. Retirement benefits for a member retired pursuant to the Educational Retirement Act on or before June 30, 1967 shall be paid monthly and shall be one-twelfth of a sum equal to one and one-half percent of the first four thousand dollars (\$4,000) of the member's average annual salary and one percent of the remainder of the member's average annual salary multiplied by the number of years of the member's total service credit.

B. Retirement benefits for a member retired pursuant to the Educational Retirement Act on or after July 1, 1967 but on or before June 30, 1971 shall be paid monthly and shall be one-twelfth of a sum equal to one and one-half percent of the first six thousand six hundred dollars (\$6,600) of the member's average annual salary and one percent of the remainder of the member's average annual salary multiplied by the number of years of the member's total service credit.

C. Retirement benefits for a member retired pursuant to the Educational Retirement Act on or after July 1, 1971 but on or before June 30, 1974 shall be paid monthly and shall be one-twelfth of a sum equal to one and one-half percent of the member's average annual salary multiplied by the number of years of the member's total service credit.

D. Retirement benefits for a member retired pursuant to the Educational Retirement Act on or before June 30, 1974 but returning to employment on or after July 1, 1974 for a cumulation of one or more years shall be computed pursuant to Subsection E of this section. Retirement benefits for a member retired pursuant to the Educational Retirement Act on or before June 30, 1974 but returning to employment on or after July 1, 1974 for a cumulation of less than one year shall be computed pursuant to Subsection A of this section if the member's date of last retirement was on or before June 30, 1967 or pursuant to Subsection B of this section if the member's date of last retirement was on or after July 1, 1967 but not later than June 30, 1971 or pursuant to Subsection C of this section if the member's date of last retirement was on or after July 1, 1971 but not later than June 30, 1974.

E. Retirement benefits for a member age sixty or over, retired pursuant to the Educational Retirement Act on or after July 1, 1974 but not later than June 30, 1987, shall be paid monthly and shall be one-twelfth of a sum equal to:

(1) one and one-half percent of the member's average annual salary multiplied by the number of years of service credit for:

(a) prior employment; and

(b) allowed service credit for service performed prior to July 1, 1957, except United States military service credit purchased pursuant to Paragraph (3) of Subsection A of Section 22-11-34 NMSA 1978; plus

(2) two percent of the member's average annual salary multiplied by the number of years of service credit for:

(a) contributory employment;

(b) allowed service credit for service performed after July 1, 1957; and

(c) United States military service credit for service performed prior to July 1, 1957 and purchased pursuant to Paragraph (3) of Subsection A of Section 22-11-34 NMSA 1978.

F. Retirement benefits for a member age sixty or over, retired pursuant to the Educational Retirement Act on or after July 1, 1987 but not later than June 30, 1991, shall be paid monthly and shall be one-twelfth of a sum equal to two and fifteen hundredths percent of the member's average annual salary multiplied by the number of years of the member's total service credit; provided that this subsection shall not apply to any member who was retired in any of the four quarters ending on June 30, 1987 without having accumulated not less than 1.0 years earned service credit after June 30, 1987.

G. Retirement benefits for a member who retires pursuant to Section 22-11-23 NMSA 1978 on or after July 1, 1991 shall be paid monthly and shall be one-twelfth of a sum equal to two and thirty-five hundredths percent of the member's average annual salary multiplied by the number of years of the member's total service credit; provided that:

(1) the benefit for a member who retires pursuant to Paragraph (3) of Subsection A of Section 22-11-23 NMSA 1978 shall be reduced by:

(a) six-tenths percent for each one-fourth, or portion thereof, year that retirement occurs prior to the member attaining the age of sixty years but after the member attains the age of fifty-five years; and

(b) one and eight-tenths percent for each one-fourth, or portion thereof, year that retirement occurs prior to the member attaining the age of fifty-five years;

(2) the benefit formula provided in this subsection shall not apply to any member who was retired in any of the four consecutive quarters ending on June 30,

1991 without having accumulated at least one year earned service credit beginning on or after July 1, 1991; and

(3) a member shall be subject to the provisions of Paragraph (1) of this subsection as they existed at the beginning of the member's last cumulated four quarters of earned service credit, regardless of later amendment.

H. Retirement benefits for a member who retires pursuant to Section 22-11-23.1 NMSA 1978 shall be paid monthly and shall be one-twelfth of a sum equal to two and thirty-five hundredths percent of the member's average annual salary multiplied by the number of years of the member's total service credit; provided that:

(1) the benefit for a member who retires pursuant to Paragraph (3) of Subsection A of Section 22-11-23.1 NMSA 1978 shall be reduced by:

(a) six-tenths percent for each one-fourth, or portion thereof, year that retirement occurs prior to the member attaining the age of sixty-five years but after the member attains the age of sixty years; and

(b) one and eight-tenths percent for each one-fourth, or portion thereof, year that retirement occurs prior to the member attaining the age of sixty years; and

(2) a member shall be subject to the provisions of Paragraph (1) of this subsection as they existed at the beginning of the member's last cumulated four quarters of earned service credit, regardless of later amendment.

I. Retirement benefits for a member who retires pursuant to Section 22-11-23.2 NMSA 1978 shall be paid monthly and shall be one-twelfth of a sum equal to two and thirty-five hundredths percent of the member's average annual salary multiplied by the number of years of the member's total service credit; provided that:

(1) the benefit for a member retiring pursuant to Paragraph (3) of Subsection A of Section 22-11-23.2 NMSA 1978 shall be reduced by:

(a) six-tenths percent for each one-fourth, or portion thereof, year that retirement occurs prior to the member attaining the age of sixty-five years but after the member attains the age of sixty years; and

(b) one and eight-tenths percent for each one-fourth, or portion thereof, year that retirement occurs prior to the member attaining the age of sixty years; and

(2) a member shall be subject to the provisions of Paragraph (1) of this subsection as they existed at the beginning of the member's last cumulated four quarters of earned service credit, regardless of later amendment.



J. A member's average annual salary, pursuant to this section, shall be computed on the basis of the last five years for which contribution was made or upon the basis of any consecutive five years for which contribution was made by the member, whichever is higher; provided, however, that lump-sum payments made after July 1, 2010 of accrued sick leave or annual leave shall be excluded from the calculation of salary.

K. Unless otherwise required by the provisions of the Internal Revenue Code of 1986, members shall begin receiving retirement benefits by age seventy years and six months, or upon termination of employment, whichever occurs later."

## **Chapter 61 Section 7 Laws 2013**

SECTION 7. Section 22-11-31 NMSA 1978 (being Laws 1979, Chapter 333, Section 2, as amended) is amended to read:

"22-11-31. COST-OF-LIVING ADJUSTMENT--ELIGIBILITY--BASED ON FUNDED RATIO--ADDITIONAL CONTRIBUTIONS.--

A. For the purposes of this section:

(1) "adjustment factor" means a multiplicative factor computed to provide an annuity adjustment pursuant to the provisions of Subsection B of this section;

(2) "annuity" means any benefit payable under the Educational Retirement Act or the Public Employees Retirement Reciprocity Act as a retirement benefit, disability benefit or survivor benefit;

(3) "calendar year" means the full twelve months beginning January 1 and ending December 31;

(4) "consumer price index" means the average of the monthly consumer price indexes for a calendar year for the entire United States for all items as published by the United States department of labor;

(5) "funded ratio" means the ratio of the actuarial value of the assets of the fund to the actuarial accrued liability of the educational retirement system;

(6) "median adjusted annuity" means the median value of all annuities and retirement benefits paid pursuant to Section 22-11-29 or 22-11-30 NMSA 1978, as calculated each fiscal year; provided, however, that the benefits paid to a member pursuant to Section 22-11-38

NMSA 1978 shall not be included in the median adjusted annuity calculation;

(7) "next preceding calendar year" means the full calendar year immediately prior to the preceding calendar year; and

(8) "preceding calendar year" means the full calendar year preceding the July 1 on which a benefit is to be adjusted.

B. On or after July 1, 1984:

(1) the annuity of a member who retires pursuant to Subsection A of Section 22-11-23 NMSA 1978 or Subsection A of Section 22-11-23.1 NMSA 1978 shall be adjusted annually and cumulatively commencing on July 1 of the year in which a member attains the age of sixty-five years or on July 1 following the year a member retires, whichever is later; and

(2) the annuity of a member who retires pursuant to Subsection A of Section 22-11-23.2 NMSA 1978 shall be adjusted annually and cumulatively commencing on July 1 of the year in which the member attains the age of sixty-seven years or on July 1 following the year the member retires, whichever is later.

C. Beginning on July 1, 2013 and on each July 1 thereafter:

(1) if the funded ratio of the fund as reported by the board's actuary in the actuarial valuation report for the next preceding fiscal year is one hundred percent or greater, the annuity adjustments provided for under Subsection B of this section shall be adjusted by applying an adjustment factor based on the percentage increase of the consumer price index between the next preceding calendar year and the preceding calendar year. The adjustment factor shall be applied as follows:

(a) if the percentage increase of the consumer price index is less than two percent in absolute value, the adjustment factor shall be the same amount as the percentage increase of the consumer price index; and

(b) if the percentage increase of the consumer price index is two percent or greater in absolute value, the adjustment factor shall be one-half of the percentage increase; except that the adjustment shall not exceed four percent in absolute value nor be less than two percent in absolute value;

(2) if the funded ratio of the fund as reported by the board's actuary in the actuarial report for the next preceding fiscal year is greater than ninety percent but less than one hundred percent, except for a member who is on disability status in accordance with Section 22-11-35 NMSA 1978 and whose benefit is adjusted as provided in Subsection G of this section or a member who is retired pursuant to Section 22-11-38 NMSA 1978, the adjustment factor provided for in Subsection B of this section shall be applied as follows:

(a) if the percentage increase in the consumer price index is less than two percent in absolute value, for a member who has twenty-five or more years of service credit at retirement and whose annuity is less than or equal to the median adjusted annuity for the fiscal year next preceding the adjustment date, the adjustment factor shall be ninety-five percent of the adjustment factor determined pursuant to Subparagraph (a) of Paragraph (1) of this subsection;

(b) if the percentage increase in the consumer price index is less than two percent in absolute value, for a member who has less than twenty-five years of service credit at retirement and whose annuity is less than or equal to the median adjusted annuity for the fiscal year next preceding the adjustment date, and for a member whose annuity is greater than the median adjusted annuity for the fiscal year next preceding the adjustment date, the adjustment factor shall be ninety percent of the adjustment factor determined pursuant to Subparagraph (a) of Paragraph (1) of this subsection;

(c) if the percentage increase in the consumer price index is greater than or equal to two percent in absolute value for a member who has twenty-five or more years of service credit at retirement and whose annuity is less than or equal to the median adjusted annuity for the fiscal year next preceding the adjustment date, the adjustment factor shall be ninety-five percent of the adjustment factor determined under Subparagraph (b) of Paragraph (1) of this subsection; and

(d) if the percentage increase in the consumer price index is greater than or equal to two percent in absolute value, for a member who has less than twenty-five years of service credit at retirement and whose annuity is less than or equal to the median adjusted annuity for the fiscal year next preceding the adjustment date, and for a member whose annuity is greater than the median adjusted annuity for the fiscal year next preceding the adjustment date, the adjustment factor shall be ninety percent of the adjustment factor determined under Subparagraph (b) of Paragraph (1) of this subsection;

(3) if the funded ratio of the fund as reported by the board's actuary in the actuarial valuation report for the next preceding fiscal year is ninety percent or less, except for a member who is on disability status in accordance with Section 22-11-35 NMSA 1978 and whose benefit is adjusted as provided in Subsection G of this section or a member who is retired pursuant to Section 22-11-38 NMSA 1978, the adjustment factor provided for in Subsection B of this section shall be applied as follows:

(a) if the percentage increase in the consumer price index is less than two percent in absolute value, for a member who has twenty-five or more years of service credit at retirement and whose annuity is less than or equal to the median adjusted annuity for the fiscal year next preceding the adjustment date, the adjustment factor shall be ninety percent of the adjustment factor determined pursuant to Subparagraph (a) of Paragraph (1) of this subsection;

(b) if the percentage increase in the consumer price index is less than two percent in absolute value, for a member who has less than twenty-five years of service credit at retirement and whose annuity is less than or equal to the median adjusted annuity for the fiscal year next preceding the adjustment date, and for a member whose annuity is greater than the median adjusted annuity for the fiscal year next preceding the adjustment date, the adjustment factor shall be eighty percent of the adjustment factor determined pursuant to Subparagraph (a) of Paragraph (1) of this subsection;

(c) if the percentage increase in the consumer price index is greater than or equal to two percent in absolute value for a member who has twenty-five or more years of service credit at retirement and whose annuity is less than or equal to the median adjusted annuity for the fiscal year next preceding the adjustment date, the adjustment factor shall be ninety percent of the adjustment factor determined under Subparagraph (b) of Paragraph (1) of this subsection; and

(d) if the percentage increase in the consumer price index is greater than or equal to two percent in absolute value, for a member who has less than twenty-five years of service credit at retirement and whose annuity is less than or equal to the median adjusted annuity for the fiscal year next preceding the adjustment date, and for a member whose annuity is greater than the median adjusted annuity for the fiscal year next preceding the adjustment date, the adjustment factor shall be eighty percent of the adjustment factor determined under Subparagraph (b) of Paragraph (1) of this subsection; and

(4) an annuity shall not be decreased if there is a decrease in the consumer price index between the next preceding calendar year and the preceding calendar year.

D. A retired member whose benefit is subject to adjustment under the provisions of the Educational Retirement Act in effect prior to July 1, 1984 shall have the member's annuity readjusted annually and cumulatively under the provisions of that act in effect prior to July 1, 1984 until July 1 of the year in which the member attains the age of sixty-five, when the member shall have the annuity readjusted annually and cumulatively under the provisions of this section.

E. A member who:

(1) retires pursuant to Subsection A of Section 22-11-23 NMSA 1978 or Subsection A of Section 22-11-23.1 NMSA 1978 after attaining the age of sixty-five years shall have the member's annuity adjusted as provided in Subsections B and C of this section commencing on July 1 of the year following the member's retirement; and

(2) retires pursuant to Subsection A of Section 22-11-23.2 NMSA 1978 after attaining the age of sixty-seven years shall have the member's annuity

adjusted as provided in Subsections B and C of this section commencing on July 1 of the year following the member's retirement.

F. A retired member who returns to work shall be subject to the provisions of this section as they exist at the time of the member's final retirement.

G. Benefits of a member who is on a disability status in accordance with Section 22-11-35 NMSA 1978 or a member who is certified by the board as disabled at regular retirement shall be adjusted in accordance with Subsections B and C of this section, except that the benefits shall be adjusted annually and cumulatively commencing on July 1 of the third full year following the year in which the member was approved by the board for disability or retirement.

H. The board shall adjust the benefits of each person receiving an annuity as of June 30, 1999. The adjustment shall be made on July 1, 1999 on the basis of an increase of two dollars (\$2.00) per month for each year since the member's last retirement plus an increase of one dollar (\$1.00) per month for each year of credited service at the time of the last retirement."

## **Chapter 61 Section 8 Laws 2013**

SECTION 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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Senate Bill 115, aa

Approved March 29, 2013

## **LAWS 2013, CHAPTER 62**

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; CREATING THE FRONTIER COMMUNITIES PROGRAM.

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

## **Chapter 62 Section 1 Laws 2013**

SECTION 1. Section 3-60B-1 NMSA 1978 (being Laws 1985, Chapter 88, Section 1) is amended to read:

"3-60B-1. SHORT TITLE.--Chapter 3, Article 60B NMSA 1978 may be cited as the "Main Street Act"."

## **Chapter 62 Section 2 Laws 2013**

SECTION 2. Section 3-60B-4 NMSA 1978 (being Laws 1985, Chapter 88, Section 4, as amended) is amended to read:

"3-60B-4. MAIN STREET PROGRAM--CREATED--COORDINATOR--POWERS AND DUTIES.--

A. There is created the "main street program" in the economic development department. The secretary of economic development shall employ a coordinator to oversee the program.

B. The coordinator shall:

(1) carry out state responsibilities pursuant to contract with the national main street center of the national trust for historic preservation;

(2) coordinate activities of the program in consultation with the historic preservation division of the cultural affairs department;

(3) advise the New Mexico community development council on the development of criteria for requests for proposals and selection of local government grantees for the program to be funded through community development block grants;

(4) monitor the progress of main street projects;

(5) assist local main street project managers;

(6) assist in the development of the frontier communities program;  
and

(7) perform other duties necessary to carry out the provisions of the Main Street Act."

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Senate Bill 185, aa, wo/ec

Approved March 29, 2013

## **LAWS 2013, CHAPTER 63**

AN ACT

RELATING TO INSURANCE; AMENDING A SECTION OF THE INSURANCE CODE TO PROVIDE FOR SURETY INSURANCE CONTRACTS COMPLIANCE WITH PROVISIONS OF ARTICLE 5 OF THE INSURANCE CODE.

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

### **Chapter 63 Section 1 Laws 2013**

SECTION 1. Section 59A-31-1 NMSA 1978 (being Laws 1984, Chapter 127, Section 508) is amended to read:

"59A-31-1. SCOPE OF ARTICLE.--Chapter 59A, Article 31 NMSA 1978 shall apply only as to contracts of surety insurance, as defined in Section 59A-7-8 NMSA 1978. Such contracts are also subject to the applicable provisions of Chapter 59A, Articles 5 and 18 NMSA 1978."

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Senate Bill 192

Approved March 29, 2013

## **LAWS 2013, CHAPTER 64**

AN ACT

RELATING TO THE PUBLIC REGULATION COMMISSION; PROVIDING FOR CONSTITUTIONALLY MANDATED INCREASED QUALIFICATIONS FOR OFFICE OF COMMISSIONER; PROVIDING FOR CONTINUING EDUCATION REQUIREMENTS FOR PUBLIC REGULATION COMMISSIONERS; PROVIDING FOR THE WITHHOLDING OF COMPENSATION.

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

### **Chapter 64 Section 1 Laws 2013**

SECTION 1. A new section of the Public Regulation Commission Act is enacted to read:

"QUALIFICATIONS OF COMMISSIONERS.--

A. In addition to other requirements imposed by law, in order to be elected or appointed as a commissioner, a person must be qualified for office by:

(1) having at least ten years of professional experience in an area regulated by the commission or in the energy sector and involving a scope of work that includes accounting, public or business administration, economics, finance, statistics, engineering or law;

(2) having a total of ten years of combined professional experience as described in Paragraph (1) of this subsection and higher education resulting in at least a professional license or a baccalaureate degree from an institution of higher education that has been accredited by a regional or national accrediting body in an area regulated by the commission, including accounting, public or business administration, economics, finance, statistics, engineering or law; or

(3) holding the office of commissioner on January 1, 2013.

B. As used in this section, "professional experience" means employment in which the candidate or prospective appointee for commissioner regularly made decisions requiring discretion and independent judgment and:

(1) engaged in policy analysis, research or implementation in an area regulated by the commission or in the energy sector;

(2) managed, as the head, deputy head or division director, a federal, state, tribal or local government department or division responsible for utilities, transportation or construction; or

(3) managed a business or organization regulated by the commission or in the energy sector that had five or more employees during the time it was managed by the candidate or prospective appointee.

C. A candidate for election to the office of commissioner shall certify by notarized affidavit that the candidate meets the requirements of Subsection A of this section to be filed with the declaration of candidacy.

D. A voter may challenge the candidacy for election to the office of commissioner of any person seeking nomination for the reason that the person seeking nomination does not meet the requirements of Subsection A of this section. The challenge shall be made by filing a petition in the district court within ten days after the last day for filing a declaration of candidacy or a statement of candidacy for convention designation, which petition shall be heard in the same manner as provided in Subsection F of Section 1-8-26 NMSA 1978."

## **Chapter 64 Section 2 Laws 2013**

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



"CONTINUING EDUCATION REQUIREMENTS FOR COMMISSIONERS.--

A. Beginning July 1, 2013, a commissioner shall complete:

(1) an ethics certificate course provided in person or online by a New Mexico public post-secondary educational institution in the first twelve-month period after taking office and at least one two-hour ethics course in each subsequent twelve-month period that the commissioner serves in office; and

(2) at least thirty-two hours of continuing education relevant to the work of the commission in each twelve-month period that the commissioner serves in office. Continuing education courses shall be endorsed by the national association of regulatory utility commissioners or by the relevant licensing or professional association for a qualifying area of study for degree holders pursuant to this section.

B. A commissioner shall be responsible for having the endorsing organization submit certification of completion of the hours of education required pursuant to Subsection A of this section to the commission's chief of staff.

C. As an exception to Section 8-1-1 NMSA 1978, if a commissioner fails to comply with the education requirements in Subsection A of this section by the last day of a twelve-month period, the commissioner's compensation for performing the duties of the office shall be withheld by the commission until the requirements for the preceding twelve-month period or periods have been met."

### **Chapter 64 Section 3 Laws 2013**

SECTION 3. APPLICABILITY.--The provisions of Section 1 of this act apply to:

A. persons appointed to fill a public regulation commissioner vacancy after July 1, 2013; and

B. public regulation commissioners elected at the general election in 2014 and subsequent elections.

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SJC/SRC/Senate Bill 8, aa

Approved March 29, 2013

## **LAWS 2013, CHAPTER 65**

AN ACT

RELATING TO PUBLIC FINANCES; CLARIFYING AUTHORIZED INVESTMENTS OF THE STATE TREASURER; CHANGING THE NAME OF THE PARTICIPATING GOVERNMENT INVESTMENT FUND TO THE LOCAL GOVERNMENT INVESTMENT POOL; INCREASING THE PERCENTAGE OF GENERAL FUNDS AND BOND PROCEEDS THAT MAY BE INVESTED IN THE LOCAL GOVERNMENT INVESTMENT POOL.

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

## **Chapter 65 Section 1 Laws 2013**

SECTION 1. Section 6-10-1.1 NMSA 1978 (being Laws 1987, Chapter 79, Section 3, as amended) is amended to read:

"6-10-1.1. DEFINITIONS.--As used in Chapter 6, Article 10 NMSA 1978:

- A. "department" means the department of finance and administration;
- B. "deposit" includes share, share certificate and share draft;
- C. "eligible governing body" means a local governing body, the governing authority of a tribe or any other governmental or quasi-governmental body created or authorized to be created pursuant to New Mexico statutes;
- D. "finance officer" means the chief financial officer of an eligible governing body or a participating government;
- E. "local governing body" means a political subdivision of the state, including a school district or a post-secondary educational institution;
- F. "participating government" means an eligible governing body or the state treasurer on behalf of the general fund that has invested money in the local government investment pool;
- G. "secretary" means the secretary of finance and administration;
- H. "treasury" means the master depository or cash concentration account held at the state's fiscal agent bank and administered by the office of the state treasurer, unless the context otherwise clearly indicates; and
- I. "tribe" means a federally recognized Indian nation, tribe or pueblo or a subdivision or agency of a federally recognized Indian nation, tribe or pueblo, located wholly or partially in New Mexico."

## **Chapter 65 Section 2 Laws 2013**

SECTION 2. 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 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. "Deposit", as used in this section, means either investment or deposit and includes share, share certificate and share draft.

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; or

(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.

G. 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, 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 are listed in a nationally recognized, 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) individual, common or collective trust funds of banks or trust companies that invest in fixed-income securities or debt instruments that are listed in a nationally recognized, 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; or

(3) shares of pooled investment funds managed by the state investment officer, as provided in Subsection E 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.

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 other securities backed by the United States 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.

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 or its agencies or instrumentalities or by other securities backed by the United States or its agencies or instrumentalities 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; or

(5) securities issued by states other than New Mexico or governmental entities in states other than New Mexico.

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."

## **Chapter 65 Section 3 Laws 2013**

SECTION 3. Section 6-10-10.1 NMSA 1978 (being Laws 1988, Chapter 61, Section 2, as amended) is amended to read:

"6-10-10.1. LOCAL GOVERNMENT INVESTMENT POOL CREATED--  
DISTRIBUTION OF EARNINGS--REPORT OF INVESTMENTS.--

A. There is created in the state treasury the "local government investment pool". The fund shall consist of all deposits from participating governments, including revenues dedicated to repaying bonds, that are placed in the custody of the state treasurer for investment purposes pursuant to this section. The state treasurer shall maintain one or more separate accounts for each participating government having deposits in the local government investment pool and may divide the fund into two or more subfunds, as the state treasurer deems appropriate, for short-term and medium-term investment purposes, including one or more subfunds for bond proceeds deposited by participating governments.

B. If an eligible governing body is unable to receive payment on public money at the rate of interest as set forth in Section 6-10-36 NMSA 1978 from financial institutions within the geographic boundaries of the eligible governing body, or if the eligible governing body is not bound by the terms of Section 6-10-36 NMSA 1978, the

finance officer having control of the money of that eligible governing body not required for current expenditure may, with the consent of the board of finance of the eligible governing body if consent is required by the laws or rules of the eligible governing body, remit some or all of the money to the state treasurer for deposit for the purpose of investment as allowed by this section.

C. Before funds are invested or reinvested pursuant to this section, a finance officer shall notify and make the funds available for investment to banks, savings and loan associations and credit unions located within the geographical boundaries of the participating government or the eligible governing body, subject to the limitation on credit union accounts. To be eligible for deposit of the government funds, the financial institution shall pay to the participating government or eligible governing body the rate established by the state treasurer pursuant to a policy adopted by the state board of finance for the investments.

D. A finance officer shall specify the length of time a deposit shall be in the local government investment pool. The state treasurer through the use of the state fiscal agent shall separately track each deposit and shall make information regarding the deposit available to the public upon written request.

E. The state treasurer shall invest the local government investment pool as provided in Section 6-10-10 NMSA 1978 regarding the investment of state funds in investments with a maturity at the time of purchase that does not exceed three years. The state treasurer may elect to have the local government investment pool consolidated for investment purposes with the state funds under the control of the state treasurer; provided that accurate and detailed accounting records are maintained for the account of each participating government and that a proportionate amount of interest earned is credited to each of the separate accounts of a participating government. The fund shall be invested to achieve its objective, which is to realize the maximum return consistent with safe and prudent management.

F. At the end of each month, all net investment income or losses from investment of the local government investment pool shall be distributed by the state treasurer to the accounts of participating governments in amounts directly proportionate to the respective amounts deposited by them in the local government investment pool and the length of time the amounts in each account were invested.

G. The state treasurer shall charge participating governments reasonable audit, administrative and investment expenses and shall deduct those expenses directly from the net investment income for the investment and administrative services provided pursuant to this subsection. The amount of the charges, the manner of the use by the state treasurer and the nature of bond-related services to be offered shall be established in rules adopted and promulgated by the state treasurer subject to approval by the state board of finance.



H. Subject to appropriation by the legislature, amounts deducted from the accounts of participating governments for charges permitted pursuant to this section shall be expended by the state treasurer in fiscal year 2008 and in subsequent fiscal years for the administration and management of the local government investment pool, services provided to participating governments related to investment of their money in that fund and other services authorized by this section. Balances remaining at the end of a fiscal year from the amounts deducted pursuant to this section shall revert to the general fund. Balances in the state treasurer's operating account resulting from deductions taken pursuant to this section in excess of the amount required to provide administration, management and related services required by this subsection or other services authorized by this section shall be offset by reductions in the charges made by the state treasurer to the accounts of participating governments in subsequent deductions from participating governments' accounts.

I. Each fiscal year, the state treasurer shall cause to have the short-term investment portion of the local government investment pool rated by a nationally recognized statistical rating organization. If the rating received by the short-term investment portion of the fund is lower than "AA", the state treasurer shall immediately submit a plan to the state board of finance detailing the steps that will be taken to obtain an "AA" or higher rating.

J. The state treasurer may offer to provide to participating governments services related to requirements of the federal income tax laws applicable to the investment of bond proceeds.

K. A tribe or quasi-governmental body created pursuant to New Mexico statute may become a participating government only if the governing authority of the tribe or quasi-governmental body has adopted a resolution authorizing the tribe or quasi-governmental body to remit money to the state treasurer for investment in the local government investment pool.

L. Deposits by the state treasurer on behalf of the general fund and bond proceeds investment pools shall, in aggregate, be no more than thirty-five percent of the total amount in the local government investment pool at any time."

## **Chapter 65 Section 4 Laws 2013**

SECTION 4. Section 6-10-16 NMSA 1978 (being Laws 1969, Chapter 243, Section 1, as amended) is amended to read:

"6-10-16. SECURITY FOR DEPOSITS OF PUBLIC MONEY.--

A. Deposits of public money shall be secured by:

(1) securities of the United States, its agencies or instrumentalities;

(2) securities of the state of New Mexico, its agencies, instrumentalities, counties, municipalities or other subdivisions;

(3) securities, including student loans, that are guaranteed by the United States or the state of New Mexico;

(4) revenue bonds that are underwritten by a member of the financial industry regulatory authority, known as FINRA, and are rated "BAA" or above by a nationally recognized bond rating service; or

(5) letters of credit issued by a federal home loan bank.

B. No security is required for the deposit of public money that is insured by the federal deposit insurance corporation or the national credit union administration.

C. All securities shall be accepted as security at market value. The restrictions of Subsection A of this section apply to all securities subject to this subsection."

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Senate Bill 24, aa

Approved March 29, 2013

## **LAWS 2013, CHAPTER 66**

### **AN ACT**

RELATING TO MOTOR VEHICLES; PROVIDING FOR THE ISSUANCE OF PROTECTIVE AND UNDERCOVER LICENSE PLATES TO STATE AGENCIES AND CERTAIN INDIAN NATIONS, TRIBES, PUEBLOS AND OTHER ENTITIES; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2009.

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

### **Chapter 66 Section 1 Laws 2013**

SECTION 1. Section 15-8-3 NMSA 1978 (being Laws 1994, Chapter 119, Section 3, as amended) is amended to read:

"15-8-3. DEFINITIONS.--As used in the Transportation Services Act:

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

B. "division" means the transportation services division of the general services department;

C. "protective license plate" means a regular passenger license plate issued to a state vehicle that is in the custody of a state agency, can be traced to that state agency and is being used for sensitive activities;

D. "secretary" means the secretary of general services;

E. "sensitive activity" means an activity performed by an employee of the state that:

(1) is authorized by the state to be performed for a legitimate and appropriate purpose for the state, other than a legitimate undercover law enforcement purpose; and

(2) would place the employee at a higher risk of personal injury if knowledge of the activity were made public, as determined in writing by an appropriate supervising authority of the employee;

F. "state agency" means a state department, agency, board or commission but does not include the legislative and judicial branches, public schools and institutions of higher education;

G. "state vehicle" means an automobile, van, sport-utility truck, pickup truck or other vehicle with a declared gross vehicle weight of less than ten thousand pounds used by a state agency to transport passengers or property; and

H. "undercover license plate" means a regular passenger license plate issued to a state vehicle that is registered in a fictitious name and address that cannot be traced to the state agency having custody of the vehicle and that is being used for legitimate law enforcement purposes only."

## **Chapter 66 Section 2 Laws 2013**

SECTION 2. Section 15-8-6 NMSA 1978 (being Laws 1994, Chapter 119, Section 6, as amended by Laws 2009, Chapter 8, Section 1 and by Laws 2009, Chapter 129, Section 1 and also by Laws 2009, Chapter 250, Section 6) is amended to read:

"15-8-6. STATE VEHICLES--USE--MARKINGS--STATE GOVERNMENT PLATES.--

A. The division shall adopt rules governing the use of vehicles used by state agencies or by other persons pursuant to Subsection I of this section, including driver requirements and responsibilities, under what circumstances someone can be

assigned a state vehicle on a permanent or semipermanent basis and when custody of a state vehicle can be vested in another state agency.

B. The division may determine that it is impractical to retain custody of certain state vehicles, and it may provide that custody reside in another state agency in the following cases:

(1) the state vehicle is used for emergency or law enforcement purposes; or

(2) the state vehicle is a department of transportation, energy, minerals and natural resources department, department of game and fish or homeland security and emergency management department passenger vehicle, truck or tractor or heavy road equipment.

C. Except as provided in Subsections F, G and H of this section, all state vehicles shall be marked as state vehicles. Each side of the vehicle shall be marked, in letters not less than two inches in height, with the following designation of ownership: "State of New Mexico, ..... Department" or "State of New Mexico Department of ....." and naming the department using the vehicle.

D. Except as provided in Subsections F, G and H of this section, all state vehicles shall have specially designed government registration plates.

E. Except as provided in Subsections F, G and H of this section, all state vehicles owned or in the custody of state agencies that have law enforcement functions shall be marked and have state government registration plates.

F. State vehicles used for legitimate undercover law enforcement purposes are exempt from the requirements of Subsections C, D and E of this section and may be issued an undercover license plate when it is determined by the division that issuance of such a license plate is necessary to protect legitimate undercover law enforcement activities.

G. State vehicles used for sensitive activities other than legitimate undercover law enforcement purposes are exempt from the requirements of Subsections C, D and E of this section and may be issued a protective license plate when it is determined by the division that issuance of such a license plate is necessary to protect the health, safety or welfare of a state employee using a state-owned vehicle for sensitive activities. The standards for the issuance of a protective license plate pursuant to this subsection shall be determined by rule jointly promulgated by the division and the motor vehicle division of the taxation and revenue department.

H. A state agency may seek custody of state vehicles as an exception to Subsection B of this section or an exemption to the provisions of Subsection C of this section by making a written request to the director, specifying the reasons for the

proposed custody or exemption. The director may approve the custody or exemption, in writing, indicating the duration and any conditions of the custody or exemption.

I. The division shall adopt rules permitting individuals enrolled in the state's adaptive driving program to use special-use state vehicles for evaluation and training purposes in that program."

## **Chapter 66 Section 3 Laws 2013**

SECTION 3. Section 66-6-15 NMSA 1978 (being Laws 1978, Chapter 35, Section 350, as amended) is amended to read:

"66-6-15. VEHICLES OF THE STATE, COUNTY OR MUNICIPALITY.--

A. Vehicles or trailers owned by and used in the service of an Indian nation, tribe or pueblo located wholly or partly in this state or of any county or municipality of this state need not be registered but must continually display plates furnished by the division.

B. Vehicles on loan from dealers and used in an approved driver-training program by the public schools need not be registered but must continually display plates furnished by the division.

C. Each Indian nation, tribe or pueblo, each county and each municipality shall apply to the division for a plate for each vehicle or trailer in its service and shall provide identifying information concerning each vehicle or trailer for which a plate is applied.

D. The division shall issue plates for vehicles and trailers in the service of an Indian nation, tribe or pueblo located wholly or partly in this state or of any county or municipality of this state and keep a record of plates issued and plates returned. The plates shall be permanent and need not be renewed from year to year. The plates shall be numbered to identify the Indian nation, tribe or pueblo, the county or the municipality to which the plates are issued. The plates shall be the same size as registration plates issued to private vehicles but shall be different in color from the registration plates issued to private vehicles.

E. A vehicle or trailer owned by and used in the service of the state need not be registered with the division but must continually display a plate furnished by the transportation services division of the general services department. A state agency shall apply to the transportation services division of the general services department for a plate for each vehicle or trailer in its service, including identifying information for each vehicle or trailer. The transportation services division of the general services department shall issue plates for state agency vehicles and trailers and shall keep a record of plates issued and plates returned. These plates shall be:

(1) permanent and shall not be renewed from year to year;

(2) numbered to identify the state agency to which they are issued;

and

(3) the same size as but a different color from registration plates issued to private vehicles or trailers or from plates issued pursuant to Subsection D of this section.

F. The division may issue to an Indian nation, tribe or pueblo located wholly or partly in this state or any county or municipality of this state or an entity not subject to registration pursuant to Section 66-6-14 NMSA 1978:

(1) an undercover license plate when it is determined by the division that the issuance of such a license plate is necessary to protect legitimate undercover law enforcement activities; or

(2) a protective license plate when it is determined by the division that the issuance of such a license plate is necessary to protect the health, safety or welfare of an employee using a vehicle owned by the Indian nation, tribe or pueblo or the county, municipality or entity for sensitive activities.

G. The standards for the issuance of a protective license plate pursuant to Paragraph (2) of Subsection F of this section shall be determined by rule jointly promulgated by the transportation services division of the general services department and the motor vehicle division of the taxation and revenue department.

H. As used in this section:

(1) "protective license plate" means a regular passenger license plate issued to an Indian nation, tribe or pueblo located wholly or partly in this state or a government entity that can be traced to that Indian nation, tribe or pueblo or government entity for a vehicle that is being used for sensitive activities;

(2) "sensitive activity" means an activity performed by an employee of an Indian nation, tribe or pueblo located wholly or partly in this state, of any county or municipality of this state or of an entity not subject to registration pursuant to Section 66-6-14 NMSA 1978, which activity:

(a) is authorized by the employee's employer to be performed for a legitimate and appropriate purpose for the employer, other than a legitimate undercover law enforcement purpose; and

(b) would place the employee at a higher risk of personal injury if knowledge of the activity were made public, as determined in writing by an appropriate supervising authority of the employee;

(3) "state agency" means a state department, agency, board or commission, including the legislative and judicial branches of government, but not including public schools and institutions of higher education; and

(4) "undercover license plate" means a regular passenger license plate issued to an Indian nation, tribe or pueblo located wholly or partly in this state or a government entity that is registered in a fictitious name and address that cannot be traced to that Indian nation, tribe or pueblo or the county, municipality or entity for a vehicle that is being used for legitimate law enforcement purposes only."

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Senate Bill 51, aa, w/o ec

Approved March 29, 2013

## **LAWS 2013, CHAPTER 67**

### **AN ACT**

RELATING TO CULTURAL AFFAIRS; RENAMING STATE MONUMENTS AS HISTORIC SITES; ADDING FORT STANTON AS A HISTORIC SITE.

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

### **Chapter 67 Section 1 Laws 2013**

SECTION 1. Section 9-4A-4 NMSA 1978 (being Laws 2004, Chapter 25, Section 4, as amended) is amended to read:

"9-4A-4. DEPARTMENT CREATED.--The "cultural affairs department" is created in the executive branch. The department is a cabinet department and includes the following divisions:

- A. the administrative services division;
- B. the arts division;
- C. the historic preservation division;
- D. the library division;
- E. the Hispanic cultural division;
- F. the farm and ranch heritage museum division;

- G. the natural history and science museum division;
- H. the museum of space history division;
- I. the museum resources division;
- J. the veterans museum division; and
- K. the following divisions that make up the museum of New Mexico:
  - (1) the palace of the governors state history museum division;
  - (2) the New Mexico museum of art division;
  - (3) the museum of Indian arts and culture division;
  - (4) the museum of international folk art division;
  - (5) the archaeology division; and
  - (6) the state historic sites and monuments division."

## **Chapter 67 Section 2 Laws 2013**

SECTION 2. Section 9-4A-17 NMSA 1978 (being Laws 2004, Chapter 25, Section 17) is amended to read:

"9-4A-17. STATE HISTORIC SITES AND MONUMENTS DIVISION CREATED--  
BOARD OF REGENTS.--

A. The "state historic sites and monuments division" is created in the cultural affairs department. The division shall manage the state's historic sites and monuments, including:

- (1) Coronado historic site;
- (2) Jemez historic site;
- (3) Fort Selden historic site;
- (4) Bosque Redondo memorial and Fort Sumner historic site;
- (5) Lincoln historic site;
- (6) El Camino Real historic trail site;



(7) Fort Stanton historic site; and

(8) Taylor Reynolds Barela Mesilla historic site.

B. The state's historic sites shall operate under the imprimatur of the museum of New Mexico. The museum of New Mexico board of regents shall exercise trusteeship over state historic sites.

C. The director of the division shall meet the following minimum qualifications:

(1) hold a bachelor's or higher degree in a discipline related to the function of the division; and

(2) have significant experience in the management and operation of an organization similar to the division.

D. The director shall be appointed by the secretary of cultural affairs from a list of no less than three names provided by the museum of New Mexico board of regents."

## **Chapter 67 Section 3 Laws 2013**

SECTION 3. Section 18-3-1 NMSA 1978 (being Laws 1975, Chapter 264, Section 1, as amended) is amended to read:

"18-3-1. MUSEUM OF NEW MEXICO ESTABLISHED--LOCATION--PROPERTY.--

A. The "museum of New Mexico" is established. All properties, real or personal, now held for museum purposes and all properties, real or personal, that may be acquired for museum purposes at any time in the future shall be under the control of the museum board of regents of the museum of New Mexico.

B. The museum of New Mexico consists of:

(1) the palace of the governors state history museum;

(2) the New Mexico museum of art;

(3) the museum of Indian arts and culture;

(4) the museum of international folk art;

(5) the archaeology division; and

(6) the state historic sites:

- (a) Coronado historic site;
- (b) Jemez historic site;
- (c) Fort Selden historic site;
- (d) Bosque Redondo memorial and Fort Sumner historic site;
- (e) Lincoln historic site;
- (f) El Camino Real historic trail site;
- (g) Fort Stanton historic site; and
- (h) Taylor Reynolds Barela Mesilla historic site."

## **Chapter 67 Section 4 Laws 2013**

SECTION 4. Section 18-4-6 NMSA 1978 (being Laws 1949, Chapter 138, Section 5, as amended) is amended to read:

"18-4-6. LINCOLN HISTORIC SITE--STATE HISTORIC SITES AND MONUMENTS DIVISION--POWERS AND DUTIES.--The state historic sites and monuments division of the cultural affairs department shall be entrusted with the protection and preservation of the old Lincoln county courthouse. The historic sites division shall:

A. maintain and operate the historic site as a state museum of old Lincoln county;

B. acquire and hold real estate in the name of the state;

C. act in cooperation with the federal government or any of its agencies in preserving the historic site; and

D. accept gifts, grants and donations from any person, firm, corporation, agency or any group of persons for the collections of the museum or the maintenance and operation of the historic site."

## **Chapter 67 Section 5 Laws 2013**

SECTION 5. Section 18-6-17 NMSA 1978 (being Laws 1973, Chapter 16, Section 1, as amended) is amended to read:

"18-6-17. DESIGNATION OF STATE HISTORIC SITES--RESERVATION OF LANDS FOR HISTORIC SITE CARE AND MANAGEMENT.--The governor is authorized, upon the recommendation of the committee and the board of regents of the museum of New Mexico, to declare by public proclamation that any cultural property situated on lands owned or controlled by the state shall be a state historic site and may reserve as a part thereof such parcels of land as may be necessary for the proper care and management of the cultural property to be protected. In the case of proposed state historic sites situated on state trust lands, the federal laws granting same shall be complied with. Any such historic site shall be administered by the state historic sites division of the cultural affairs department in accordance with the provisions of Section 18-6-6 NMSA 1978."

## **Chapter 67 Section 6 Laws 2013**

SECTION 6. Section 28-13A-1 NMSA 1978 (being Laws 1991, Chapter 93, Section 1, as amended) is amended to read:

"28-13A-1. SPECIAL RECREATION AND MUSEUM PRIVILEGES.--

A. On the federally designated legal holiday known as "Veterans' Day", any New Mexico resident, who provides satisfactory proof that the resident is currently serving or has served in the armed forces of the United States, and the resident's spouse and dependent children, shall be entitled to:

(1) free use of any state park or recreation area operated by the state parks division of the energy, minerals and natural resources department, including the waiving of all admittance, camping, permit or other user fees or charges; and

(2) free general admission to any state museum or historic site.

B. The governing boards of state museums and historic sites shall waive general museum and historic site admission fees for fifty percent or more disabled veterans residing in the state. Proof of disability satisfactory to the governing boards of the state museums and historic sites is required to obtain the privileges pursuant to this subsection."

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Senate Bill 70, aa

Approved March 29, 2013

## **LAWS 2013, CHAPTER 68**

AN ACT

RELATING TO LICENSING; ENACTING A NEW SECTION OF THE UNIFORM ELECTRONIC TRANSACTIONS ACT TO ALLOW AGENCIES TO PROVIDE A MANNER FOR APPLICANTS TO ELECTRONICALLY OBTAIN, RENEW, REACTIVATE AND REINSTATE PROFESSIONAL AND OCCUPATIONAL CERTIFICATIONS, PERMITS, REGISTRATIONS AND LICENSES.

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

### **Chapter 68 Section 1 Laws 2013**

SECTION 1. Section 14-16-1 NMSA 1978 (being Laws 2001, Chapter 131, Section 1) is amended to read:

"14-16-1. SHORT TITLE.--Chapter 14, Article 16 NMSA 1978 may be cited as the "Uniform Electronic Transactions Act"."

### **Chapter 68 Section 2 Laws 2013**

SECTION 2. A new section of the Uniform Electronic Transactions Act is enacted to read:

"ELECTRONIC CERTIFICATIONS, PERMITS, REGISTRATIONS AND LICENSES.--A governmental agency may provide by rule the manner by which an applicant may satisfy by electronic means all agency requirements to obtain, renew, reactivate and reinstate a professional or occupational certification, permit, registration or license."

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SPAC/Senate Bill 79

Approved March 29, 2013

## **LAWS 2013, CHAPTER 69**

AN ACT

RELATING TO FINANCIAL REGULATION; CREATING THE STATE FINANCIAL REGULATION FUND; PROVIDING FOR DEPOSIT OF MONEY DISTRIBUTED TO THE STATE BY CONSENT JUDGMENT ENTERED IN MORTGAGE LENDER LITIGATION; MAKING AN APPROPRIATION.

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

### **Chapter 69 Section 1 Laws 2013**

SECTION 1. A new section of Chapter 9, Article 16 NMSA 1978 is enacted to read:

"STATE FINANCIAL REGULATION FUND--CREATED--PURPOSE.--The "state financial regulation fund" is created as a nonreverting fund in the state treasury. The fund consists of money distributed to the financial institutions division of the regulation and licensing department pursuant to the consent judgment entered by the court in litigation between mortgage lenders and various states, including New Mexico, and filed April 4, 2012 in the United States district court for the District of Columbia and of income from the investment of the fund. The fund shall be administered by the financial institutions division of the regulation and licensing department. Money in the fund is subject to appropriation by the legislature to the financial institutions division to support and improve state financial regulation and supervision as provided in the consent judgment. Disbursements from the fund shall be made by warrant of the secretary of finance and administration pursuant to vouchers signed by the director of the financial institutions division or the director's authorized representative."

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Senate Bill 173

Approved March 29, 2013

## **LAWS 2013, CHAPTER 70**

AN ACT

RELATING TO PROCUREMENT; PROVIDING DUTIES OF STATE AGENCIES, LOCAL PUBLIC BODIES AND THE STATE PURCHASING AGENT; PROVIDING EXEMPTIONS FROM THE PROCUREMENT CODE FOR CERTAIN PURCHASES; REVISING SMALL PURCHASE AMOUNTS; DEFINING "CHIEF PROCUREMENT OFFICER"; ESTABLISHING TRAINING REQUIREMENTS.

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

### **Chapter 70 Section 1 Laws 2013**

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

"DEFINITION--CHIEF PROCUREMENT OFFICER.--"Chief procurement officer" means that person within a state agency's or local public body's central purchasing office who is responsible for the control of procurement of items of tangible personal property, services or construction. "Chief procurement officer" includes the state purchasing agent."

## **Chapter 70 Section 2 Laws 2013**

SECTION 2. Section 13-1-37 NMSA 1978 (being Laws 1984, Chapter 65, Section 10) is amended to read:

"13-1-37. DEFINITION--CENTRAL PURCHASING OFFICE.--"Central purchasing office" means that office within a state agency or a local public body responsible for the control of procurement of items of tangible personal property, services or construction. "Central purchasing office" includes the purchasing division of the general services department."

## **Chapter 70 Section 3 Laws 2013**

SECTION 3. A new section of the Procurement Code is enacted to read:

"CHIEF PROCUREMENT OFFICERS--REPORTING REQUIREMENT--  
TRAINING--CERTIFICATION.--

A. On or before January 1 of each year beginning in 2014, and every time a chief procurement officer is hired, each state agency and local public body shall provide to the state purchasing agent the name of the state agency's or local public body's chief procurement officer and information identifying the state agency's or local public body's central purchasing office, if applicable.

B. The state purchasing agent shall maintain a list of the names of the chief procurement officers reported to the state purchasing agent by state agencies and local public bodies. The state purchasing agent shall make the list of chief procurement officers available to the public through the web site of the purchasing division of the general services department and in any other appropriate form.

C. The state purchasing agent shall offer a certification training program for chief procurement officers each year.

D. On or before January 1, 2015, the state purchasing agent shall establish a certification program for chief procurement officers that includes initial certification and recertification every two years for all chief procurement officers. In order to be recertified, a chief procurement officer shall pass a recertification examination approved by the secretary of general services.

E. On and after July 1, 2015, only certified chief procurement officers may do the following, except that persons using procurement cards may continue to issue purchase orders and authorize small purchases:

(1) make determinations, including determinations regarding exemptions, pursuant to the Procurement Code;

(2) issue purchase orders and authorize small purchases pursuant to the Procurement Code; and

(3) approve procurement pursuant to the Procurement Code."

## **Chapter 70 Section 4 Laws 2013**

SECTION 4. Section 13-1-95 NMSA 1978 (being Laws 1984, Chapter 65, Section 68) is amended to read:

"13-1-95. PURCHASING DIVISION--CREATION--DIRECTOR IS STATE PURCHASING AGENT--APPOINTMENT--DUTIES.--

A. The "purchasing division" is created within the general services department.

B. Subject to the authority of the secretary, the state purchasing agent shall be the administrator and director of the purchasing division. The state purchasing agent shall be appointed by the secretary with the approval of the governor.

C. The purchasing division and state purchasing agent shall be responsible for the procurement of services, construction and items of tangible personal property for all state agencies except as otherwise provided in the Procurement Code and shall administer the Procurement Code for those state agencies not excluded from the requirement of procurement through the state purchasing agent.

D. The state purchasing agent shall have the following additional authority and responsibility to:

(1) recommend procurement rules to the secretary;

(2) establish and maintain programs for the development and use of procurement specifications and for the inspection, testing and acceptance of services, construction and items of tangible personal property;

(3) cooperate with the state budget division of the department of finance and administration in the preparation of statistical data concerning the acquisition and usage of all services, construction and items of tangible personal property by state agencies;

(4) require state agencies to furnish reports concerning usage, needs and stocks on hand of items of tangible personal property and usage and needs for services or construction;

(5) prescribe, with consent of the secretary, forms to be used by state agencies to requisition and report the procurement of items of tangible personal property, services and construction;

(6) provide information to state agencies and local public bodies concerning the development of specifications, quality control methods and other procurement information; and

(7) collect information concerning procurement matters, quality and quality control of commonly used services, construction and items of tangible personal property.

E. The state purchasing agent shall, upon the request of the central purchasing office of a local public body, procure a price agreement for the requested services, construction or items of tangible personal property. The state purchasing agent may procure a price agreement for services, construction or items of tangible personal property for a state agency or local public body that does not have a chief procurement officer."

## **Chapter 70 Section 5 Laws 2013**

SECTION 5. Section 13-1-97 NMSA 1978 (being Laws 1984, Chapter 65, Section 70) is amended to read:

"13-1-97. CENTRALIZATION OF PROCUREMENT AUTHORITY.--

A. All procurement for state agencies shall be performed by the state purchasing agent except as otherwise provided in the Procurement Code.

B. All procurement for state agencies excluded from the requirement of procurement through the office of the state purchasing agent shall be performed by a central purchasing office, the chief procurement officer or as otherwise provided in the Procurement Code.

C. All procurement for local public bodies shall be performed by a central purchasing office designated by the governing authority of the local public body except as otherwise provided in the Procurement Code. Local public bodies shall identify their designated central purchasing office to the state purchasing agent and shall report their chief procurement officers to the state purchasing agent."

## **Chapter 70 Section 6 Laws 2013**

SECTION 6. Section 13-1-98 NMSA 1978 (being Laws 1984, Chapter 65, Section 71, as amended) is amended to read:



"13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The provisions of the Procurement Code shall not apply to:

A. procurement of items of tangible personal property or services by a state agency or a local public body from a state agency, a local public body or external procurement unit except as otherwise provided in

Sections 13-1-135 through 13-1-137 NMSA 1978;

B. procurement of tangible personal property or services for the governor's mansion and grounds;

C. printing and duplicating contracts involving materials that are required to be filed in connection with proceedings before administrative agencies or state or federal courts;

D. purchases of publicly provided or publicly regulated gas, electricity, water, sewer and refuse collection services;

E. purchases of books, periodicals and training materials in printed or electronic format from the publishers or copyright holders thereof;

F. travel or shipping by common carrier or by private conveyance or to meals and lodging;

G. purchase of livestock at auction rings or to the procurement of animals to be used for research and experimentation or exhibit;

H. contracts with businesses for public school transportation services;

I. procurement of tangible personal property or services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978, by the corrections industries division of the corrections department pursuant to rules adopted by the corrections industries commission, which shall be reviewed by the purchasing division of the general services department prior to adoption;

J. purchases not exceeding ten thousand dollars (\$10,000) consisting of magazine subscriptions, web-based or electronic subscriptions, conference registration fees and other similar purchases where prepayments are required;

K. municipalities having adopted home rule charters and having enacted their own purchasing ordinances;

L. the issuance, sale and delivery of public securities pursuant to the applicable authorizing statute, with the exception of bond attorneys and general financial consultants;

M. contracts entered into by a local public body with a private independent contractor for the operation, or provision and operation, of a jail pursuant to

Sections 33-3-26 and 33-3-27 NMSA 1978;

N. contracts for maintenance of grounds and facilities at highway rest stops and other employment opportunities, excluding those intended for the direct care and support of persons with handicaps, entered into by state agencies with private, nonprofit, independent contractors who provide services to persons with handicaps;

O. contracts and expenditures for services or items of tangible personal property to be paid or compensated by money or other property transferred to New Mexico law enforcement agencies by the United States department of justice drug enforcement administration;

P. contracts for retirement and other benefits pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

Q. contracts with professional entertainers;

R. contracts and expenditures for legal subscription and research services and litigation expenses in connection with proceedings before administrative agencies or state or federal courts, including experts, mediators, court reporters, process servers and witness fees, but not including attorney contracts;

S. contracts for service relating to the design, engineering, financing, construction and acquisition of public improvements undertaken in improvement districts pursuant to Subsection L of Section 3-33-14.1 NMSA 1978 and in county improvement districts pursuant to Subsection L of Section 4-55A-12.1 NMSA 1978;

T. works of art for museums or for display in public buildings or places;

U. contracts entered into by a local public body with a person, firm, organization, corporation or association or a state educational institution named in Article 12, Section 11 of the constitution of New Mexico for the operation and maintenance of a hospital pursuant to

Chapter 3, Article 44 NMSA 1978, lease or operation of a county hospital pursuant to the Hospital Funding Act or operation and maintenance of a hospital pursuant to the Special Hospital District Act;

V. purchases of advertising in all media, including radio, television, print and electronic;

W. purchases of promotional goods intended for resale by the tourism department;

X. procurement of printing services for materials produced and intended for resale by the cultural affairs department;

Y. procurement by or through the public education department from the federal department of education relating to parent training and information centers designed to increase parent participation, projects and initiatives designed to improve outcomes for students with disabilities and other projects and initiatives relating to the administration of improvement strategy programs pursuant to the federal Individuals with Disabilities Education Act; provided that the exemption applies only to procurement of services not to exceed two hundred thousand dollars (\$200,000);

Z. procurement of services from community rehabilitation programs or qualified individuals pursuant to the State Use Act;

AA. purchases of products or services for eligible persons with disabilities pursuant to the federal Rehabilitation Act of 1973;

BB. procurement, by either the department of health or Grant county or both, of tangible personal property, services or construction that are exempt from the Procurement Code pursuant to Section 9-7-6.5 NMSA 1978;

CC. contracts for investment advisory services, investment management services or other investment-related services entered into by the educational retirement board, the state investment officer or the retirement board created pursuant to the Public Employees Retirement Act;

DD. the purchase for resale by the state fair commission of feed and other items necessary for the upkeep of livestock; and

EE. contracts entered into by the crime victims reparation commission to distribute federal grants to assist victims of crime, including grants from the federal Victims of Crime Act of 1984 and the federal Violence Against Women Act."

## **Chapter 70 Section 7 Laws 2013**

SECTION 7. Section 13-1-125 NMSA 1978 (being Laws 1984, Chapter 65, Section 98, as amended) is amended to read:

"13-1-125. SMALL PURCHASES.--

A. A central purchasing office shall procure services, construction or items of tangible personal property having a value not exceeding sixty thousand dollars (\$60,000), excluding applicable state and local gross receipts taxes, in accordance with the applicable small purchase rules adopted by the secretary, a local public body or a central purchasing office that has the authority to issue rules.

B. Notwithstanding the requirements of Subsection A of this section, a central purchasing office may procure professional services having a value not exceeding sixty thousand dollars (\$60,000), excluding applicable state and local gross receipts taxes, except for the services of landscape architects or surveyors for state public works projects or local public works projects, in accordance with professional services procurement rules promulgated by the department of finance and administration, the general services department or a central purchasing office with the authority to issue rules.

C. Notwithstanding the requirements of Subsection A of this section, a state agency or a local public body may procure services, construction or items of tangible personal property having a value not exceeding twenty thousand dollars (\$20,000), excluding applicable state and local gross receipts taxes, by issuing a direct purchase order to a contractor based upon the best obtainable price.

D. Procurement requirements shall not be artificially divided so as to constitute a small purchase under this section."

## **Chapter 70 Section 8 Laws 2013**

SECTION 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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Senate Bill 443, aa

Approved March 29, 2013

## **LAWS 2013, CHAPTER 71**

AN ACT

RELATING TO PROCUREMENT; EXEMPTING CERTAIN AGENCIES THAT PROVIDE SERVICES RELATED TO EARLY CHILDHOOD DEVELOPMENT FROM THE PROVISIONS OF THE PROCUREMENT CODE.

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

## **Chapter 71 Section 1 Laws 2013**

SECTION 1. Section 13-1-98 NMSA 1978 (being Laws 1984, Chapter 65, Section 71, as amended) is amended to read:

"13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The provisions of the Procurement Code shall not apply to:

A. procurement of items of tangible personal property or services by a state agency or a local public body from a state agency, a local public body or external procurement unit except as otherwise provided in Sections 13-1-135 through 13-1-137 NMSA 1978;

B. procurement of tangible personal property or services for the governor's mansion and grounds;

C. printing and duplicating contracts involving materials that are required to be filed in connection with proceedings before administrative agencies or state or federal courts;

D. purchases of publicly provided or publicly regulated gas, electricity, water, sewer and refuse collection services;

E. purchases of books and periodicals from the publishers or copyright holders thereof;

F. travel or shipping by common carrier or by private conveyance or to meals and lodging;

G. purchase of livestock at auction rings or to the procurement of animals to be used for research and experimentation or exhibit;

H. contracts with businesses for public school transportation services;

I. procurement of tangible personal property or services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978, by the corrections industries division of the corrections department pursuant to rules adopted by the corrections industries commission, which shall be reviewed by the purchasing division of the general services department prior to adoption;

J. minor purchases not exceeding five thousand dollars (\$5,000) consisting of magazine subscriptions, conference registration fees and other similar purchases where prepayments are required;

K. municipalities having adopted home rule charters and having enacted their own purchasing ordinances;

L. the issuance, sale and delivery of public securities pursuant to the applicable authorizing statute, with the exception of bond attorneys and general financial consultants;

M. contracts entered into by a local public body with a private independent contractor for the operation, or provision and operation, of a jail pursuant to Sections 33-3-26 and 33-3-27 NMSA 1978;

N. contracts for maintenance of grounds and facilities at highway rest stops and other employment opportunities, excluding those intended for the direct care and support of persons with handicaps, entered into by state agencies with private, nonprofit, independent contractors who provide services to persons with handicaps;

O. contracts and expenditures for services or items of tangible personal property to be paid or compensated by money or other property transferred to New Mexico law enforcement agencies by the United States department of justice drug enforcement administration;

P. contracts for retirement and other benefits pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

Q. contracts with professional entertainers;

R. contracts and expenditures for litigation expenses in connection with proceedings before administrative agencies or state or federal courts, including experts, mediators, court reporters, process servers and witness fees, but not including attorney contracts;

S. contracts for service relating to the design, engineering, financing, construction and acquisition of public improvements undertaken in improvement districts pursuant to Subsection L of Section 3-33-14.1 NMSA 1978 and in county improvement districts pursuant to Subsection L of Section 4-55A-12.1 NMSA 1978;

T. works of art for museums or for display in public buildings or places;

U. contracts entered into by a local public body with a person, firm, organization, corporation or association or a state educational institution named in Article 12, Section 11 of the constitution of New Mexico for the operation and maintenance of a hospital pursuant to Chapter 3, Article 44 NMSA 1978, lease or operation of a county hospital pursuant to the Hospital Funding Act or operation and maintenance of a hospital pursuant to the Special Hospital District Act;

V. purchases of advertising in all media, including radio, television, print and electronic;

W. purchases of promotional goods intended for resale by the tourism department;

X. procurement of printing services for materials produced and intended for resale by the cultural affairs department;

Y. procurement by or through the public education department from the federal department of education relating to parent training and information centers designed to increase parent participation, projects and initiatives designed to improve outcomes for students with disabilities and other projects and initiatives relating to the administration of improvement strategy programs pursuant to the federal Individuals with Disabilities Education Act; provided that the exemption applies only to procurement of services not to exceed two hundred thousand dollars (\$200,000);

Z. procurement of services from community rehabilitation programs or qualified individuals pursuant to the State Use Act;

AA. purchases of products or services for eligible persons with disabilities pursuant to the federal Rehabilitation Act of 1973;

BB. procurement, by either the department of health or Grant county or both, of tangible personal property, services or construction that are exempt from the Procurement Code pursuant to Section 9-7-6.5 NMSA 1978;

CC. contracts for investment advisory services, investment management services or other investment-related services entered into by the educational retirement board, the state investment officer or the retirement board created pursuant to the Public Employees Retirement Act;

DD. the purchase for resale by the state fair commission of feed and other items necessary for the upkeep of livestock;

EE. contracts entered into by the crime victims reparation commission to distribute federal grants to assist victims of crime, including grants from the federal Victims of Crime Act of 1984 and the federal Violence Against Women Act; and

FF. procurement by or through the children, youth and families department of pre-kindergarten services purchased pursuant to the Pre-Kindergarten Act."

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Senate Bill 247, aa

Approved March 29, 2013

## **LAWS 2013, CHAPTER 72**

AN ACT

RELATING TO HEALTH AND SAFETY; AMENDING THE HUMAN IMMUNODEFICIENCY VIRUS TEST ACT TO ALLOW THE DEPARTMENT OF HEALTH TO DISCLOSE HUMAN IMMUNODEFICIENCY VIRUS TEST RESULTS FOR

THE PURPOSE OF CONDUCTING HUMAN IMMUNODEFICIENCY VIRUS SURVEILLANCE, INVESTIGATION AND INTERVENTION; DECLARING AN EMERGENCY.

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

**Chapter 72 Section 1 Laws 2013**

SECTION 1. Section 24-2B-4 NMSA 1978 (being Laws 1989, Chapter 227, Section 4) is amended to read:

"24-2B-4. MANDATORY COUNSELING.--No positive test result shall be revealed to the person upon whom the test was performed without providing or referring that person for individual counseling about:

- A. the meaning of the test results;
- B. the possible need for additional testing;
- C. the availability of appropriate health care services, including mental health care, social and support services; and
- D. the benefits of locating and counseling any individual by whom the infected person may have been exposed to the human immunodeficiency virus and any individual whom the infected person may have exposed to the human immunodeficiency virus."

**Chapter 72 Section 2 Laws 2013**

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

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

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

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



(3) an authorized agent, a credentialed or privileged physician or employee of a health facility or health care provider if the health care facility or health care provider itself is authorized to obtain the test results, the agent or employee provides patient care or handles or processes specimens of body fluids or tissues and the agent or employee has a need to know such information;

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

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

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

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

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

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

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

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

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

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

B. The department of health may disclose human immunodeficiency virus test results, including the identity of any person upon whom a test is performed:

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

(2) to the person who ordered the test or that person's agents or employees;

(3) in the conduct of public health practice, to appropriate municipal, county, state, federal or tribal public health agencies having at least equivalent security and confidentiality standards for human immunodeficiency virus test results as maintained by the department of health; and

(4) to health care personnel where necessary to protect the health of the individual who is the subject of the test or an individual who was significantly exposed to the subject of the test, provided that the health care personnel first provide to the department of health for review relevant medical records or other written attestations that document the need for access to the person's confidential human immunodeficiency virus test results.

C. For the purposes of this section:

(1) "partner services" means a protocol that the department of health establishes by regulation similar to those protocols and regulations for other reportable sexually transmitted diseases for contacting individuals whom it identifies to be at risk of human immunodeficiency virus infection due to contact with an individual whom it has identified, through reporting made pursuant to Paragraph (4) or (5) of Subsection A of this section, as having been infected with human immunodeficiency virus;

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

(3) "public health practice" means a population-based activity or individual effort aimed primarily at the prevention of injury, disease or premature mortality or the promotion of health in a community, including:

(a) surveillance and response; and

(b) developing public health policy."

## **Chapter 72 Section 3 Laws 2013**

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

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Senate Bill 311, aa, w/ec

Approved March 29, 2013

## **LAWS 2013, CHAPTER 73**

## AN ACT

RELATING TO MOTOR CARRIERS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE MOTOR CARRIER ACT; PROVIDING FOR COMMUNITY QUALITY OF SERVICE STANDARDS; SIMPLIFYING AND CLARIFYING ADMINISTRATIVE PROCEDURES; PROVIDING FOR ADDITIONAL UNFAIR PRACTICES ACT CIVIL PENALTIES; PROVIDING FOR FEES.

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

### **Chapter 73 Section 1 Laws 2013**

SECTION 1. Section 65-2A-2 NMSA 1978 (being Laws 2003, Chapter 359, Section 2) is amended to read:

"65-2A-2. TRANSPORTATION POLICY.--It is the policy of this state to foster the development, coordination and preservation of a safe, sound and adequate motor carrier system, requiring financial responsibility and accountability on the part of motor carriers through state licensing and regulation of motor carriers."

### **Chapter 73 Section 2 Laws 2013**

SECTION 2. Section 65-2A-3 NMSA 1978 (being Laws 2003, Chapter 359, Section 3, as amended) is amended to read:

"65-2A-3. DEFINITIONS.--As used in the Motor Carrier Act:

A. "ability to provide certificated service" means that an applicant or carrier can provide reasonably continuous and adequate transportation service of the type required by its application or its operating authority in the territory authorized or sought to be authorized;

B. "ambulance service" means the intrastate transportation of sick or injured persons in an ambulance meeting the standards established by the commission under the Ambulance Standards Act;

C. "amendment of a certificate or permit" means a permanent change in the type or nature of service, territory or terms of service authorized by an existing certificate or permit;

D. "antitrust laws" means the laws of this state relating to combinations in restraint of trade;

E. "base state" means the registration state for an interstate motor carrier that either is subject to regulation or is transporting commodities exempt from regulation

by the federal motor carrier safety administration pursuant to the unified carrier registration system;

F. "cancellation of an operating authority" means the voluntary, permanent termination of all or part of an operating authority;

G. "certificate" means the authority issued by the commission to a person that authorizes the person to offer and provide a certificated service as a motor carrier;

H. "certificated service" means one of the following transportation services:

- (1) an ambulance service;
- (2) a household goods service;
- (3) a shuttle service;
- (4) a specialized passenger service; or
- (5) a taxicab service;

I. "change in a certificate or permit" means the voluntary amendment, cancellation, change in form of legal entity of the holder, lease, reinstatement, transfer or voluntary suspension of a certificate or permit;

J. "charter service" means the compensated transportation of a group of persons in a motor vehicle who, pursuant to a common purpose, under a single contract, at a fixed charge for the motor vehicle and driver, have acquired the exclusive use of the motor vehicle to travel together under an itinerary either specified in advance or modified after having left the place of origin;

K. "commission" means the public regulation commission;

L. "commuter service" means the intrastate transportation of passengers in motor vehicles having a capacity of seven to fifteen persons, including the driver, provided to a volunteer-driver commuter group that shares rides to and from the workplace or training site, where participation is open to the public and incidental to the primary work or training-related purposes of the commuter group, and where the volunteer drivers have no employer-employee relationship with the commuter service;

M. "continuous and adequate service" means:

(1) for full-service carriers, reasonably continuous availability, offering and provision of transportation services through motor vehicles, equipment and resources satisfying safety and financial responsibility requirements under the Motor

Carrier Act and commission rule, which are reasonably adequate to serve the entire full-service territory authorized in the certificate, with reasonable response to all requests for service for the nature of passenger service authorized, based on the nature of public need, expense and volume of demand for the type of service authorized during seasonal periods; and

(2) for general-service carriers, reasonably continuous availability and offering of transportation services through motor vehicles, equipment and resources satisfying safety and financial responsibility requirements under the Motor Carrier Act and commission rule for the nature of the transportation service authorized in the certificate;

N. "contract driver" means a person who contracts with a motor carrier as an independent contractor to drive a vehicle pursuant to an operating authority issued to the motor carrier;

O. "endorsement" means the specification in a certificate of the territory in which the carrier is authorized to operate, the nature of service to be provided by a certificated passenger service and any additional terms of service that may be reasonably granted or required by the commission for the particular authority granted;

P. "fare" means the full compensation charged for transportation by a tariffed passenger service;

Q. "financial responsibility" means the ability to respond in damages for liability arising out of the ownership, maintenance or use of a motor vehicle in the provision of transportation services;

R. "fitness to provide a transportation service" means that an applicant or carrier complies with state law as provided in the Motor Carrier Act or by rule of the commission;

S. "for hire" means that transportation is offered or provided to the public for remuneration, compensation or reward of any kind, paid or promised, either directly or indirectly;

T. "full service" means one of the following certificated passenger services that are endorsed and required to meet specific standards for the provision of service to or throughout a community:

(1) an ambulance service;

(2) a scheduled shuttle service; or

(3) a municipal taxicab service;

U. "general service" means one of the following certificated services that provides transportation services of the type authorized, but is not required to provide unprofitable or marginally profitable carriage:

- (1) a general shuttle service;
- (2) a general taxicab service;
- (3) a specialized passenger service; or
- (4) a household goods service;

V. "highway" means a way or place generally open to the use of the public as a matter of right for the purpose of vehicular travel, even though it may be temporarily closed or restricted for the purpose of construction, maintenance, repair or reconstruction;

W. "holder of an operating authority" means the grantee of the operating authority or a person that currently holds all or part of the right to exercise the authority through a transfer by operation of law;

X. "household goods" means personal effects and property used or to be used in a dwelling when a part of the equipment or supply of the dwelling and other similar property as the federal motor carrier safety administration may provide by regulation, but shall not include property moving to or from a factory or store, other than property the householder has purchased to use in the householder's dwelling that is transported at the request of, and the transportation charges are paid to the carrier by, the householder;

Y. "household goods service" means the intrastate transportation, packing and storage of household goods for hire;

Z. "interested person" means a motor carrier operating in the territory involved in an application or grant of temporary authority, a person affected by an order of the commission or a rule proposed for adoption by the commission or a person the commission may deem interested in a particular matter;

AA. "interstate motor carrier" means a person providing compensated transportation in interstate commerce, whether or not the person is subject to regulation by the federal motor carrier safety administration;

BB. "intrastate motor carrier" means a motor carrier offering or providing transportation for hire by motor vehicle between points and places in the state;

CC. "involuntary suspension" means the temporary cessation of use of all or part of an operating authority ordered by the commission for cause for a stated period of time or pending compliance with certain conditions;

DD. "lease of a certificate or permit" means an agreement by which the holder of a certificate or permit grants to another person the exclusive right to use all or part of the certificate or permit for a specified period of time in exchange for consideration, but does not include an agreement between a motor carrier and its contract driver;

EE. "lease of equipment" means an agreement whereby a motor carrier obtains equipment owned by another person for use by the motor carrier in the exercise of its operating authority, but does not include an agreement between a motor carrier and its contract driver;

FF. "motor carrier" or "carrier" means a person offering or providing transportation of persons, property or household goods for hire by motor vehicle, whether in intrastate or interstate commerce;

GG. "motor carrier organization" means an organization approved by the commission to represent motor carriers and to discuss and propose industry interests and matters other than rates, as well as discussing and proposing rates and other matters pertaining to statewide tariffs;

HH. "motor vehicle" or "vehicle" means a vehicle, machine, tractor, trailer or semitrailer propelled or drawn by mechanical power and used on a highway in the transportation of property, household goods or persons, but does not include a vehicle, locomotive or car operated exclusively on rails;

II. "nature of service" means the type of transportation service to be provided by a certificated passenger service as set forth in Subsection A of Section 65-2A-8 NMSA 1978;

JJ. "nonconsensual tow" means the compensated transportation of a motor vehicle by a towing service, if such transportation is performed at the request of a law enforcement officer or without the prior consent or authorization of the owner or operator of the motor vehicle;

KK. "notice period" means the period of time specified in Section 65-2A-6 NMSA 1978 following publication of notice during which the commission may not act;

LL. "objection" means a document filed with the commission by an interested person or a member of the public during the notice period for an application for a certificate or a permit, or for amendment, lease or transfer of a certificate or permit, that expresses an objection to, or provides information concerning, the matter before the commission;

MM. "operating authority" means a certificate, permit, warrant, unified carrier registration or temporary authority issued by the commission to a motor carrier;

NN. "passenger" means a person other than the driver of a motor vehicle transported in a motor vehicle;

OO. "passenger service" means a transportation service offered or provided for the transportation of passengers by motor vehicle;

PP. "permit" means the authority issued by the commission to a person that authorizes the person to offer and provide a permitted service as a motor carrier;

QQ. "permitted service" means the intrastate transportation of passengers or household goods for hire pursuant to a contract between the motor carrier and another person;

RR. "predatory rate or practice" means the knowing and willful requirement by a carrier that a passenger or shipper pay a rate, fare or other charge in excess of the rates and charges or in a manner other than in accordance with terms of service as provided by law, as provided in a tariff governing the carrier or as provided in a pre-existing written contract regarding the carriage, when such charge is made:

(1) by a passenger carrier as a prior condition for the provision of transportation or continued transportation of a passenger; or

(2) as a prior condition by a towing service carrier performing nonconsensual tows or a household goods service carrier for delivery of, release of or access to vehicles or household goods by the shipper or registered owner;

SS. "process" means, in the context of legal process, an order, subpoena or notice issued by the commission or an order, subpoena, notice, writ or summons issued by a court;

TT. "property" means movable articles of value, including cadavers, hazardous matter, farm products, livestock feed, stock salt, manure, wire, posts, dairy products, livestock hauled in lots of twenty-five thousand pounds or more, farm or ranch machinery and the items transported by a towing service, but does not include household goods or unprocessed farm products transported by a farmer from the place of harvesting to market, storage or a processing plant;

UU. "protest" means a document in the form of a pleading filed with the commission by a full-service carrier that expresses an objection to an application before the commission for a certificate for passenger service or for a permit for ambulance service or for passenger service pursuant to a public-charge contract or for amendment, lease or transfer of such a certificate or permit;



(1) when the territory involved in the application includes all or a portion of the full-service territory of the protesting carrier; and

(2) for a carrier other than an ambulance service carrier, when the grant of the application will, or presents a reasonable potential to, impair, diminish or otherwise adversely affect its existing provision of full-service passenger service to the public within its full-service territory;

VV. "public-charge contract" means a contract or contractual arrangement between a motor carrier and a third party for passenger service that requires or allows the motor carrier to charge passengers a fare for the transportation service to be provided pursuant to the contract;

WW. "rate" means a form of compensation charged, whether directly or indirectly, by a person for a transportation service subject to the jurisdiction of the commission;

XX. "record of a motor carrier" means an account, correspondence, memorandum, tape, disc, paper, book or transcribed information, or electronic data information, including the electronic hardware or software necessary to access the electronic data information in its document form, regarding the operation of a motor carrier;

YY. "registration year" means a calendar year;

ZZ. "revocation" means the involuntary, permanent termination of all or part of an operating authority ordered by the commission for cause;

AAA. "shipper" means a person who consigns or receives property or household goods for transportation;

BBB. "shuttle service" means the intrastate transportation of passengers for hire pursuant to a set fare for each passenger between two or more specified terminal points or areas and includes both scheduled shuttle service and general shuttle service as follows:

(1) "scheduled shuttle service" means a shuttle service that transports passengers to and from an airport both through prior arrangement and through presentment at terminal locations, on the basis of a daily time schedule filed with the commission, which must be met in a timely fashion with a vehicle present at the terminal location regardless of the number of passengers carried on any run, if any, and includes general shuttle service; and

(2) "general shuttle service" means a shuttle service that is not required to operate on a set schedule, that may optionally use a grid map to specify

distant or adjacent terminal areas and that is not required to accept passengers other than pre-arranged passengers;

CCC. "specialized passenger service" means the intrastate transportation for hire of passengers with special physical needs by specialized types of vehicles, or for specialized types of service to the public or community, as the commission may by rule provide;

DDD. "tariff" means a document filed by a tariffed service carrier that has been approved by the commission and sets forth the transportation services offered by the motor carrier to the general public, including the rates, terms of service and applicable time schedules relating to those services;

EEE. "tariffed service" means one of the following transportation services authorized by the commission for the provision of service on the basis of rates and terms of service contained in a tariff approved by the commission:

- (1) an ambulance service;
- (2) a household goods service;
- (3) a shuttle service;
- (4) a specialized passenger service;
- (5) a taxicab service; or
- (6) a towing service performing nonconsensual tows;

FFF. "taxicab association" means an association, cooperative or other legal entity whose members are taxicab drivers, which shall be treated in the same manner as any other applicant with regard to applications for a certificate for general taxicab service or for full-service municipal taxicab service, and shall be subject in the same manner to all other provisions, requirements and limitations of the Motor Carrier Act;

GGG. "taxicab service" means intrastate transportation of passengers for hire in a motor vehicle having a capacity of not more than eight persons, including the driver, for which the passenger or other person engaging the vehicle is allowed to specify not only the origin and destination points of the trip but also, within reason, the route taken by the vehicle, any intermediate stop, any optional waiting at a stop and any other passengers transported during the trip and that charges a fare for use of the vehicle primarily on the basis of a drop-flag fee, cumulative mileage and cumulative wait time through a taxicab meter used to cumulate and display the fare to the passenger and includes both municipal taxicab service and general taxicab service, as follows:

(1) "municipal taxicab service" means a taxicab service that deploys vehicles at all times of the day and year, is centrally dispatched and reasonably responds to all calls for service within its endorsed full-service territory regardless of profitability of the individual trip, in addition to the transportation service provided by a general taxicab service; and

(2) "general taxicab service" means a taxicab service that need not be dispatched, that may pick up on-demand passengers through flagging or at a taxicab stand or queue, that need not deploy vehicles in any particular manner and that may charge for trips to destination points or places outside of the taxicab service's certificated territories on the basis of a set fare;

HHH. "terms of service" means all terms, aspects, practices, limitations, conditions and schedules of service other than specific rate amounts pertaining to a tariffed service;

III. "towing service" means the use of specialized equipment, including repossession services using towing equipment, to transport or store:

(1) a damaged, disabled or abandoned motor vehicle and its cargo;

(2) a motor vehicle to replace a damaged, disabled or abandoned motor vehicle;

(3) parts and equipment to repair a damaged, disabled or abandoned motor vehicle;

(4) a motor vehicle whose driver has been declared unable to drive by a law enforcement officer;

(5) a motor vehicle whose driver has been removed from the scene or is unable to drive; or

(6) a motor vehicle repossessed or seized pursuant to lawful authority;

JJJ. "transfer of a certificate or permit" means a permanent conveyance of all or part of a certificate or permit;

KKK. "transfer by operation of law" means that all or a part of a grantee's interest in an operating authority passes to a fiduciary or other person by application of established rules of law;

LLL. "transportation service" means transportation subject to the jurisdiction of the commission, offered or provided by a motor carrier, that requires the carrier to obtain an operating authority from the commission under the Motor Carrier

Act, regardless of whether the motor carrier has obtained appropriate operating authority from the commission;

MMM. "verification" means a notarized signature verifying the contents of the document or other filing or a signature verifying the contents of the document or other filing under penalty of perjury, expressly providing that the signatory swears or affirms the contents under penalty of perjury as provided in Subsection A of Section 65-2A-33 NMSA 1978;

NNN. "voluntary suspension" means the commission-authorized cessation of use of all or part of a certificate or permit at the request of the holder for a specified period of time, not to exceed twelve consecutive months;

OOO. "warrant" means the authority issued by the commission to a person that authorizes the person to offer and provide a warranted service as a motor carrier;

PPP. "warranted service" means one of the following intrastate transportation services offered or provided for hire:

- (1) a charter service;
- (2) a commuter service;
- (3) a property transportation service; or
- (4) a towing service; and

QQQ. "weight-bumping" means the knowing and willful statement of a fraudulent weight on a shipment of household goods."

## **Chapter 73 Section 3 Laws 2013**

SECTION 3. Section 65-2A-4 NMSA 1978 (being Laws 2003, Chapter 359, Section 4) is amended to read:

"65-2A-4. POWERS AND DUTIES OF THE COMMISSION.--

A. In accordance with the Motor Carrier Act, the commission shall:

(1) issue operating authorities for a motor carrier operating in New Mexico;

(2) establish minimum requirements for financial responsibility for motor carriers; provided that the financial responsibility standards required shall not be inconsistent with applicable federal standards;

(3) establish safety requirements for intrastate motor carrier motor vehicles and drivers subject to the jurisdiction of the commission, provided that the safety requirements shall not be inconsistent with or more stringent than applicable federal safety standards;

(4) establish reasonable requirements with respect to continuous and adequate service to be provided under an operating authority;

(5) regulate the rates of tarified service carriers to the extent provided in the Motor Carrier Act, including rates and terms of service for storing household goods and motor vehicles;

(6) determine matters of public interest and other matters relating to authorities, rates, territories, nature of service and other terms of service of motor carriers;

(7) have jurisdiction to determine any matter under the Motor Carrier Act relating to any transportation service carrier that has not obtained an appropriate operating authority from the commission;

(8) subpoena witnesses and records, enforce its subpoenas through a court and, through the court, seek a remedy for contempt;

(9) hold a public hearing specific to a protest or a request by the transportation division of the commission that has been filed within the notice period in opposition to or in consideration of an application;

(10) create a statewide tariff for household goods service carriers establishing maximum rates that may be charged by carriers; and

(11) adopt rules, issue orders and conduct activities necessary to implement and enforce the Motor Carrier Act.

B. The commission may:

(1) designate inspectors who may inspect the records of a motor carrier subject to the Motor Carrier Act and who shall have the powers of peace officers in the state's political subdivisions with respect to a law or rule that the commission is empowered to enforce pursuant to Section 65-1-6 NMSA 1978, excluding the enforcement authority granted to the motor transportation division of the department of public safety;

(2) institute civil actions in the district court of Santa Fe county in its own name to enforce the Motor Carrier Act, its orders and rules, and in the name of the state to recover assessments of administrative fines;

(3) from time to time, modify the type and nature of service, territory and terms of service of operating authorities previously issued, and change or rescind rates previously approved;

(4) establish statewide tariffs as needed for voluntary and optional use by tariffed service carriers; and

(5) adopt rules to implement these powers."

## **Chapter 73 Section 4 Laws 2013**

SECTION 4. Section 65-2A-5 NMSA 1978 (being Laws 2003, Chapter 359, Section 5) is amended to read:

"65-2A-5. APPLICATIONS IN GENERAL--MINISTERIAL GRANTS OF AUTHORITY--WHEN PUBLIC HEARINGS REQUIRED.--

A. A person shall file an application for any matter for which commission approval is required. An application shall be made in writing, verified and in a form that contains information and is accompanied by proof of service upon interested persons as required by the commission.

B. The commission shall simplify to the extent possible the process for approving applications. The commission may hold a public hearing on its own initiative or specific to an objection that has been filed within the notice period in opposition to or in consideration of an application.

C. The commission shall hold a public hearing on an application whenever a protest is filed concerning the application during the notice period or the transportation division of the commission requests a hearing during the notice period.

D. The commission may approve or deny an application in whole or in part, or allow or require particular terms of service as it may find reasonable and appropriate. If no objection, protest or request for hearing by the transportation division of the commission is filed during the notice period, the commission may grant the application by ministerial action, if the application complies with the provisions of the Motor Carrier Act and the rules of the commission regarding fitness, ability, financial responsibility and safety."

## **Chapter 73 Section 5 Laws 2013**

SECTION 5. Section 65-2A-6 NMSA 1978 (being Laws 2003, Chapter 359, Section 6) is amended to read:

"65-2A-6. NOTICE.--

A. The commission shall electronically publish notice regarding an application before the commission for a certificate or permit or for a change in a certificate or permit, regarding proposed rulemaking, or regarding other orders of the commission of general application, by posting a copy of the notice or document on the commission's internet web site and sending electronic mail to all motor carriers, public officials or agencies, or other persons or entities who have previously supplied electronic mail addresses to the commission for the purpose of publication, advising such persons of the filing and posting. If the commission in its discretion should also require publication by newspaper, the requirement is met if notice is published once in a newspaper of general circulation in the state. The commission shall not act on an application for a certificate or permit or for an amendment, lease or transfer of a certificate or permit less than twenty days after the date notice was published.

B. Whenever the Motor Carrier Act requires publication of notice regarding any other matter, the requirement is met if notice is published once in a newspaper of general circulation in the state. The commission shall not act on a matter less than ten days after the date notice was published."

## **Chapter 73 Section 6 Laws 2013**

SECTION 6. Section 65-2A-7 NMSA 1978 (being Laws 2003, Chapter 359, Section 7) is amended to read:

"65-2A-7. OPERATING AUTHORITIES IN GENERAL.--

A. No person shall offer or provide a transportation service for hire within the state without first obtaining an appropriate operating authority from the commission. Every motor carrier providing a transportation service shall meet and comply with the requirements of the Motor Carrier Act and the lawfully adopted rules and orders of the commission.

B. A certificate, permit or warrant, or a change in a certificate or permit, shall be effective from the date issued by the commission and shall remain in effect until canceled, revoked, suspended or amended.

C. A motor carrier shall carry a copy of its operating authority in each motor vehicle it operates in

New Mexico.

D. A certificated service carrier shall render reasonably continuous and adequate service as the commission may by rule prescribe."

## **Chapter 73 Section 7 Laws 2013**

SECTION 7. Section 65-2A-8 NMSA 1978 (being Laws 2003, Chapter 359, Section 8) is amended to read:

"65-2A-8. CERTIFICATES FOR PASSENGER SERVICE.--

A. The commission may issue a certificate for a passenger service as follows:

(1) a certificate for an ambulance service;

(2) a certificate for a shuttle service shall be endorsed for nature of service as a scheduled shuttle service or as a general shuttle service;

(3) a certificate for a specialized passenger service shall be endorsed for nature of service as provided by commission rule; and

(4) a certificate for a taxicab service shall be endorsed for nature of service as a municipal taxicab service or as a general taxicab service.

B. Except as provided in this section and in Section 65-2A-13 NMSA 1978, the commission shall issue a certificate allowing a person to provide passenger service after notice and public hearing requirements are met, if:

(1) the applicant is fit and able to provide the transportation service to be authorized by the certificate;

(2) the applicant is in compliance with the safety and financial responsibility requirements of the Motor Carrier Act, the rules of the commission and other applicable federal and state laws and rules;

(3) for an application for ambulance service, the transportation service to be provided under the certificate is or will serve a useful public purpose that is responsive to a public demand or need; and

(4) the applicant has filed a tariff as provided in Section 65-2A-20 NMSA 1978.

C. Before granting a certificate for passenger service, the commission shall consider any objections or protests that were filed within the notice period.

D. Before granting a certificate for ambulance service, the commission shall also consider the effect that issuance of the certificate would have on existing ambulance service in the territory.

E. A certificate issued by the commission for provision of passenger service shall contain one or more endorsements, each of which shall specify the:



(1) nature of service to be rendered;

(2) territory authorized to be served; and

(3) reasonable terms of service as the commission may allow or require for the particular certificate.

F. Territorial endorsements to a certificate for passenger service shall:

(1) be limited to territory sought in the application that will be served in a reasonably continuous and adequate manner beginning within thirty days of the issuance of the certificate or such other definite period or date as the commission may provide for a particular application and shall generally be authorized on the basis of county or incorporated municipal boundaries, subject to other specification reasonably allowed or required by the commission;

(2) except for shuttle services, authorize transportation between points and places within the specified territory, and from points and places within the specified territory to all points and places in the state and return, unless otherwise expressly allowed or specified in the terms of service in the endorsement to the certificate; and

(3) for shuttle services, provide for transportation between two or more specified end or intermediate terminal points or areas, and authorize pick-up or drop-off of passengers throughout a terminal area, but shall not authorize transportation between points and places within a single terminal area or the provision of transportation services in any other areas of the state."

## **Chapter 73 Section 8 Laws 2013**

SECTION 8. Section 65-2A-9 NMSA 1978 (being Laws 2003, Chapter 359, Section 9) is amended to read:

"65-2A-9. CERTIFICATES FOR HOUSEHOLD GOODS SERVICE.--

A. Except as provided in this section and in Section 65-2A-13 NMSA 1978, the commission shall issue a certificate allowing a person to provide household goods service after notice and public hearing requirements are met, if the applicant:

(1) is fit and able to provide the transportation to be authorized by the certificate;

(2) has a place of business and stations equipment within the state and is in compliance with the safety and financial responsibility requirements of the Motor Carrier Act, the rules of the commission and other applicable federal and state laws and rules; and

(3) has filed a tariff as provided in Section 65-2A-20 NMSA 1978.

B. Before granting a certificate for household goods service to an applicant, the commission shall consider any objections that were filed within the notice period.

C. A certificate issued by the commission for provision of household goods service shall contain one or more endorsements, each of which shall specify:

(1) the territory to be served, which shall be limited to territory sought in the application that will be served in a reasonably continuous and adequate manner beginning within thirty days of the issuance of the certificate or such other definite period or date as the commission may provide for a particular application, and shall generally be specified on the basis of county boundaries, subject to other or further specification by the commission by rule or in regard to a particular application; and

(2) any reasonable terms of service that the commission may allow or require for the particular certificate."

## **Chapter 73 Section 9 Laws 2013**

SECTION 9. Section 65-2A-10 NMSA 1978 (being Laws 2003, Chapter 359, Section 10, as amended) is amended to read:

"65-2A-10. PERMITS.--

A. Except as provided in this section and in Section 65-2A-13 NMSA 1978, the commission shall issue a permit allowing a person to provide permitted service for transportation of passengers or household goods pursuant to contract after notice and public hearing requirements are met, if the applicant is:

(1) fit to provide the transportation to be authorized by the permit;  
and

(2) in compliance with the safety and financial responsibility requirements of the Motor Carrier Act, the rules of the commission and other applicable federal and state laws and rules.

B. Before granting a permit to an applicant, the commission shall consider any objections or protests that were filed within the notice period.

C. The commission shall not grant a permit for ambulance or household goods service, or for provision of passenger service pursuant to a public-charge contract, or for a lease or transfer of such a permit, unless the applicant holds a certificate for provision of the appropriate certificated service in the territory to be served under contract. A carrier's operations pursuant to permits for contracts for ambulance

service or household goods service, or for public-charge contracts for passenger service, shall be held to the same standards as are the carrier's certificated service operations. If the transportation to be provided under the contract is passenger service other than ambulance service, the contractual rates and terms of service affecting passengers shall be provided in the carrier's tariff.

D. The commission shall not issue a permit for passenger service if the contract or arrangement between the carrier and the other contracting party effectively excludes or otherwise impairs a certificated carrier's access to public places or the public's access to certificated carriers for the provision of transportation services by a certificated passenger service carrier then serving the same territory, and no permit issued may be used to effect such exclusion or impairment of certificated passenger service.

E. A permit issued by the commission shall specify the business of the carrier, the scope of the authority granted to it and the terms, conditions and limitations of the authority.

F. An applicant for a permit shall file with the commission each contract under which it intends to operate."

## **Chapter 73 Section 10 Laws 2013**

SECTION 10. Section 65-2A-11 NMSA 1978 (being Laws 2003, Chapter 359, Section 11) is amended to read:

"65-2A-11. TEMPORARY AUTHORITY.--

A. The commission may without notice grant temporary authority to an applicant for a certificate or permit or for amendment, lease or transfer of all or part of a certificate or permit for a period not to exceed the duration of the application process, if it finds that:

(1) the notice period for such application has not yet expired, the application is one directly involving public safety, a governmental program or a specific public event, there is an urgent and immediate public need for such service and the public may be harmed by waiting for the notice period to expire;

(2) the applicant for temporary authority has a complete application for a certificate or permit or for amendment, lease or transfer of all or part of a certificate or permit, pending before the commission;

(3) the applicant is fit to provide the transportation service requested, is able to provide any certificated service requested and is in compliance with the safety and financial responsibility requirements of the Motor Carrier Act and the rules of the commission; and

(4) satisfactory proof of urgent and immediate need has been made by verified proof as the commission shall by rule prescribe.

B. An applicant for temporary authority as a tariffed service carrier shall file tariffs covering the transportation services for which temporary authority is being sought.

C. If a hearing is held before a hearing examiner for any reason on an application for a certificate or permit or for amendment, lease or transfer of all or part of a certificate or permit or for a tariff rate increase, the applicant may move in such proceeding for a grant of temporary authority or rate approval for a period not to exceed the duration of the application process, and any protesting carrier or the transportation division of the commission may move in such proceeding for reconsideration or modification of any grant of temporary authority previously granted by the commission or the hearing examiner. The hearing examiner in the proceeding shall hold an expedited preliminary public hearing on the grant of temporary authority on the issues in the proceeding and the testimony evidence presented in the hearing on such procedural basis as the commission shall by rule prescribe.

D. Motor carriers operating under temporary authority shall comply with the requirements of the Motor Carrier Act and the rules of the commission.

E. A grant of temporary authority shall not create a presumption that permanent authority will be granted."

## **Chapter 73 Section 11 Laws 2013**

SECTION 11. Section 65-2A-12 NMSA 1978 (being Laws 2003, Chapter 359, Section 12) is amended to read:

"65-2A-12. WARRANTS.--

A. The commission shall issue a warrant that allows a person to provide warranted service as a commuter service, charter service, towing service or motor carrier of property if the commission finds that the applicant is in compliance with the financial responsibility and safety requirements of the Motor Carrier Act and the rules of the commission.

B. A towing service carrier performing nonconsensual tows is subject to tariff rates and terms of service. A towing service carrier performing nonconsensual tows shall not use the same motor vehicles, equipment and facilities used by another warranted towing service carrier performing nonconsensual tows.

C. A warrant shall not be transferred or leased to another person.

D. The commission may without notice or a public hearing cancel a warrant if the owner fails to operate under the warrant for twelve consecutive months or fails to provide proof of financial responsibility as required by the commission for four consecutive months."

## **Chapter 73 Section 12 Laws 2013**

SECTION 12. Section 65-2A-13 NMSA 1978 (being Laws 2003, Chapter 359, Section 13) is amended to read:

"65-2A-13. PROTESTS, OBJECTIONS AND HEARINGS.--

A. Any interested person or any member of the public may provide information to the commission or express an objection to any application for a certificate or permit, or for amendment, lease or transfer of a certificate or permit, during the notice period for the application by filing a written objection in regard to the application. The commission shall consider any objections filed in regard to determining whether to hold a hearing on the application. The commission is not required to hold a hearing pursuant to any objection but may, in its discretion or on its own motion for any reason, hold a hearing on any application for a certificate or permit or for an amendment, lease or transfer of a certificate or permit.

B. The commission shall hold a hearing on an application whenever a protest is filed within the notice period or the transportation division of the commission files a request for a hearing relative to an application within the notice period. The commission shall allow a protesting carrier to proceed as an intervenor in the application proceeding.

C. In any hearing held on an application:

(1) the applicant has the burden of proving that the applicant meets the requirements of the Motor Carrier Act and the rules of the commission for the application at issue, the burden of demonstrating with reasonable specificity the nature and scope of its proposed transportation service, the burden of proving any particular factual matters that the commission or the transportation division of the commission may identify and require, the burden of proving any additional allegations and matters of public interest that it may raise and, if the application pertains to ambulance service, the burden of proving that the ambulance service that currently exists in the territory sought in the application is inadequate and that the proposed service is directly responsive to a public need and demand for the service proposed;

(2) a protesting carrier has the burden of proving all matters of fact pertaining to its full-service operation within its certificated full-service territory, the burden of proving the potential impairment or adverse impact on its existing full-service operation by the transportation service proposed by the applicant and the burden of proving all other allegations and matters of public interest that it may raise. The

protesting carrier's proof should include, without limitation, a demonstration with reasonable specificity of the nature of the existing full service being provided, the volume of passengers transported, economic analysis related to expenses and revenues of the full-service operation and the anticipated economic, business or functional effect of the proposed service on the existing provision of, or rates for, full-service transportation within the full-service territory;

(3) the commission may allow other interested persons to intervene, either generally or on the basis of specific facts or issues. A permissive intervenor has the burden of proof for its position on all factual matters and legal issues that it alleges and on which it is permitted to intervene; and

(4) all parties to a hearing may base their demonstration and proof on business data, experienced persons and mathematical calculations. Expert testimony shall not be required of any party but may be provided at the option of a party.

D. The commission shall not grant an application:

(1) for a certificate or permit for ambulance service, or for amendment, lease or transfer of such a certificate or permit, if it finds after hearing that the existing ambulance service is provided on a reasonably continuous and adequate basis in the territory in which the new service is sought or that the holder of the certificate or lessee providing the existing ambulance service in such territory is willing and able to provide, and does subsequently provide, reasonably continuous and adequate service within such territory, as specified by commission order;

(2) for a new certificate for general taxicab service within the full-service territory of a protesting municipal taxicab service carrier; or

(3) for a certificate for any passenger service other than those identified in Paragraphs (1) and (2) of this subsection, or for a permit for passenger service other than for an ambulance service pursuant to a public-charge contract, or for amendment, lease or transfer of such a certificate or permit, within a protesting full-service carrier's full-service territory, if it finds after hearing that the grant of the application presents a reasonable potential to impair, diminish or otherwise adversely affect the existing provision of full-service passenger service to the public in the full-service territory or if the application is otherwise contrary to the public interest in the full-service territory. In considering the potential effect on provision of transportation services to the public in regard to such an application, the commission shall consider all evidence presented pertaining to such potential effect, including evidence of the effect that diversion of revenue or traffic may have on the provision of full-service passenger service to the community. Diversion of revenue or traffic from an existing motor carrier shall not, however, be sufficient grounds for denying the application without a showing that the diversion presents a reasonable potential to affect the provision of full-service passenger service to the community."

## Chapter 73 Section 13 Laws 2013

SECTION 13. Section 65-2A-14 NMSA 1978 (being Laws 2003, Chapter 359, Section 14) is amended to read:

### "65-2A-14. CHANGES IN CERTIFICATES OR PERMITS.--

A. A change in a certificate or permit shall not be valid or effective without the approval of the commission.

B. The commission may, for good cause and after notice and public hearing requirements are met, authorize the following changes in all or part of a certificate or permit at the request of the holder if the commission finds:

(1) that the applicant for amendment, lease or transfer of a certificate for passenger service meets the requirements pursuant to Section 65-2A-8 NMSA 1978 for a certificate for such passenger service;

(2) that the applicant for amendment, lease or a transfer of a certificate for household goods service meets the requirements pursuant to Section 65-2A-9 NMSA 1978 for a certificate for such household goods service;

(3) that the applicant for amendment, lease or a transfer of a permit meets the requirements pursuant to Section 65-2A-10 NMSA 1978 for such a permit; and

(4) in addition, that:

(a) for transfer or lease of all or part of a certificate or permit, the transferor-applicant has rendered reasonably continuous and adequate service in the territory to be transferred or leased prior to the application for lease or transfer; and

(b) for transfer of all or a part of a certificate or permit, accrued taxes, rents, wages of employees and other indebtedness pertaining to all or part of a certificate or permit proposed to be transferred have been paid by the transferor-applicant or assumed by the transferee-applicant.

C. The commission may, without notice or a public hearing, authorize the following changes in all or part of a certificate or permit at the request of the holder:

(1) voluntary cancellation of the certificate or permit;

(2) voluntary suspension of the certificate or permit for a period not to exceed twelve consecutive months;

(3) change in the form of legal entity or name of the holder of the certificate or permit;

(4) reinstatement of the certificate or permit following voluntary suspension of a period not exceeding twelve consecutive months;

(5) change in control of a holder of the certificate or permit through issuance or transfer of stock or other legal interest in a holder that is a corporation, partnership, trust or other legal business entity; and

(6) matters pertaining to transfers by operation of law."

## **Chapter 73 Section 14 Laws 2013**

SECTION 14. Section 65-2A-15 NMSA 1978 (being Laws 2003, Chapter 359, Section 15) is amended to read:

"65-2A-15. MULTIPLE OPERATING AUTHORITIES AND BUSINESS TRADE NAMES ALLOWED.--

A. A person may simultaneously hold certificates for different kinds of certificated services, permits for different contracts and warrants for different kinds of warranted service within the same territory.

B. Any motor carrier that holds more than one certificate for the same kind and nature of certificated service in the same territory or more than one permit for the same contract shall file an application with the commission to consolidate such operating authorities.

C. The commission shall not grant any new operating authority to a motor carrier that duplicates the operating authority of the same kind and for the same territory already held by that motor carrier.

D. Certificated service carriers holding both a certificate and permit or warrant for related services may use the same vehicles and may transport passengers and property, or mixed loads of household goods and property, pursuant to those authorities in the same vehicles and on the same trip.

E. Every certificated, permitted or warranted service carrier shall file with the transportation division of the commission all business trade names under which the carrier operates its service or services authorized and shall provide the transportation division of the commission with proof of financial responsibility for all business trade names in addition to its legal name. The commission shall accept business trade names as submitted by a carrier. Filing with the transportation division of the commission shall not, by itself, establish or otherwise affect the ownership or right to use a business trade name under the intellectual property laws of the state of New Mexico."



## Chapter 73 Section 15 Laws 2013

SECTION 15. Section 65-2A-16 NMSA 1978 (being Laws 2003, Chapter 359, Section 16, as amended) is amended to read:

### "65-2A-16. INTERSTATE MOTOR CARRIERS.--

A. Foreign and domestic motor carriers, motor private carriers, leasing companies, brokers and freight forwarders shall not operate in interstate commerce in this state without first registering with a base state and paying all fees as required under the federal Unified Carrier Registration Act of 2005. The 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. 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."

## **Chapter 73 Section 16 Laws 2013**

SECTION 16. Section 65-2A-18 NMSA 1978 (being Laws 2003, Chapter 359, Section 18, as amended) is amended to read:

"65-2A-18. FINANCIAL RESPONSIBILITY.--

A. The commission shall prescribe minimum requirements for financial responsibility for all motor carriers.

B. A motor carrier shall not operate on the highways of this state without having filed with the commission proof of financial responsibility in the form and amount as the commission shall by rule prescribe.

C. In prescribing minimum requirements for financial responsibility for motor carriers, the commission shall adopt the same minimum liability insurance requirements as those required by the federal motor carrier safety administration for interstate motor carriers for all motor vehicles for carriage of property or household goods and for all passenger motor vehicles with such capacities. The commission shall adopt reasonable minimum liability insurance requirements for the use of passenger motor vehicles with capacities less than those regulated by the federal motor carrier safety administration and in doing so shall consider the number of passengers being transported and the nature of the transportation services provided by the motor carriers using vehicles of those capacities.

D. The commission may authorize a motor carrier to carry its own insurance in lieu of filing a policy of insurance, certificate showing the issuance of a policy of insurance or a surety bond. In approving an application to be self-insured, the commission shall consider:

- (1) the financial stability of the carrier;
- (2) previous loss history of the carrier;
- (3) the safety record of the carrier;
- (4) the size, nature of operations and other operating characteristics of the carrier; and
- (5) other factors necessary for the protection of passengers, shippers and the public.

E. Notwithstanding any requirement of the New Mexico Insurance Code to the contrary, the commission may accept proof of public liability insurance from an insurer not authorized in New Mexico if:

(1) the insurance is for an interstate motor carrier transporting commodities exempt from regulation by the federal motor carrier safety administration participating in the unified carrier registration system for those motor carriers; and

(2) the insurer is authorized to write public liability insurance in at least one other state.

F. All motor carriers shall carry proof of financial responsibility in each motor vehicle they operate in this state."

## **Chapter 73 Section 17 Laws 2013**

SECTION 17. Section 65-2A-19 NMSA 1978 (being Laws 2003, Chapter 359, Section 19) is amended to read:

"65-2A-19. SAFETY REQUIREMENTS FOR MOTOR VEHICLES AND DRIVERS.--

A. A motor carrier shall provide safe and adequate service, equipment and facilities for the rendition of transportation services in this state.

B. The commission shall prescribe safety requirements for drivers and for motor vehicles weighing twenty-six thousand pounds or less or carrying fifteen or fewer persons, including the driver, used by intrastate motor carriers operating in this state. The commission may prescribe additional requirements related to safety, including driver safety training programs, vehicle preventive maintenance programs, inquiries regarding the safety of the motor vehicles and drivers employed by a motor carrier, and the appropriateness of the motor vehicles and equipment for the transportation services to be provided by the motor carrier.

C. A commuter service shall certify that it has a program providing for an initial drug test for a person seeking to be a commuter service driver. The program shall use reasonable collection and analysis procedures to ensure accurate results, require testing only for substances controlled by federal regulation of commercial motor carriers and ensure the confidentiality of the test results and medical information obtained.

D. The motor transportation division of the department of public safety may immediately order, without notice or a public hearing, a motor vehicle to be taken out of service for violation of a federal or state law or rule relating to safety if the violation would endanger the public health or safety.

E. The commission shall implement rules requiring carriers to obtain criminal background reports for all employed or contract drivers of certificated service carriers and for all other persons employed by certificated household goods service carriers who enter private dwellings in the course of household goods service."

## **Chapter 73 Section 18 Laws 2013**

SECTION 18. Section 65-2A-20 NMSA 1978 (being Laws 2003, Chapter 359, Section 20) is amended to read:

"65-2A-20. TARIFFS.--

A. A tariffed service carrier shall not commence operations or perform a new service under its operating authority without having an approved tariff on file with the commission.

B. A tariffed service carrier shall file with the commission proposed tariffs showing the rates for transportation and all related activities and containing a description of the type and nature of the service, territory and all terms of service for transportation and related services. The rates shall be stated in terms of United States currency. Tariffs for individual carriers shall also include the carrier's legal name, all business trade names used by the carrier, contact information, information for service of process, the territory authorized for each transportation service listed in the tariff and any terms of service contained in the operating authorities for that particular carrier. Each tariffed service carrier operating pursuant to a statewide tariff shall file with the commission a tariff statement referencing the statewide tariff being used and include the carrier's legal name, all business trade names used by the carrier, contact information, information for service of process, the territory authorized for that carrier and any terms of service contained in the operating authority for that particular carrier.

C. A tariffed service carrier shall not charge, or permit its agents, employees or contract drivers to charge, a different or additional rate, or to use different or additional practices or terms of service, for transportation or for a service rendered to or for the user of the service other than the rates and terms of service specified in approved tariffs in effect at the time, except:

(1) for ambulance and household goods service carriers, in accordance with rates and terms of service established by federal or state law for federal or state governmental programs or operations; and

(2) for tariffed passenger service carriers other than ambulance service carriers, in accordance with the rates and terms of service established by governmental programs or operations in which they voluntarily participate.

D. A tariffed service carrier shall not pay or refund, directly or indirectly to any person, a portion of the rate specified in its approved tariff, offer to a person privileges or facilities, perform a service or remit anything of value, except:

(1) in accordance with tariffs approved by the commission;

(2) for ambulance and household goods service carriers, in accordance with rates and terms of service established by federal and state law for federal and state governmental entities, programs or operations;

(3) for tariffed passenger service carriers other than ambulance service carriers, in accordance with the rates and terms of service established by governmental programs or operations in which they voluntarily participate; or

(4) in settling or resolving a claim by a customer.

E. The commission shall post on its internet web site electronic copies of all currently approved individual and statewide tariffs, and all tariff statements filed by carriers using statewide tariffs, in a manner to facilitate public access, review and comparison of rates and terms of service. A certificated passenger service carrier other than an ambulance service carrier shall post its tariff rates in each vehicle used in the provision of its transportation service.

F. A tariffed service carrier shall file an application with the commission for any change in the tariff, accompanied by the proposed tariff, at least twenty days prior to implementation of the amended rates and terms of service contained in the tariff. Except as provided in this section, an amended tariff shall be approved and become effective twenty days after filing of the application for a change in the tariff. The commission shall post notice of each application for a change in a tariff along with a copy of the proposed tariff on the commission web site.

G. No changes in terms of service disapproved by the transportation division of the commission as inconsistent with the Motor Carrier Act, rule of the commission, the individual operating authority of the carrier or otherwise in violation of law shall become effective or be part of the approved tariff. The following terms of service contained in a tariff shall not be considered inconsistent with, or predatory or discriminatory in nature under the Motor Carrier Act or commission rule:

(1) a carrier may decline or terminate service under circumstances that reasonably appear to present a physical danger to the driver, to another employee of the carrier or to passengers or, for carriers other than ambulance service carriers, a danger to the condition of the motor vehicle or cargo;

(2) a carrier is not responsible for cancellations or delays due to weather or road conditions when reasonably required for safety or when due to road

construction, road closures, law enforcement stops or similar matters beyond the control of the carrier;

(3) a passenger service carrier may require that all firearms carried by any passenger other than an authorized law enforcement officer be unloaded and placed in a locked area of the vehicle during transport, along with all ammunition and any other weapons; or

(4) a passenger service carrier other than an ambulance service carrier may decline or terminate service when the passenger cannot give an adequate description of, or direction to, the destination or cannot transfer into or out of the motor vehicle without requiring physical assistance from the driver.

H. An application for amendment of tariff rates that increases any tariff rate to a level greater than that previously approved by the commission for a full-service carrier or a towing service providing nonconsensual tows shall not become effective until approved by the commission as reasonable under Section 65-2A-21 NMSA 1978. The commission shall hold a hearing appropriate to the type of transportation service provided by the carrier for any such application, if requested by the applicant or by the transportation division of the commission, or if ordered in the discretion of the commission. The commission may provide for reasonable periodic rate increases for full-service carriers or towing services providing nonconsensual tows pursuant to a rate escalator or adjustment clause for any or all rates of a carrier on such basis as the commission finds reasonable.

I. A person may make a complaint in writing to the commission that a rate or term of service contained in a tariff, or a rate otherwise charged or practice otherwise effected, is inconsistent with or in violation of the Motor Carrier Act, commission rule or the operating authority or current tariff of the motor carrier. The commission may suspend the operation of a rate, term of service or practice for a period not to exceed sixty days to investigate its reasonableness. If the commission finds that a rate charged by a tariffed carrier, or a term of service or practice effected by a tariffed carrier, is unauthorized, predatory or discriminatory, the commission shall prescribe the rate or the maximum or minimum rate to be observed or the terms of service to be made effective."

## **Chapter 73 Section 19 Laws 2013**

SECTION 19. Section 65-2A-21 NMSA 1978 (being Laws 2003, Chapter 359, Section 21) is amended to read:

"65-2A-21. RATES.--

A. Tariffed service carriers shall observe nonpredatory and nondiscriminatory rates and terms of service for the transportation services they provide. A predatory or discriminatory charge for service is unlawful.

B. Reduced rates for minor children accompanied by an adult, for students traveling between their homes and their schools and for persons sixty-five years of age or older shall not be considered discriminatory. A motor carrier shall not furnish free transportation to persons except to bona fide owners, officers, employees or other business personnel of the motor carrier and their dependents.

C. Towing services performing nonconsensual tows may charge rates lower than the rates in their approved tariff to members of not-for-profit motor clubs after those rates have been filed with the commission.

D. A household goods service carrier shall establish and observe nonpredatory and nondiscriminatory rates and practices relating to the manner and method of presenting, marking, packing and delivering household goods for transportation and other matters relating to the transportation of household goods.

E. In proceedings to determine the reasonableness of rates, the commission shall authorize revenue levels that are adequate under honest, economical and efficient management to cover total operating expenses, including the operation of leased motor vehicles, and depreciation, plus a reasonable profit. The rules adopted by the commission to implement this section shall allow a carrier to achieve revenue levels that will provide a flow of net income, plus depreciation, adequate to support prudent capital outlays, ensure the repayment of a reasonable level of debt, permit the raising of needed equity capital and attract and retain capital in amounts adequate to provide a sound motor carrier transportation system in the state."

## **Chapter 73 Section 20 Laws 2013**

SECTION 20. Section 65-2A-22 NMSA 1978 (being Laws 2003, Chapter 359, Section 22) is amended to read:

"65-2A-22. TIME SCHEDULES.--

A. A scheduled shuttle service carrier shall file a proposed time schedule with its tariff and shall file any change in its schedule through an amended tariff.

B. Failure by a scheduled shuttle service carrier to operate the service on each day pursuant to commission rule as scheduled in its tariff shall result in an appropriate penalty as the commission, in its discretion, shall determine.

C. A time schedule shall not be designed to require the operation of a motor vehicle between given terminals or terminal areas at a rate of speed greater than the maximum speed allowed."

## **Chapter 73 Section 21 Laws 2013**

SECTION 21. Section 65-2A-23 NMSA 1978 (being Laws 2003, Chapter 359, Section 23) is amended to read:

"65-2A-23. MOTOR CARRIER ORGANIZATIONS.--

A. A tarified service carrier may enter into discussions with another tarified service carrier to establish a motor carrier organization. The organization shall obtain authorization from the commission before its members enter into any discussions concerning the rates contained in a statewide tariff. The commission may authorize the creation of a motor carrier organization to discuss and promote industry matters, other than the rates of individual carriers, if the organization:

(1) allows any intrastate motor carrier authorized to provide the same type of service to become a member of the organization, and allows a member carrier to discuss matters before the organization and to vote upon any proposal;

(2) does not interfere with a member carrier's right to establish its own tariff and does not change or cancel an independently established tariff;

(3) does not file an objection, protest or complaint with the commission against a tariff item independently published by or for the account of a member carrier;

(4) does not permit its employees or an employee committee to file or act upon a proposal effecting a change in a tariff item published by or for the account of a member carrier; and

(5) proposes matters concerning statewide tariffs for approval by the commission.

B. A member carrier of the organization shall file with the commission information as the commission may by rule prescribe.

C. A motor carrier organization approved by the commission pursuant to this section shall be subject to accounting, record-keeping, reporting and inspection requirements as the commission may by rule prescribe.

D. The commission may, upon complaint or upon its own initiative, investigate and determine whether a motor carrier organization previously authorized by it is not in conformity with the requirements of this section or with the terms and conditions upon which the motor carrier organization was granted authorization. The commission may modify or terminate its authorization of a motor carrier organization found to be noncompliant with the requirements of this rule.

E. The antitrust laws of the state shall not apply to discussions concerning general industry matters, terms of service or any matters concerning a statewide tariff,



including the rates contained in a statewide tariff, by member carriers of a motor carrier organization authorized by the commission."

## **Chapter 73 Section 22 Laws 2013**

SECTION 22. Section 65-2A-24 NMSA 1978 (being Laws 2003, Chapter 359, Section 24) is amended to read:

### **"65-2A-24. MOTOR VEHICLE LEASES--DRIVER CONTRACTS.--**

A. An intrastate motor carrier shall not lease a motor vehicle or operate a leased motor vehicle in the course of its transportation service except as provided by commission rule. The commission may approve a motor vehicle lease without notice or a public hearing.

B. A motor carrier may use employed or contract drivers or taxicab association member drivers in the provision of a transportation service. Regardless of the provisions of any written or oral agreement between a motor carrier and a contract driver or taxicab association member driver, motor carriers providing transportation services that use contract drivers or taxicab association member drivers remain fully responsible to the commission for complying with all provisions of the Motor Carrier Act and commission rules applicable to transportation service carriers.

C. Motor carriers providing intrastate transportation services that use contract drivers or taxicab association member drivers shall maintain, at their principal places of business within the state, a current written agreement with each such driver. No agreement with any contract driver or taxicab association member driver shall contain any provision contrary to a provision of the Motor Carrier Act or a rule of the commission. Each written agreement shall contain a clause that requires the contract driver or taxicab association member driver to adhere to all provisions of the Motor Carrier Act and to all commission rules applicable to transportation service carriers."

## **Chapter 73 Section 23 Laws 2013**

SECTION 23. Section 65-2A-25 NMSA 1978 (being Laws 2003, Chapter 359, Section 25) is amended to read:

### **"65-2A-25. HOUSEHOLD GOODS OPERATIONS.--**

A. The commission shall establish a statewide tariff for household goods services, containing terms of service and maximum rates that household goods service carriers may charge the public.

B. A certificated household goods service carrier shall be responsible for acts or omissions of its agents that relate to the performance of household goods transportation services, including accessorial or terminal services, that are within the

actual or apparent authority of the agent derived from or ratified by the certificated household goods service carrier.

C. A certificated household goods service carrier shall use reasonable care in selecting and retaining household goods agents who are sufficiently knowledgeable, fit, willing and able to provide adequate household goods transportation services, including accessorial and terminal services, and to fulfill the obligations imposed upon them by the Motor Carrier Act and by the certificated household goods service carrier.

D. If the commission has reason to believe from a complaint or investigation that a household goods agent has violated Subsection G or H of Section 65-2A-33 NMSA 1978, or is consistently unfit, unwilling or unable to provide adequate household goods transportation services, including accessorial and terminal services, the commission may issue to that household goods agent notice of the complaint, specific charges and the time and place for a hearing on the complaint. The hearing shall be held no later than sixty days after service of the complaint to the household goods agent. The household goods agent has the right to appear at the hearing and rebut the charges contained in the complaint.

E. If the household goods agent does not appear at the complaint hearing, or if the commission finds that the household goods agent has violated Subsection G or H of Section 65-2A-33 NMSA 1978, or is consistently unfit, unwilling or unable to provide adequate household goods transportation services, including accessorial and terminal services, the commission shall issue an order to compel compliance by the household goods agent. Thereafter, the commission may issue an order to limit or prohibit the household goods agent from any involvement in the provision of household goods transportation services if, after notice and an opportunity to be heard, it finds that the household goods agent has failed to comply with the order within a reasonable time after the date of its issuance, but in no event less than thirty days after its issuance. A household goods agent may file a petition with the commission seeking reconsideration of an order entered by the commission pursuant to this section.

F. The commission shall adopt rules for the following elements of household goods transportation services:

- (1) methods of determining shipping charges;
- (2) cost estimates, for which charges shall be subject to the antitrust laws of this state;
- (3) inventory;
- (4) weighing;
- (5) receipts and bills of lading;

(6) liability based on value established between the motor carrier and the shipper;

(7) equipment stationing by, and joint transportation between, household goods service carriers;

(8) household goods agents; and

(9) service standards.

G. In adopting reasonable rules for intrastate household goods service carriers, the commission shall balance the interests of shippers and carriers and consider and observe industry standards.

H. The antitrust laws shall not apply to discussions or agreements between a household goods service carrier and its authorized agents, whether or not an agent is also a household goods service carrier when related solely to:

(1) rates for the transportation of household goods under the authority of the principal carrier;

(2) accessorial, terminal, storage or other charges for transportation services incidental to the transportation of household goods transported under the authority of the principal carrier;

(3) allowances relating to transportation of household goods under the authority of the principal carrier; or

(4) ownership of a household goods service carrier by an agent or membership on the board of directors of any household goods service carrier by an agent."

## **Chapter 73 Section 24 Laws 2013**

SECTION 24. Section 65-2A-26 NMSA 1978 (being Laws 2003, Chapter 359, Section 26) is amended to read:

"65-2A-26. HOUSEHOLD GOODS VOLUNTARY DISPUTE SETTLEMENT PROGRAM.--

A. The commission shall establish a program to settle disputes, at the voluntary option of the shipper, between shippers and all household goods service carriers concerning the transportation of household goods, which shall be a fair and expeditious method for settling disputes and complies with each of the following requirements and rules the commission may prescribe:

(1) the program is designed to prevent a household goods service carrier from having any special advantage in a case in which the shipper resides or does business at a place distant from the motor carrier's place of business;

(2) the program provides adequate notice of its availability, including a concise, understandable and accurate summary of the program and disclosure of the legal effects of using the program. The notice shall be given to the shipper before the shipper tenders the household goods to the motor carrier for transportation;

(3) upon request of a shipper, the motor carrier shall promptly provide forms and other information necessary to initiate an action to resolve a dispute under the program;

(4) a person authorized pursuant to the program to settle disputes shall be independent of the parties to the dispute and shall be capable, as determined by rules prescribed by the commission, to resolve disputes fairly and expeditiously. The program shall ensure that a person chosen to settle a dispute is authorized and able to obtain from the shipper or motor carrier any material and relevant information necessary to carry out a fair and expeditious decision-making process;

(5) the person settling the dispute may charge the shipper a fee of not more than twenty-five dollars (\$25.00) for instituting a proceeding under the program if the program is binding solely on the carrier, but shall not charge the shipper a fee otherwise. The person settling the dispute shall refund the fee to the shipper in a case in which the dispute is settled in favor of the shipper, unless the person settling the dispute determines that the refund is inappropriate;

(6) the program shall not require the shipper to agree to use the dispute settlement program prior to the time that a dispute arises;

(7) the program may provide for an oral presentation of a dispute concerning transportation of household goods by a party to the dispute or a party's representative, but an oral presentation shall not be made unless the parties to the dispute expressly agree to the presentation and the date, time and location of the presentation; and

(8) a person settling a dispute under the program shall, as expeditiously as possible, but no later than sixty days after receipt of written notification of the dispute, render a decision based on the information gathered; except that, in a case in which a party to the dispute fails to timely provide information that the person settling the dispute may reasonably require, the person settling the dispute may extend the sixty-day period for a reasonable period of time. A decision resolving a dispute may include remedies appropriate under the circumstances, including repair, replacement, refund or reimbursement for expenses and compensation for damages.

B. The commission may investigate at any time the functioning of the program approved under this section and may, after notice and an opportunity to be heard, take appropriate action against any household goods service carrier for failure to meet the requirements of this section and rules as the commission may prescribe.

C. In a court action to resolve a dispute between a shipper and a household goods service carrier, concerning the transportation of household goods by the carrier, the shipper shall be awarded reasonable attorney fees if:

(1) the shipper submits a claim to the carrier within one hundred twenty days after the date the shipment is delivered or the date delivery is scheduled, whichever is later;

(2) the shipper prevails in the court action; and

(3) a decision resolving the dispute was not rendered under the dispute settlement program within sixty days or an extension of the sixty-day period; or

(4) the court proceeding is to enforce a decision rendered under the dispute settlement program and is instituted after the period for performance under the decision has elapsed.

D. In a court action to resolve a dispute between a shipper and a household goods service carrier concerning the transportation of household goods by the carrier, the carrier shall be awarded reasonable attorney fees by the court only if the shipper brought the action in bad faith:

(1) after resolution of the dispute under the dispute settlement program; or

(2) after institution of a proceeding by the shipper to resolve the dispute under the dispute settlement program and before:

(a) the expiration of the sixty-day period or extension of the sixty-day period for resolution of the dispute; and

(b) a decision resolving the dispute is rendered under the program."

## **Chapter 73 Section 25 Laws 2013**

SECTION 25. Section 65-2A-27 NMSA 1978 (being Laws 2003, Chapter 359, Section 27) is amended to read:

"65-2A-27. INVOLUNTARY SUSPENSION, REVOCATION OR AMENDMENT OF OPERATING AUTHORITIES--REINSTATEMENT.--

A. The commission shall immediately suspend, without notice or a public hearing, the operating authority of a motor carrier for failure to continuously maintain the forms and amounts of financial responsibility prescribed by commission rule.

B. The commission may immediately suspend, without notice or a public hearing, the operating authority of a motor carrier for violation of a safety requirement of the Motor Carrier Act, the commission's rules or the rules of the motor transportation division of the department of public safety, if the violation endangers the public health or safety.

C. The commission may, upon complaint or the commission's own initiative and after notice and a public hearing, if required, order involuntary suspension, revocation or amendment, in whole or in part, of an operating authority for failure to:

(1) comply with a provision of the Motor Carrier Act;

(2) comply with a lawful order or rule of the commission;

(3) comply with a term of service of an operating authority or tariff;

or

(4) render reasonably continuous and adequate service under a certificate.

D. The commission may approve an application for reinstatement of an operating authority following involuntary suspension if it finds, after notice and public hearing requirements are met, that:

(1) the reasons for the involuntary suspension no longer pertain;

and

(2) the holder of the operating authority is fit, and a certificate holder is able, to provide the authorized transportation services, and the holder will comply with the Motor Carrier Act and the rules of the commission."

## **Chapter 73 Section 26 Laws 2013**

SECTION 26. Section 65-2A-28 NMSA 1978 (being Laws 2003, Chapter 359, Section 28) is amended to read:

"65-2A-28. DESIGNATION OF AN AGENT FOR SERVICE OF PROCESS.--

A. An applicant for an operating authority shall file with the commission an appointment in writing of a resident agent for service of process. The appointment shall specify the address of the agent and shall stipulate that service upon the appointed agent of process of the commission or of a court shall have the same force and effect

as if service had been made personally upon the motor carrier within this state. The appointment shall continue in force until the motor carrier files an appointment of a substitute agent or until liability against the motor carrier growing out of its operations in the state has terminated. A copy of the appointment, duly certified by the commission, shall be accepted as sufficient evidence of appointment of an agent in a court of the state.

B. If the holder of an operating authority from the commission operates without appointing a resident agent for service of process, or the commission has unsuccessfully attempted to serve process upon the designated resident agent, the holder shall be deemed to have appointed the secretary of state as its resident agent for service of process in an action or proceeding against the motor carrier growing out of an accident, collision or transaction in which the motor carrier may be involved by operating in this state.

C. If the secretary of state is served with process directed to the holder of an operating authority from the commission, the secretary of state shall forward the process by certified mail to the motor carrier at the address shown on its last change of address report, annual report or application with respect to its operating authority, whichever is most recent. The secretary of state shall file a certificate of service with the commission, which shall be accepted as prima facie proof of service.

D. The secretary of state shall assess to the motor carrier the fee prescribed in Section 65-2A-36 NMSA 1978 for a process from a court served upon the secretary of state but shall not charge a fee for service of commission process.

E. The principal motor carrier of a household goods agent shall be deemed to be the agent for service of process of the household goods agent unless the household goods agent notifies the commission in writing of the substitution of another agent for service of process."

## **Chapter 73 Section 27 Laws 2013**

SECTION 27. Section 65-2A-29 NMSA 1978 (being Laws 2003, Chapter 359, Section 29) is amended to read:

### **"65-2A-29. REPORTS AND RECORDS.--**

A. The commission shall establish reasonable requirements with respect to reports, records and uniform systems of accounts and preservation of records for motor carriers.

B. The commission may require any holder of an operating authority from the commission or any lessee of an authority to prepare and transmit to the commission an annual report of its operations. The report shall be in the form, contain specific information, including financial information, and be due on a date as the commission

may by rule require. Financial data filed by motor carriers in annual reports shall not be made available for inspection by the public.

C. The commission or its employees or duly authorized agents shall, at all times, have access to:

(1) land, buildings, improvements to real property and equipment of motor carriers used in connection with their operations; and

(2) records kept by motor carriers.

D. The commission may, by order, require a motor carrier subject to the Motor Carrier Act, or its officers or agents, to produce within this state at such reasonable time and place as it may designate, original or certified copies of records regardless of where they are kept by the motor carrier when their production is pertinent to a matter before the commission, in order that the commission may examine them. No trade secret or business confidentiality immunity or privilege may be asserted by the motor carrier in response to such an order or request; provided that nothing in this provision shall prevent a carrier from moving for, or the commission from entering, an appropriate protective order to preserve the carrier's trade secrets or business confidentiality from further disclosure, nor shall this provision or any production required under this provision waive or diminish the carrier's trade secret or business confidentiality immunity or privilege as to persons other than the commission.

E. The motor transportation division of the department of public safety shall furnish to the commission all information needed or required by the commission to carry out its responsibilities when the information is obtainable only through field enforcement.

F. All applications, protests, objections, amendments to filings, operating authorities, tariffs, pleadings or any other documents filed in docketed proceedings not subject to confidentiality orders are public records and shall, as soon as practical, be made electronically available to the public."

## **Chapter 73 Section 28 Laws 2013**

SECTION 28. Section 65-2A-30 NMSA 1978 (being Laws 2003, Chapter 359, Section 30) is amended to read:

"65-2A-30. UNAUTHORIZED CARRYING OF PERSONS PROHIBITED.--Except in the case of an emergency, a transportation service carrier not authorized to transport passengers shall not carry a passenger, including a hitchhiker, except on-duty employees of the motor carrier or commission representatives on official business in a vehicle used in the provision of transportation service under its operating authority."

## **Chapter 73 Section 29 Laws 2013**



SECTION 29. Section 65-2A-33 NMSA 1978 (being Laws 2003, Chapter 359, Section 33) is amended to read:

"65-2A-33. CRIMINAL AND CIVIL PENALTIES--UNFAIR TRADE PRACTICES.--

A. A person who knowingly makes a false statement of material fact under oath or penalty of perjury in a commission proceeding, whether orally or in writing, shall be guilty of perjury.

B. A person who willfully makes a false return of process or report to the commission or a member or employee of the commission, and a person who knowingly aids or abets a person who willfully makes a false return of process or report to the commission or a member or employee of the commission, shall be guilty of a felony, and upon conviction shall be imprisoned for not more than five years.

C. A person who willfully makes a false entry in records required by the Motor Carrier Act or the rules of the commission, willfully destroys, mutilates or by other means willfully falsifies the records or willfully neglects or fails to make full, true and correct entries of all facts, shall be guilty of a felony and upon conviction shall be imprisoned for not more than five years.

D. An employee of the commission who divulges information about an inspection, examination or investigation of a record or of the property and facilities of a motor carrier, except insofar as may be authorized by the commission or a court of competent jurisdiction, shall be guilty of a misdemeanor and upon conviction shall be fined not more than one thousand dollars (\$1,000).

E. A person who violates or who procures, aids or abets in the violation of a provision of the Motor Carrier Act or a rule or order of the commission shall be guilty of a misdemeanor and upon conviction shall be fined not more than one thousand dollars (\$1,000), imprisoned for not more than ninety days, or both.

F. A motor carrier shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars (\$500), imprisoned for not more than six months, or both, if the motor carrier:

- (1) refuses to permit examination of its records;
- (2) conceals, destroys or mutilates its records;
- (3) attempts to conceal, destroy or mutilate its records; or
- (4) removes its records beyond the limits of the state for the purpose of preventing examination.

G. A person who commits weight-bumping shall be guilty of a felony and upon conviction shall be fined not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000), imprisoned for not more than two years, or both.

H. A person shall be assessed a civil penalty of not more than two thousand dollars (\$2,000) for each violation and not more than five thousand dollars (\$5,000) for each subsequent violation if the person knowingly engages in or authorizes an agent or other person to:

(1) falsify the documents used in the transportation of household goods that evidence the weight of shipment; or

(2) charge for accessorial services that are not performed, or for which the carrier is not entitled to be compensated, in a case in which such services are not reasonably necessary for the safe and adequate transportation of the shipment.

I. A law enforcement officer of the state shall arrest and the district attorney and attorney general shall prosecute a violation of the Motor Carrier Act.

J. It is an unfair and deceptive trade practice under the Unfair Practices Act for any transportation service carrier to offer or provide transportation services of a type for which, or in any territory in which, it is not authorized to do so by the commission. The attorney general or a person who has been damaged or who is likely to be damaged as the result of such unauthorized service, including a shipper, a passenger or an authorized transportation service carrier, may bring an action pursuant to the Unfair Practices Act against the transportation service carrier regarding such unauthorized service. Any such civil action shall be in addition to, and shall not bar, any investigation or civil or criminal enforcement action regarding the unauthorized service available to the attorney general or a district attorney, or available to the commission under the Motor Carrier Act.

K. It is an unfair and deceptive trade practice under the Unfair Practices Act for any transportation service carrier or its agent, employee or contract driver to charge or collect a predatory rate or to undertake a predatory practice in the provision of transportation services. The attorney general or a person who has been damaged or who is likely to be damaged as the result of a predatory rate or practice may bring an action pursuant to the Unfair Practices Act against the transportation service carrier regarding such predatory rate or practice. Any such civil action shall be in addition to, and shall not bar, any investigation or civil or criminal enforcement action regarding the predatory rate or practice available to the attorney general or a district attorney, or available to the commission under the Motor Carrier Act."

## **Chapter 73 Section 30 Laws 2013**

SECTION 30. Section 65-2A-36 NMSA 1978 (being Laws 2003, Chapter 359, Section 36) is amended to read:

"65-2A-36. FEES.--

A. The commission shall charge and collect the following fees:

(1) for filing an application for a certificate or an application for an amendment of a certificate, or for any protest or permissive intervention in regard to such application, two hundred fifty dollars (\$250);

(2) for filing an application for a permit or an application for amendment of a permit, or for any protest or permissive intervention in regard to such application, two hundred fifty dollars (\$250);

(3) for filing an application for a warrant, twenty-five dollars (\$25.00);

(4) for filing an application or motion for temporary authority, one hundred dollars (\$100);

(5) for filing an application for a change in a tariff for a tariffed service carrier, two hundred dollars (\$200);

(6) for filing an application for lease or transfer of a certificate or permit, or for any protest or permissive intervention in regard to such application, two hundred dollars (\$200);

(7) for filing an application for reinstatement of a certificate or permit following voluntary or involuntary suspension, one hundred dollars (\$100);

(8) for filing an application for voluntary suspension of a certificate or permit, fifteen dollars (\$15.00);

(9) for filing an application for a single trip ticket, five dollars (\$5.00) per vehicle per trip;

(10) for filing a change in the legal name of any holder of an operating authority, or a change of business trade name or the addition or deletion of a business trade name of any holder or lessee of an operating authority, ten dollars (\$10.00);

(11) for filing an equipment lease, five dollars (\$5.00) per vehicle leased;

(12) for a miscellaneous filing, five dollars (\$5.00) per document;

(13) for certifying copies of a record, order or operating authority, the charge per page provided by law for governmental agencies;

(14) for copies of written commission documents or records, the charge per page provided by law for governmental agencies, in addition to any applicable certification charge; and

(15) for copies of other commission records, including electronic media, an amount set by the commission, in addition to any applicable certification charge.

B. The secretary of state shall charge and collect a fee of four dollars (\$4.00) for each process from a court served upon the secretary of state as the designated agent for service of process by operation of law.

C. The "motor transportation fee fund" is created in the state treasury. The commission shall collect all fees at the time an application is filed or service is provided, and shall remit them to the state treasurer, who shall deposit them in the fund. At the end of each month, the state treasurer shall transfer the unencumbered balance in the fund to the state road fund.

D. If a fee has been erroneously paid, the person having paid the fee may apply for a refund in writing to the commission no later than sixty days after the erroneous payment. Upon approval of the application by the commission, the amount erroneously paid shall be refunded from the motor transportation fee fund to the person who made the payment.

E. An application shall be fully completed within sixty days or the fee submitted with the application shall be forfeited to the state. If the applicant renews the application, the applicant shall pay the applicable fee."

## **Chapter 73 Section 31 Laws 2013**

SECTION 31. Section 65-2A-37 NMSA 1978 (being Laws 2003, Chapter 359, Section 37) is amended to read:

"65-2A-37. ELECTRONIC FILING AND CERTIFICATION OF DOCUMENTS--  
ELECTRONIC PAYMENT OF FEES.--

A. The commission may adopt rules permitting the electronic filing, submission and service of documents by facsimile, electronic mail or other electronic transmission, including original documents, and the certification of electronically filed documents when filing or certification is required or permitted pursuant to the Motor Carrier Act. The rules shall provide for the appropriate treatment of electronic filings to satisfy requirements for original documents or copies and shall provide the requirements for signature with respect to electronic filings. If the commission accepts electronic filing of a document, it may accept for filing a document containing a signature line, however made.

B. The commission may accept a credit or debit card or other means of payment, in lieu of cash or check, as payment of a fee pursuant to the Motor Carrier Act. The commission shall determine those credit or debit cards or other means of payment that may be accepted for payment."

### **Chapter 73 Section 32 Laws 2013**

SECTION 32. Section 65-2A-38 NMSA 1978 (being Laws 2003, Chapter 359, Section 38) is amended to read:

"65-2A-38. EXEMPTIONS.--The Motor Carrier Act shall not apply to:

A. school buses, provided that school buses shall be subject to applicable school bus safety provisions established by the state transportation director;

B. United States mail carriers, unless they are engaged in other business as motor carriers of persons or household goods;

C. hearses, funeral coaches or other motor vehicles belonging to or operated in connection with the business of a funeral service practitioner licensed by the state;

D. a county or municipal public bus transportation system; or

E. private carriers."

### **Chapter 73 Section 33 Laws 2013**

SECTION 33. A new section of the Motor Carrier Act is enacted to read:

"TRANSITION.--

A. Except as provided in this section, certificates, permits and warrants issued to a motor carrier by the commission prior to July 1, 2013 shall remain in effect, subject to the provisions of the Motor Carrier Act, the Ambulance Standards Act and the commission's rules.

B. Certificates for limousine service and for tour and sightseeing service issued prior to July 1, 2013 shall, on and after that date, become certificates for specialized passenger service endorsed for the same territory and with the same additional terms of service as in the preexisting certificate, and for nature of service as provided by commission rule. The commission may require holders of such certificates to exchange their certificates for newly issued certificates.

C. Each certificate for terminal shuttle service, shared-ride service and bingo bus service issued prior to July 1, 2013 shall, on and after that date, become a

certificate for shuttle service endorsed for the same territory and with the same additional terms of service as in the preexisting certificate, and for nature of service as general shuttle service. The commission may require holders of such certificates to exchange their certificates for newly issued certificates.

D. Each certificate for taxicab service issued prior to July 1, 2013 shall become void on and after that date and shall be replaced by a certificate for taxicab service endorsed for the same territory and with the same additional terms of service as in the preexisting certificate, but endorsed also for nature of service as a municipal taxicab service or a general taxicab service or both, depending on the actual nature of service provided by the holder within the certificated territory directly or under lease of the certificate continuously for the immediately prior twelve-month period. The commission may provide for reasonable procedures regarding replacement of certificates and shall issue new certificates effective on July 1, 2013.

E. Each certificate for shuttle service issued prior to July 1, 2013 shall become void on and after that date and shall be replaced by a certificate for shuttle service endorsed for the same terminals or terminal areas and with the same additional terms of service as in the preexisting certificate, but endorsed also for nature of service as a scheduled shuttle service or a general shuttle service or both, depending on the actual nature of service provided by the holder directly or under lease of the certificate continuously for the immediately prior twelve-month period. The commission may provide by order for reasonable procedures regarding replacement of certificates and shall issue new certificates effective on July 1, 2013.

F. The common tariff of the New Mexico movers and warehousemen's association shall, on July 1, 2013, become the individual tariff of each of the individual member carriers of the New Mexico movers and warehousemen's association using that common tariff on June 30, 2013.

G. The commission shall not deny the application of a person applying for a new household goods service certificate during the period from July 1, 2013 through June 30, 2015 solely on the grounds that the applicant has provided household goods service without an appropriate operating authority. The commission may consider the nature of the applicant's unauthorized operations or the applicant's response to prior notices or efforts of the commission directed to the applicant, as well as any matters of public safety, financial liability and consumer issues involved in the applicant's unauthorized transportation service, in determining the applicant's fitness for the grant of a certificate."

## **Chapter 73 Section 34 Laws 2013**

SECTION 34. REPEAL.--Sections 65-2A-17 and 65-2A-40 NMSA 1978 (being Laws 2003, Chapter 359, Sections 17 and 40) are repealed.

## **Chapter 73 Section 35 Laws 2013**

SECTION 35. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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SCORC/Senate Bill 328

Approved March 29, 2013

## **LAWS 2013, CHAPTER 74**

### **AN ACT**

RELATING TO INSURANCE; IMPLEMENTING A CONSTITUTIONAL MANDATE TO TRANSFER INSURANCE REGULATORY POWER AWAY FROM THE PUBLIC REGULATION COMMISSION; PROVIDING FOR THE OFFICE OF SUPERINTENDENT OF INSURANCE; CREATING THE POSITION OF SUPERINTENDENT OF INSURANCE; CREATING THE INSURANCE NOMINATING COMMITTEE; ADDRESSING APPEALS FROM DECISIONS OF THE SUPERINTENDENT OF INSURANCE; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; PROVIDING A TEMPORARY PROVISION TRANSFERRING FUNCTIONS, PERSONNEL, APPROPRIATIONS, PROPERTY, RECORDS, CONTRACTS AND REFERENCES IN LAW; PROVIDING A TEMPORARY PROVISION ADDRESSING THE INITIAL INSURANCE NOMINATING COMMITTEE; DECLARING AN EMERGENCY.

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

### **Chapter 74 Section 1 Laws 2013**

SECTION 1. Section 8-8-5 NMSA 1978 (being Laws 1998, Chapter 108, Section 5, as amended) is amended to read:

"8-8-5. CHIEF OF STAFF--DIVISION DIRECTORS--OTHER STAFF.--

A. The commission shall appoint a "chief of staff" who is responsible for the day-to-day operations of the commission staff under the general direction of the commission. The chief of staff shall serve at the pleasure of the commission.

B. With the consent of the commission, the chief of staff shall appoint division directors. Appointments shall be made without reference to party affiliation and solely on the ground of fitness to perform the duties of their offices.

C. Each director, with the consent of the chief of staff, shall employ such professional, technical and support staff as necessary to carry out the duties of the director's division. Employees shall be hired solely on the ground of their fitness to

perform the job for which they are hired. Division staff are subject to the provisions of the Personnel Act."

## **Chapter 74 Section 2 Laws 2013**

SECTION 2. Section 8-8-6 NMSA 1978 (being Laws 1998, Chapter 108, Section 6, as amended) is amended to read:

"8-8-6. COMMISSION--DIVISIONS.--The commission shall include the following organizational units:

- A. the administrative services division;
- B. the consumer relations division;
- C. the legal division;
- D. the transportation division;
- E. the utility division; and
- F. the fire marshal division."

## **Chapter 74 Section 3 Laws 2013**

SECTION 3. Section 8-8-14 NMSA 1978 (being Laws 1998, Chapter 108, Section 14, as amended) is amended to read:

"8-8-14. HEARING EXAMINERS.--

A. The commission may appoint a commissioner or a hearing examiner to preside over any matter before the commission, including rulemakings, adjudicatory hearings and administrative matters.

B. A hearing examiner shall provide the commission with a recommended decision on the matter assigned to the hearing examiner, including findings of fact and conclusions of law. The recommended decision shall be provided to the parties, and they may file exceptions to the decision prior to the final decision of the commission.

C. When the commission has appointed a hearing examiner to preside over a matter, at least one member of the commission shall, at the request of a party to the proceedings, attend oral argument."

## **Chapter 74 Section 4 Laws 2013**



SECTION 4. Section 9-7-11.3 NMSA 1978 (being Laws 2003, Chapter 235, Section 2) is amended to read:

"9-7-11.3. TASK FORCE CREATED--RESPONSIBILITIES--PARTICIPANTS--FUNDING.--

A. The "health care providers licensing and credentialing task force" is created under the direction of the New Mexico health policy commission to study and make recommendations for the consolidation and simplification of the health care licensure processes. The task force shall make recommendations for the establishment of a web site portal for licensure to facilitate and complement or replace the present system conducted by individual health care provider boards and for a central database for credentialing information to simplify and eliminate duplication of effort.

B. The task force shall study and make recommendations to the superintendent of insurance on health care provider credentialing issues and obstacles to one-time efforts by providers to meet all necessary requirements to practice independently or as a provider for any appropriately licensed health care organization or facility. The task force shall study and recommend, if practicable, use of credentialing expertise developed by a statewide association of hospitals.

C. The task force shall include participation by the New Mexico health policy commission; the department of health; the New Mexico medical board; the board of nursing; other health care provider boards; the regulation and licensing department; the office of superintendent of insurance; the human services department; the office of the attorney general; other affected state agencies; members of the health care industry, including statewide associations and societies representing providers, hospitals and other affected facilities; insurers; other third-party payers; health care advocates; and members of the public.

D. The New Mexico health policy commission, together with the New Mexico medical board and the board of nursing, shall hire an information technology project manager to work under the commission to design, implement and maintain a web site portal for licensure and a central database for credentialing of health care providers."

## **Chapter 74 Section 5 Laws 2013**

SECTION 5. Section 52-5-3 NMSA 1978 (being Laws 1986, Chapter 22, Section 29, as amended) is amended to read:

"52-5-3. REPORTS--DATA GATHERING.--

A. The intent of this section is to allow the director to gather data and conduct studies to evaluate the workers' compensation and occupational disease disablement system in New Mexico. This includes evaluating the benefits structure and

the costs incurred under each version of the Workers' Compensation Act and the New Mexico Occupational Disease Disablement Law. To this end, the director shall establish baseline data against which to assess the changes in the law.

B. The director shall independently evaluate insurance industry data pertaining to workers' compensation and occupational disease disablement claims and payments, as well as other information the director believes to be necessary and relevant to a thorough evaluation of the system's effectiveness. In addition to data generated by insurance industry representatives and organizations, the director shall collect data from employers, claimants and other relevant parties.

C. Unless otherwise provided by law, the director shall have access to insurance industry information that contains workers' compensation and occupational disease disablement claim data as the director determines is necessary to carry out the provisions of this section.

D. The director shall have access to files and records of:

(1) the workforce solutions department that pertain to:

- (a) the name and number of employees reported by employers;
- (b) employers' mailing addresses;
- (c) federal identification numbers; and
- (d) general wage information;

(2) the office of superintendent of insurance that pertain to:

- (a) historical insurance classification rates and total premiums paid during given periods of time;
- (b) insurers licensed to underwrite casualty insurance; and
- (c) records of group self-insurers;

(3) the human services department that include names, addresses and other identifying information of recipients of benefits and services pertaining to income support;

(4) the taxation and revenue department that identify employers paying workers' compensation assessments in accordance with Section 52-5-19 NMSA 1978; and

(5) the motor vehicle division of the taxation and revenue department that pertain to the identity of licensed drivers and the ownership of motor vehicles.

E. Information that is confidential under state law shall be accessible to the director and shall remain confidential.

F. The director shall prepare an annual report. The director shall publish in that report and in other reports as the director deems appropriate such statistical and informational reports and analyses based on reports and records available as, in the director's opinion, will be useful in increasing public understanding of the purposes, effectiveness, costs, coverage and administrative procedures of workers' compensation and in providing basic information regarding the occurrence and sources of work injuries or disablements to public and private agencies engaged in industrial injury prevention activities. The reports shall include information concerning the nature and frequency of injuries and occupational diseases sustained and the resulting benefits, costs and other factors that are important to furthering the intent of this section."

## **Chapter 74 Section 6 Laws 2013**

SECTION 6. Section 52-6-2 NMSA 1978 (being Laws 1986, Chapter 22, Section 76, as amended) is amended to read:

"52-6-2. DEFINITIONS.--As used in the Group Self-Insurance Act:

A. "administrator" means an individual, partnership or corporation engaged by a group's board of trustees to carry out the policies established by that board and to provide day-to-day management of the group;

B. "group" means a not-for-profit unincorporated association consisting of two or more public hospital employers or private employers that are engaged in the same or similar type of business, are members of the same bona fide trade or professional association that has been in existence for not less than five years and that enter into agreements to pool their liabilities for workers' compensation benefits; except that public hospital employers shall segregate their accounting records and investment accounts from those of private employers in accordance with applicable state law;

C. "insolvent" means that a group is unable to pay its outstanding lawful obligations as they mature in the regular course of business, as shown both by having an excess of required reserves and other liabilities over assets and by not having sufficient assets to reinsure all outstanding liabilities after paying all accrued claims owed;

D. "net premium" means premium derived from standard premium adjusted by any advance premium discounts;

E. "private employer" means every employer that is not a public employer or a public hospital employer;

F. "public employer" means the state of New Mexico or any of its branches, agencies, departments, boards, instrumentalities or institutions and all school districts and all political subdivisions of the state or any of their agencies, instrumentalities or institutions. "Public employer" does not include a public hospital employer;

G. "public hospital employer" means any local, county, district, city-county or other public hospital or health-related facility, whether operating in wholly or partially owned or leased premises;

H. "service company" means a person or entity that provides services not provided by the administrator, including claims adjustment; safety engineering; compilation of statistics and the preparation of premium, loss and tax reports; preparation of other required self-insurance reports; development of members' assessments and fees; and administration of a claim fund;

I. "standard premium" means the premium derived from the manual rates adjusted by experience modification factors but before advance premium discounts;

J. "superintendent" means the superintendent of insurance; and

K. "workers' compensation benefits" means benefits pursuant to the Workers' Compensation Act or the New Mexico Occupational Disease Disablement Law."

## **Chapter 74 Section 7 Laws 2013**

SECTION 7. Section 58-19-7 NMSA 1978 (being Laws 1959, Chapter 204, Section 7, as amended) is amended to read:

"58-19-7. RETAIL INSTALLMENT CONTRACTS--REQUIREMENTS--PROHIBITIONS.--

A. A retail installment contract shall be in writing and shall be signed by both the buyer and the seller; it shall be completed as to all essential provisions prior to its signing by the buyer.

B. The printed portion of the contract, other than instructions for completion, shall be in at least eight-point type. The contract shall contain in a size equal to at least ten-point bold type the following notice: "Notice to the Buyer: 1. Do not sign this contract before you read it or if it contains any blank spaces. 2. You are entitled to an exact copy of the contract you sign."

C. The seller shall deliver to the buyer or mail to the buyer at the buyer's address shown on the contract a copy of the contract signed by the seller. Until the seller does so, a buyer who has not received delivery of the motor vehicle shall have the right to rescind the buyer's agreement and to receive a refund of all payments made and return of all goods traded in to the seller on account of or in contemplation of the contract; if such goods cannot be returned, the value thereof shall be paid by the seller. Any acknowledgment by the buyer or delivery of a copy of the contract shall be in a size equal to at least ten-point bold type and, if contained in the contract, shall appear directly above the buyer's signature.

D. Any such agreement shall contain immediately before the buyer's signature substantially the following notice printed or typed in a size equal to at least twelve-point bold type as follows:

"NOTICE TO BUYER

LIABILITY INSURANCE FOR BODILY INJURY CAUSED TO YOURSELF OR TO OTHERS OR PROPERTY DAMAGE CAUSED TO OTHERS IS NOT PROVIDED WITH THIS AGREEMENT. IF YOU DESIRE LIABILITY INSURANCE COVERAGE, YOU SHOULD OBTAIN SUCH COVERAGE FROM AN AGENT OF YOUR CHOICE."

E. The contract shall contain the following items:

(1) the names of the seller and the buyer, the place of business of the seller, the residence or place of business of the buyer as specified by the buyer and a description of the motor vehicle, including its make, year model, model and identification numbers or marks;

(2) the cash sale price of the motor vehicle;

(3) the amount of the buyer's down payment and whether made in money or goods;

(4) the difference between items in Paragraphs (2) and (3) of this subsection;

(5) the amount, if any, included for insurance and other benefits, specifying the types of coverage and benefits, and if it is the case, including as a benefit amounts paid or to be paid by the seller pursuant to agreement with the buyer to discharge a security interest, lien or lease interest on property traded in;

(6) the amount of official fees;

(7) the principal balance, which is the sum of items in Paragraphs (4), (5) and (6) of this subsection;

(8) the amount of the finance charge; and

(9) the time balance, which is the sum of items in Paragraphs (7) and (8) of this subsection, payable in installments by the buyer to the seller, the number of installments, the amount of each installment and the due date or term thereof.

The above items need not be stated in the sequence or order set forth, and additional items may be included to explain the calculations involved in determining the stated time balance to be paid by the buyer.

F. The amount, if any, included for insurance, which may be purchased by the holder of the retail installment contract, shall not exceed the applicable premiums chargeable in accordance with the rates filed with the office of superintendent of insurance. If dual interest insurance on the motor vehicle is purchased by the holder, it shall, within thirty days after execution of the retail installment contract, send or cause to be sent to the buyer a policy or policies or certificate of insurance written by an insurance company authorized to do business in this state, clearly setting forth the amount of the premium, the kind or kinds of insurance, the coverages and all the terms, exceptions, limitations, restrictions and conditions of the contract or contracts of insurance. The buyer shall have the privilege of purchasing such insurance from an agent or broker of the buyer's own selection and of selecting an insurance company acceptable to the holder, and in such case, the inclusion of the insurance premium in the retail installment contract shall be optional with the seller.

G. If any insurance is canceled or the premium adjusted, any refund of the insurance premium received by the holder shall be credited to the final maturing installments of the contract except to the extent applied toward payment for similar insurance protecting the interests of the buyer and the holder or either of them.

H. The holder may, if the contract or refinancing agreement so provides, collect a delinquency and collection charge on each installment in default for a period not less than ten days, in an amount not in excess of five percent of each installment or fifteen dollars (\$15.00), whichever is less. In addition to such delinquency and collection charge, the contract may provide for the payment of attorney fees not exceeding fifteen percent of the amount due and payable under such contract, where such contract is referred for collection to any attorney not a salaried employee of the holder of the contract, plus the court costs.

I. A buyer may transfer the buyer's equity in the motor vehicle at any time to another person upon agreement by the holder, but in such event, the holder of the contract shall be entitled to a transfer of equity fee, which shall not exceed twenty-five dollars (\$25.00).

J. No retail installment contract shall be signed by any party thereto when it contains blank spaces to be filled in after execution, except that if delivery of the motor vehicle is not made at the time of the execution of the contract, the identifying numbers

or marks of the motor vehicle or similar information and the due date of the first installment may be inserted in the contract after its execution. The buyer's written acknowledgement, conforming to the requirements of Subsection C of this section, of delivery of a copy of a contract shall be conclusive proof of such delivery, that the contract when signed did not contain any blank spaces except as herein provided and of compliance with this section in any action or proceeding by or against the holder of the contract.

K. Upon written request from the buyer, the holder of a retail installment contract shall give or forward to the buyer a written statement of the dates and amounts of payments made and the total amount unpaid under such contract. A buyer shall be given a written receipt for any payment when made in cash.

L. No provision in a retail installment contract relieving the seller from liability under any legal remedies that the buyer may have against the seller under the contract, or any separate instrument of similar import executed in connection therewith, shall be enforceable.

M. In the event that the seller or the holder of the retail installment contract repossesses a motor vehicle, the buyer shall be responsible and liable for any deficiency in accordance with Section 55-9-608 NMSA 1978."

## **Chapter 74 Section 8 Laws 2013**

SECTION 8. Section 59A-1-7 NMSA 1978 (being Laws 1984, Chapter 127, Section 7, as amended) is amended to read:

"59A-1-7. INSURANCE DEPARTMENT.--"Insurance department", "insurance division" or "division" means the office of superintendent of insurance."

## **Chapter 74 Section 9 Laws 2013**

SECTION 9. Section 59A-2-1 NMSA 1978 (being Laws 1984, Chapter 127, Section 19, as amended) is amended to read:

"59A-2-1. OFFICE OF SUPERINTENDENT OF INSURANCE.--

A. The office of superintendent of insurance, created as of July 1, 2013 by Article 11, Section 20 of the constitution of New Mexico, is an adjunct agency pursuant to Section 9-1-6 NMSA 1978.

B. All powers relating to state supervision of insurance, insurance rates and rate practices, together with collection of insurance licenses, taxes or fees, and all records pertaining to such supervision are under control of the office of superintendent of insurance."

## **Chapter 74 Section 10 Laws 2013**

SECTION 10. Section 59A-2-2 NMSA 1978 (being Laws 1984, Chapter 127, Section 20, as amended) is amended to read:

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

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

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

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

D. The superintendent's annual compensation shall be established by the legislature in an appropriations act and shall be no lower than that of the lowest-compensated cabinet secretary and no higher than that of the highest-compensated cabinet secretary.

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

## **Chapter 74 Section 11 Laws 2013**

SECTION 11. Section 59A-2-3 NMSA 1978 (being Laws 1984, Chapter 127, Section 21) is amended to read:

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

A. have been a resident of New Mexico for at least one year before appointment;

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

C. not have, nor have a spouse or child who has, any direct financial interest in an insurer, insurance agency or insurance transaction except as a



policyholder or a claimant under a policy or as an owner of less than one percent of the shares of an insurer that is a publicly traded corporation."

### **Chapter 74 Section 12 Laws 2013**

SECTION 12. Section 59A-2-4 NMSA 1978 (being Laws 1984, Chapter 127, Section 22, as amended) is amended to read:

"59A-2-4. STAFF.--The superintendent:

A. may hire employees and prescribe their duties and qualifications and fix their compensation pursuant to the Personnel Act; and

B. shall designate an employee of the office of superintendent of insurance as chief deputy superintendent, who shall be acting superintendent when the superintendent position is vacant or the superintendent is unable to perform the duties of that office because of mental or physical disability."

### **Chapter 74 Section 13 Laws 2013**

SECTION 13. Section 59A-2-8 NMSA 1978 (being Laws 1984, Chapter 127, Section 26) is amended to read:

"59A-2-8. GENERAL POWERS AND DUTIES OF SUPERINTENDENT.--The superintendent shall:

A. organize and manage the office of superintendent of insurance and direct and supervise all its activities;

B. execute the duties imposed upon the superintendent by the Insurance Code;

C. enforce those provisions of the Insurance Code that are administered by the superintendent;

D. have the powers and authority expressly conferred by or reasonably implied from the provisions of the Insurance Code;

E. 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;

F. have the power to sue or be sued;

G. 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;

H. prepare an annual budget for the office of superintendent of insurance;

I. 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;

J. comply with the provisions of the Administrative Procedures Act; and

K. have such additional powers and duties as may be provided by other laws of this state."

### **Chapter 74 Section 14 Laws 2013**

SECTION 14. A new section of the New Mexico Insurance Code is enacted to read:

"ANNUAL REPORT REQUIRED.--No later than December 1 of each year, the superintendent shall report to the legislature, to the insurance nominating committee and to the governor on the activities of the office of superintendent of insurance during the previous fiscal year."

### **Chapter 74 Section 15 Laws 2013**

SECTION 15. A new section of the New Mexico Insurance Code is enacted to read:

"INSURANCE NOMINATING COMMITTEE.--

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

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

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

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

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

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

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

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

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

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

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

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

B. A committee member shall:

(1) be a resident of New Mexico;

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

(3) serve without compensation, but shall be reimbursed for expenses incurred in pursuit of the member's duties on the committee pursuant to the Per Diem and Mileage Act.

C. The committee and individual members shall be subject to the Governmental Conduct Act, the Inspection of Public Records Act, the Financial Disclosure Act and the Open Meetings Act.

D. A regular session of the committee shall convene ninety days prior to the date of the initial term of the superintendent and thereafter ninety days prior to the date on which the term of a superintendent ends and shall conclude on the date that the initial superintendent or next superintendent takes office. The committee shall select a superintendent within sixty days of convening.

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

F. If a position on the committee becomes vacant during a term, a successor shall be selected in the same manner as the original appointment for that position and shall serve for the remainder of the term of the position vacated.

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

H. The committee shall select the applicant that, in the committee's judgment, is best qualified to serve as superintendent.

I. A majority vote of all members of the committee in favor of an applicant is required for that applicant to be appointed superintendent."

## **Chapter 74 Section 16 Laws 2013**

SECTION 16. Section 59A-2-12 NMSA 1978 (being Laws 1984, Chapter 127, Section 30) is amended to read:

"59A-2-12. RECORDS--INSPECTION--DESTRUCTION.--

A. The superintendent shall preserve in the office of superintendent of insurance and in permanent form copies of all notices and orders given or made and of all other papers and records relating to the business and transactions of the office and shall hand the same over to the superintendent's successor in office.

B. Except as otherwise provided by the Insurance Code or by order of court, the papers and records shall be open to public inspection. The superintendent may classify as confidential certain records and information obtained from another governmental agency or other source upon the express condition that they remain confidential or are deemed confidential by the superintendent, and such records and information shall not be subject to public inspection while confidentiality exists; except that no filing required to be made with the superintendent under the Insurance Code shall be deemed confidential unless expressly so provided by law.

C. The superintendent may destroy unneeded or obsolete records and filings in the office of superintendent of insurance pursuant to the Public Records Act."

## **Chapter 74 Section 17 Laws 2013**

SECTION 17. Section 59A-2-13 NMSA 1978 (being Laws 1984, Chapter 127, Section 31) is amended to read:

"59A-2-13. SEAL AS EVIDENCE.--The superintendent shall have an official seal. Every instrument executed by the superintendent in pursuance with law and sealed with such seal shall be received as evidence. Copies of books, records and papers kept or filed in the office of superintendent of insurance pursuant to law, certified by the superintendent and authenticated by the seal, shall be received in evidence in like manner as the originals."

## **Chapter 74 Section 18 Laws 2013**

SECTION 18. Section 59A-12-10 NMSA 1978 (being Laws 1997, Chapter 48, Section 1, as amended) is amended to read:

"59A-12-10. LICENSING OF LENDING INSTITUTION--DEFINITIONS AND EXCEPTIONS.--

A. As used in this section:

(1) "lending institution" means an institution, including its holding company, subsidiary or insurance agent, solicitor or broker affiliate, whose business includes accepting deposits or lending money in New Mexico, including banks, savings and loan associations and credit unions; "lending institution" does not include insurance companies;

(2) "holding company", "subsidiary" and "affiliate" mean those terms as defined in regulations adopted by the superintendent; except "bank holding company" means that term as defined in Section 2 of the federal Bank Holding Company Act of 1956;

(3) "public utility" means a private employer subject to the jurisdiction of the public regulation commission that is engaged in the business of providing telecommunications, electric, gas, water or steam heat services to the public;

(4) "sell" means to engage in the solicitation, sale and placement of insurance and such other related activities conducted by an agent, solicitor or broker pursuant to the Insurance Code;

(5) "service contract" means a contract issued on consumer products pursuant to which the vendor or manufacturer bears the cost of the repair or replacement of the consumer product;

(6) "insurance premium finance agreement" means an agreement by which an insured or a prospective insured promises to pay to any person engaged in the business of premium financing the amount advanced or to be advanced under the agreement to an insurer or to an insurance agent or broker in payment of premiums on an insurance contract; and

(7) "loan transaction" and any other reference to lending or extension of credit does not include loans made by broker-dealers registered in accordance with applicable state and federal securities laws that are wholly collateralized by securities.

B. A lending institution:

(1) that is a subsidiary or an affiliate of a state or federally chartered bank may be licensed to sell:

(a) any insurance in accordance with the Insurance Code and to the extent authorized by federal and state lending institution regulators; and

(b) annuities to the extent authorized by law and federal and state lending institution regulators; but nothing in this subparagraph shall affect the rights and obligations of nationally chartered lending institutions; and

(2) other than one described in Paragraph (1) of this subsection, may be licensed to sell:

(a) any insurance except title insurance in accordance with the Insurance Code and to the extent authorized by federal and state lending institution regulators; and

(b) annuities to the extent authorized by law and federal and state lending institution regulators; but nothing in this subparagraph shall affect the rights and obligations of nationally chartered lending institutions.

C. A public utility or its holding company, subsidiary or affiliate shall not be licensed to sell insurance or act as a broker for insurance in New Mexico.

D. As used in Subsections E through Y of this section, "insurance" means all products defined or regulated as insurance under the Insurance Code except:

(1) credit life, credit accident and health, credit involuntary unemployment, credit casualty and credit property insurance, and when providing

insurance coverage to a borrower or co-borrower or both, the following insurance products: accidental death and dismemberment, accidental disability and any other accidental casualty insurance product;

(2) insurance placed by a lending institution on the collateral pledged as security for a loan when the debtor breaches the contractual obligation to provide that insurance;

(3) private mortgage insurance and financial guarantee insurance;

(4) annuities;

(5) service contracts;

(6) insurance premium finance agreements; and

(7) travel accident or baggage insurance.

E. A lending institution shall not require as a condition precedent to the extension of credit, or any subsequent renewal thereof, or the procurement of other bank services that the customer purchase insurance through a particular insurer, agent, solicitor or broker.

F. A lending institution shall not extend credit, lease or sell property or furnish any other service or fix or vary the consideration for any of the foregoing on the condition or requirement that the customer obtain insurance from that lending institution or from a particular insurer, agent, solicitor or broker.

G. A lending institution shall not impose a requirement on an insurance agent, solicitor or broker who is not associated with the lending institution that is not imposed on an insurance agent, solicitor or broker who is associated with that institution or, unless otherwise authorized by applicable federal or state law, require a debtor, insurer, agent, solicitor or broker to pay a separate charge in connection with the handling of insurance that is required under a contract.

H. A lending institution, except an institution that does not accept deposits that are federally insured, that sells insurance on its premises shall:

(1) conspicuously post a notice that is clearly visible to anyone who may purchase insurance that insurance is not a deposit account insured by a federal deposit insuring agency;

(2) orally inform a prospective purchaser of insurance that insurance is not a deposit account insured by a federal deposit insuring agency; and

(3) provide a written disclosure to the customer containing the following statements before the sale of insurance is complete:

(a) insurance is not a lending institution deposit account and is not insured by its federal deposit insuring agency;

(b) insurance is not an obligation of or guaranteed by the lending institution;

(c) the customer is not required to obtain insurance from a particular lending institution, agent, solicitor or broker; and

(d) where applicable, insurance involves investment risk, including potential loss of principal.

I. The sale of insurance by a lending institution, except an institution that does not accept deposits that are federally insured, shall be effectuated in such a manner so as to avoid confusion between federally insured deposit products offered by a lending institution and the nonfederally insured insurance sold. Insurance advertisements and other sales material shall be accurate and not misleading or deceptive. Insurance advertising and other sales materials regarding insurance shall include disclosures that contain language that is the same or substantially similar to the following:

(1) insurance is not a lending institution deposit and is not insured by its federal deposit insuring agency;

(2) insurance is not an obligation of or guaranteed by the lending institution; and

(3) where applicable, insurance involves investment risk, including potential loss of principal.

J. Insurance operations may be conducted by the lending institution, its holding company, an affiliate or subsidiary of either or through a separate corporate entity or partnership.

K. A lending institution shall not provide nonpublic customer information to a third party for the purpose of another's sale of insurance without written authorization from the customer. As used in this subsection, "nonpublic customer information" means information regarding a person that has been derived from a record of a financial institution. "Nonpublic customer information" does not include customer names and addresses and telephone numbers or information about an individual that could be obtained from an unaffiliated credit bureau that is subject to the federal Fair Credit Reporting Act by a third party that is not entering into a credit relationship with the individual but has a legitimate need for the information in connection with a business



transaction with the individual; except that "nonpublic customer information" includes information concerning insurance premiums, the terms and conditions of insurance coverage, insurance expirations, insurance claims and insurance history of an individual. Notwithstanding any provision in this section to the contrary, compliance with Section 603 of the federal Fair Credit Reporting Act by a lending institution shall be deemed to be full compliance with this subsection. "Nonpublic customer information" does not include material excluded from the definition of "consumer report" by Section 603(d)(2)(A) of the federal Fair Credit Reporting Act.

L. Records relating to the insurance sales of a lending institution, including files relating to and reflecting customer complaints, shall be kept separate and apart from all records relating to the banking transactions of the lending institution. Records pertaining to insurance activities of the lending institution or copies of those records shall be subject to the inspection and audit by the office of superintendent of insurance. If the office determines to inspect and audit the records relating to the insurance activities of a lending institution, that institution shall make available to the office, at a location in New Mexico, the lending institution's records and knowledgeable personnel to assist in the interpretation of the lending institution's records.

M. A lending institution, or officer, director or employee acting on behalf of the institution, who qualifies for issuance of an agent's, solicitor's or broker's license pursuant to the Insurance Code may be issued an agent or broker license authorizing the sale of insurance.

N. A lending institution shall not pay a commission or other valuable consideration to a person for services of an insurance agent, solicitor or broker unless the person performing the service holds a valid insurance license for the class of insurance for which the service is rendered or performed at the time the service is performed. No person, other than a person properly licensed in accordance with the Insurance Code, shall accept any commission or valuable consideration for those services.

O. A lending institution shall not offer an inducement to a customer to purchase insurance from the institution other than as plainly expressed in the insurance policy. Investment programs, memberships or other programs designed or represented to waive, reduce, pay, produce or provide funds to pay all or part of the cost on insurance are an illegal inducement.

P. A lending institution may not in the same transaction solicit the purchase of insurance from a customer who has applied for a loan from the institution before the time the customer has received a written commitment from the lending institution with respect to that loan, or, in the event that no written commitment has been or will be issued in connection with the loan, a lending institution shall not solicit the purchase of insurance before the time the customer receives notification of approval of the loan by the lending institution and the institution creates a written record of the loan approval. This subsection shall not apply when a lending institution contacts a customer

in the course of direct or mass marketing to a group of persons in a manner that bears no relation to the customer's loan application or credit decision.

Q. The sale of insurance by a lending institution, credit union, sales finance company, insurance company, insurance agent, an institution that grants or arranges consumer credit or an institution that solicits or makes loans in New Mexico may be conducted by a person whose responsibilities include loan transactions or other transactions involving the extension of credit so long as the person who is primarily responsible for making the specific loan or extension of credit is not the same person engaged in the sale of insurance for that same transaction; provided, however, that the provisions of this subsection shall not apply to:

(1) a broker or dealer registered under the federal Securities Exchange Act of 1934; or

(2) a lending institution location that has three or fewer persons with lending authority.

R. If insurance is required as a condition of obtaining a loan, the credit and insurance transactions shall be completed independently and through separate documents.

S. A loan for premiums on required insurance shall not be included in the primary credit without the written consent of the customer, which may be evidenced by compliance with the federal Truth in Lending Act.

T. A person who engages in loan transactions at any office of, or on behalf of, a lending institution or any other agent, employee, director or officer of the lending institution may refer a customer who seeks to purchase, or seeks an opinion or advice on, any insurance product to a person, or may give the phone number of a person, who sells or provides opinions or advice on such products only if the customer expressly requests the referral; the person who engages in loan transactions does not solicit the customer request; and the person who engages in the loan transaction does not receive any compensation for the referral.

U. The location for the sale of insurance on the premises of a lending institution, except an institution that does not accept deposits that are federally insured, to the extent practicable shall be:

(1) physically located to be distinct from the lending activities of the institution; and

(2) clearly and conspicuously signed to be easily distinguishable by the public as separate and distinct from the lending activities of the institution.

V. Signs and other informational material concerning the availability of insurance products from the lending institution or third party soliciting the purchase of or selling insurance on the premises of the lending institution shall not be displayed to the extent practicable in an area where application for loans or other extensions of credit are being taken or closed.

W. Nothing in this section grants a lending institution, including its holding company, subsidiary or affiliate, except those enumerated in this section, the power to sell insurance that was not allowed prior to July 1, 1997.

X. Nothing in this section precludes the superintendent from adopting reasonable rules and regulations for the purposes of the administration of the provisions of this section, including rules and regulations for written disclosures.

Y. If any of the provisions of this section are preempted by federal law, then those preempted provisions shall not apply to any person or lending institution subject to the provisions of this section."

## **Chapter 74 Section 19 Laws 2013**

SECTION 19. Section 59A-16-21.1 NMSA 1978 (being Laws 2000, Chapter 58, Section 1) 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 a participating 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 thirty days of the date of receipt if submitted electronically or forty-five days if submitted manually; and

(2) "health plan" means health maintenance organizations, provider service networks or third-party payers or their agents.

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 participating provider and not paid within thirty days of the date of receipt; and

(2) the amount of a clean claim manually submitted by the participating 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 a participating provider within the times specified in Subsection B of this section, the health plan shall make a good-faith effort to notify the participating provider by fax, electronic or other written communication within thirty days of receipt of the claim if submitted electronically 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. By December 1, 2000, the office of superintendent of insurance, with input from interested parties, including health plans and participating providers, shall promulgate rules to require health plans to provide:

(1) timely participating 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 74 Section 20 Laws 2013**

SECTION 20. Section 59A-17-34 NMSA 1978 (being Laws 1984, Chapter 127, Section 329, as amended) is amended to read:

"59A-17-34. HEARINGS.--

A. Any person aggrieved by any action, threatened action or failure to act of the superintendent or otherwise under Chapter 59A, Article 17 NMSA 1978 shall have the same right to a hearing before the superintendent with respect thereto as provided for in general under Section 59A-4-15 NMSA 1978. Notice of hearing shall be given, the hearing conducted, rights and powers exercised and the superintendent's

order on hearing made and given as provided as to hearings in general under the applicable provisions of Chapter 59A, Article 4 NMSA 1978.

B. Any person aggrieved by the superintendent's order issued pursuant to this section or by the superintendent's refusal to hold the hearing may appeal the order or refusal to the court of appeals."

## **Chapter 74 Section 21 Laws 2013**

SECTION 21. Section 59A-17-35 NMSA 1978 (being Laws 1984, Chapter 127, Section 330, as amended) is amended to read:

"59A-17-35. APPEALS FROM SUPERINTENDENT.--Any order made by the superintendent pursuant to Section 59A-17-34 NMSA 1978, or by the superintendent's refusal to hold a hearing, shall be subject to review by appeal to the court of appeals. The decision of the superintendent shall be set aside only if it is shown that the decision is arbitrary or capricious or reflects an abuse of discretion; is not supported by substantial evidence; or is otherwise not in accordance with the law. Upon institution of the appeal and for good cause shown upon motion and hearing, the court may, in the following cases, stay operation of the superintendent's order:

A. where, pursuant to the Insurance Rate Regulation Law, an advisory organization has been refused a license or an insurer has been refused a certificate of authority or had its license or certificate of authority suspended, it may, with leave of court, be allowed to continue to engage in business, subject to the provisions of the Insurance Rate Regulation Law, pending final disposition of its application for review; or

B. where any order of the superintendent shall provide for a change in a rate or rating system that results in an increase or decrease in rates, an insurer affected may, with leave of court pending final disposition of the proceedings in the court of appeals, continue to charge rates that existed prior to the order, on condition that the difference in the rates be deposited in a special escrow or trust account with a reputable financial institution by the insurer affected, to be held in trust by the insurer and to be retained by the insurer or paid to the holders of policies issued after the order of the court, as the court may determine."

## **Chapter 74 Section 22 Laws 2013**

SECTION 22. Section 59A-17A-3 NMSA 1978 (being Laws 2005, Chapter 275, Section 3) is amended to read:

"59A-17A-3. DEFINITIONS.--As used in the Personal Insurance Credit Information Act:

A. "adverse action" means a denial or cancellation of, an increase in a charge for or a reduction or other adverse or unfavorable change in the terms of

coverage or amount of insurance, existing or applied for, in connection with the underwriting, rating or renewal of personal insurance, which adverse action occurs when an insurer offers insurance at less favorable terms than it would have offered a consumer if the consumer's credit information had been more favorable;

B. "affiliate" means a company that directly or indirectly controls, is controlled by or is under the common ownership or control of another company;

C. "company placement" means the assignment of a consumer to a particular insurer within a group of affiliates;

D. "consumer" means an individual applicant or insured whose credit information is relied upon or used to calculate an insurance score for underwriting, rating or renewing a personal insurance coverage;

E. "consumer reporting agency" means a person or entity that, for monetary fees, dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties;

F. "credit information" means a written, oral or other communication of information prepared by a consumer reporting agency or provided by the consumer on an application for or renewal of credit, bearing on a consumer's credit worthiness, credit standing or credit capacity, that is used or expected to be used or collected in whole or in part for the purpose of underwriting, rating or renewing a personal insurance coverage;

G. "insurance score" means a number or rating that is derived from an algorithm, computer application, model or other process that is based in whole or in part on credit information and is used for underwriting, rating or renewing personal insurance coverage; and

H. "personal insurance" means private passenger automobile, homeowners', motorcycle, mobile-homeowners', boat, personal watercraft, snowmobile, recreational vehicle, noncommercial dwelling fire, personal umbrella or any other type of insurance policy that is individually underwritten for personal, family or household use."

## **Chapter 74 Section 23 Laws 2013**

SECTION 23. Section 59A-18-13.3 NMSA 1978 (being Laws 2011, Chapter 144, Section 6) is amended to read:

"59A-18-13.3. HEALTH INSURANCE FILINGS--GROUNDS AND PROCEDURE FOR APPROVAL OR DISAPPROVAL.--

A. The superintendent shall issue a final order within sixty days of the filing date for health insurance filings made on rates. The superintendent shall consider any public comment made pursuant to Subsection H of Section 59A-18-13.2 NMSA 1978. The superintendent shall issue findings and shall approve any rates on the following grounds:

(1) the proposed rate is in compliance with federal law and the Insurance Code;

(2) the proposed rate does not contain, or incorporate by reference, any inconsistent, ambiguous or misleading clause, exception or condition that deceptively affects the risk purported to be assumed in the general coverage of the contract or that encourages misrepresentation of the policy or its benefits;

(3) the proposed rate is actuarially sound and is supported by the actuarial memorandum submitted;

(4) the proposed rate is reasonable, not excessive or inadequate and not unfairly discriminatory; and

(5) the proposed rate is based upon administrative expenses that are permitted by federal and state law.

B. In order to determine whether the proposed rates are reasonable, actuarially sound and based on reasonable administrative expenses, the superintendent shall consider, at a minimum:

(1) the financial position of the insurer's insurance operations in the state, including surplus and reserves as reported in the latest three years' financial statements filed by the insurer;

(2) information provided to the superintendent for calculation of the amount of the insurer's direct services reimbursement pursuant to Section 59A-22-50, 59A-23C-10, 59A-46-51 or 59A-47-46 NMSA 1978;

(3) any anticipated change in the number of enrollees if the proposed rate is approved;

(4) changes to covered benefits or health benefit plan design;

(5) the insurer's compliance with all federal and state requirements for pooling risk and for participation in risk adjustment programs in effect under federal and state law; and

(6) the reliability and accuracy of the information provided in order to assure a meaningful review.

C. No final order shall be issued until after the close of the public comment period pursuant to Subsection H of Section 59A-18-13.2 NMSA 1978.

D. In rate filings for which the superintendent holds a hearing on reconsideration pursuant to Section 59A-4-15 NMSA 1978, the superintendent shall issue a final order within sixty days of the hearing.

E. A final order of the superintendent under this section may be appealed to the court of appeals pursuant to the provisions of Section 59A-18-13.5 NMSA 1978 within twenty days.

F. As used in this section, "health insurance" or "health care plan" means a hospital and medical expense-incurred policy, plan or contract offered by a health insurer; nonprofit health service provider; health maintenance organization; managed care organization; or provider service organization; "health insurance" or "health care plan" does not include an individual policy intended to supplement major medical group-type coverage such as medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or any other limited-benefit health insurance policy."

## **Chapter 74 Section 24 Laws 2013**

SECTION 24. Section 59A-18-13.5 NMSA 1978 (being Laws 2011, Chapter 144, Section 8) is amended to read:

"59A-18-13.5. REVIEW OF HEALTH INSURANCE OR PLAN RATES--APPEAL TO COURT OF APPEALS FROM SUPERINTENDENT.--

A. In a matter arising from an order of the superintendent on appeal pursuant to Section 59A-18-13.3 NMSA 1978, an aggrieved party may appeal to the court of appeals.

B. The court of appeals shall consider the superintendent's order on appeal and reverse the order only if the court determines:

(1) after evaluation of the record of evidence as a whole, that the superintendent's decision was not based on substantial evidence as to whether the proposed rates are reasonable, actuarially sound and based on reasonable administrative expenses;

(2) that the superintendent's decision was arbitrary, capricious or an abuse of discretion; or

(3) that the superintendent's decision on appeal is otherwise not in accordance with law."



## **Chapter 74 Section 25 Laws 2013**

SECTION 25. Section 59A-21-9 NMSA 1978 (being Laws 1984, Chapter 127, Section 406a) is amended to read:

"59A-21-9. DISCRETIONARY GROUPS.--A policy of group life insurance may be issued to any other group that, in the discretion of the superintendent, may be subject to the issuance of a group life insurance contract."

## **Chapter 74 Section 26 Laws 2013**

SECTION 26. Section 59A-22-50 NMSA 1978 (being Laws 2010, Chapter 94, Section 1) is amended to read:

"59A-22-50. HEALTH INSURERS--DIRECT SERVICES.--

A. A health insurer shall make reimbursement for direct services at a level not less than eighty-five percent of premiums across all health product lines, except individually underwritten health insurance policies, contracts or plans, that are governed by the provisions of Chapter 59A, Article 22 NMSA 1978, the Health Maintenance Organization Law and the Nonprofit Health Care Plan Law. Reimbursement shall be made for direct services provided over the preceding three calendar years, but not earlier than calendar year 2010, as determined by reports filed with the office of superintendent of insurance. Nothing in this subsection shall be construed to preclude a purchaser from negotiating an agreement with a health insurer that requires a higher amount of premiums paid to be used for reimbursement for direct services for one or more products or for one or more years.

B. For individually underwritten health care policies, plans or contracts, the superintendent shall establish, after notice and informal hearing, the level of reimbursement for direct services, as determined by the reports filed with the office of superintendent of insurance, as a percent of premiums. Additional informal hearings may be held at the superintendent's discretion. In establishing the level of reimbursement for direct services, the superintendent shall consider the costs associated with the individual marketing and medical underwriting of these policies, plans or contracts at a level not less than seventy-five percent of premiums. A health insurer writing these policies shall make reimbursement for direct services at a level not less than that level established by the superintendent pursuant to this subsection over the three calendar years preceding the date upon which that rate is established, but not earlier than calendar year 2010. Nothing in this subsection shall be construed to preclude a purchaser of one of these policies, plans or contracts from negotiating an agreement with a health insurer that requires a higher amount of premiums paid to be used for reimbursement for direct services.

C. An insurer that fails to comply with the reimbursement requirements pursuant to this section shall issue a dividend or credit against future premiums to all

policyholders in an amount sufficient to assure that the benefits paid in the preceding three calendar years plus the amount of the dividends or credits are equal to the required direct services reimbursement level pursuant to Subsection A of this section for group health coverage and blanket health coverage or the required direct services reimbursement level pursuant to Subsection B of this section for individually underwritten health policies, contracts or plans for the preceding three calendar years. If the insurer fails to issue the dividend or credit in accordance with the requirements of this section, the superintendent shall enforce these requirements and may pursue any other penalties as provided by law, including general penalties pursuant to Section 59A-1-18 NMSA 1978.

D. After notice and hearing, the superintendent may adopt and promulgate reasonable rules necessary and proper to carry out the provisions of this section.

E. For the purposes of this section:

(1) "direct services" means services rendered to an individual by a health insurer or a health care practitioner, facility or other provider, including case management, disease management, health education and promotion, preventive services, quality incentive payments to providers and any portion of an assessment that covers services rather than administration and for which an insurer does not receive a tax credit pursuant to the Medical Insurance Pool Act or the Health Insurance Alliance Act; provided, however, that "direct services" does not include care coordination, utilization review or management or any other activity designed to manage utilization or services;

(2) "health insurer" means a person duly authorized to transact the business of health insurance in the state pursuant to the Insurance Code but does not include a person that only issues a limited-benefit policy intended to supplement major medical coverage, including medicare supplement, vision, dental, disease-specific, accident-only or hospital indemnity-only insurance policies, or that only issues policies for long-term care or disability income; and

(3) "premium" means all income received from individuals and private and public payers or sources for the procurement of health coverage, including capitated payments, self-funded administrative fees, self-funded claim reimbursements, recoveries from third parties or other insurers and interests less any premium tax paid pursuant to Section 59A-6-2 NMSA 1978 and fees associated with participating in a health insurance exchange that serves as a clearinghouse for insurance."

## **Chapter 74 Section 27 Laws 2013**

SECTION 27. Section 59A-23-6 NMSA 1978 (being Laws 1983, Chapter 64, Section 1, as amended) is amended to read:

"59A-23-6. ALCOHOL DEPENDENCY COVERAGE.--

A. Each insurer that delivers or issues for delivery in this state a group health insurance policy shall offer and make available benefits for the necessary care and treatment of alcohol dependency. Such benefits shall:

(1) be subject to annual deductibles and coinsurance consistent with those imposed on other benefits within the same policy;

(2) provide no less than thirty days necessary care and treatment in an alcohol dependency treatment center and thirty outpatient visits for alcohol dependency treatment; and

(3) be offered for benefit periods of no more than one year and may be limited to a lifetime maximum of no less than two benefit periods. Such offer of benefits shall be subject to the rights of the group health insurance holder to reject the coverage or to select any alternative level of benefits if that right is offered by or negotiated with that insurer.

B. For purposes of this section, "alcohol dependency treatment center" means a facility that provides a program for the treatment of alcohol dependency pursuant to a written treatment plan approved and monitored by a physician or meeting the quality standards of the behavioral health services division of the human services department and which facility also:

(1) is affiliated with a hospital under a contractual agreement with an established system for patient referral;

(2) is accredited as such a facility by the joint commission; or

(3) meets at least the minimum standards adopted by the behavioral health services division for treatment of alcoholism in regional treatment centers.

C. This section applies to policies delivered or issued for delivery or renewed, extended or amended in this state on or after July 1, 1983 or upon expiration of a collective bargaining agreement applicable to a particular policyholder, whichever is later; provided that this section does not apply to blanket, short-term travel, accident-only, limited or specified disease, individual conversion policies or policies designed for issuance to persons eligible for coverage under Title 18 of the Social Security Act, known as medicare, or any other similar coverage under state or federal governmental plans. With respect to any policy forms approved by the office of superintendent of insurance prior to the effective date of this section, an insurer is authorized to comply with this section by the use of endorsements or riders; provided that such endorsements or riders are approved by the office of superintendent of insurance as being in compliance with this section and applicable provisions of the Insurance Code.

D. If an organization offering group health benefits to its members makes more than one health insurance policy or nonprofit health care plan available to its members on a member option basis, the organization shall not require alcohol dependency coverage from one health insurer or health care plan without requiring the same level of alcohol dependency coverage for all other health insurance policies or health care plans that the organization makes available to its members."

## **Chapter 74 Section 28 Laws 2013**

SECTION 28. Section 59A-23C-10 NMSA 1978 (being Laws 2010, Chapter 94, Section 2) is amended to read:

### **"59A-23C-10. HEALTH INSURERS--DIRECT SERVICES.--**

A. A health insurer shall make reimbursement for direct services at a level not less than eighty-five percent of premiums across all health product lines over the preceding three calendar years, but not earlier than calendar year 2010, as determined by reports filed with the office of superintendent of insurance. Nothing in this subsection shall be construed to preclude a purchaser from negotiating an agreement with a health insurer that requires a higher amount of premiums paid to be used for reimbursement for direct services for one or more products or for one or more years.

B. An insurer that fails to comply with the eighty-five percent reimbursement requirement in Subsection A of this section shall issue a dividend or credit against future premiums to all policyholders in an amount sufficient to assure that the benefits paid in the preceding three calendar years plus the amount of the dividends or credits equal eighty-five percent of the premiums collected in the preceding three calendar years. If the insurer fails to issue the dividend or credit in accordance with the requirements of this section, the superintendent shall enforce the requirements and may pursue any other penalties as provided by law, including general penalties pursuant to Section 59A-1-18 NMSA 1978.

C. After notice and hearing, the superintendent may adopt and promulgate reasonable rules necessary and proper to carry out the provisions of this section.

D. For the purposes of this section:

(1) "direct services" means services rendered to an individual by a health insurer or a health care practitioner, facility or other provider, including case management, disease management, health education and promotion, preventive services, quality incentive payments to providers and any portion of an assessment that covers services rather than administration and for which an insurer does not receive a tax credit pursuant to the Medical Insurance Pool Act or the Health Insurance Alliance Act; provided, however, that "direct services" does not include care coordination, utilization review or management or any other activity designed to manage utilization or services;

(2) "health insurer" means a person duly authorized to transact the business of health insurance in the state pursuant to the Insurance Code but does not include a person that only issues a limited-benefit policy intended to supplement major medical coverage, including medicare supplement, vision, dental, disease-specific, accident-only or hospital indemnity-only insurance policies, or that only issues policies for long-term care or disability income; and

(3) "premium" means all income received from individuals and private and public payers or sources for the procurement of health coverage, including capitated payments, self-funded administrative fees, self-funded claim reimbursements, recoveries from third parties or other insurers and interests less any premium tax paid pursuant to Section 59A-6-2 NMSA 1978 and fees associated with participating in a health insurance exchange that serves as a clearinghouse for insurance."

## **Chapter 74 Section 29 Laws 2013**

SECTION 29. 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 mental retardation or physical handicap 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 74 Section 30 Laws 2013**

SECTION 30. Section 59A-30-4.1 NMSA 1978 (being Laws 2009, Chapter 80, Section 13) is amended to read:

"59A-30-4.1. REPORTING BY SUPERINTENDENT.--The superintendent shall compile a report for the legislature no later than October 1 each year beginning in 2013 detailing title insurance statistics, including a report on the status of price competition within the title insurance industry in New Mexico. Annual reports shall be made available to interested parties and the general public."

### **Chapter 74 Section 31 Laws 2013**

SECTION 31. Section 59A-35-12 NMSA 1978 (being Laws 1984, Chapter 127, Section 601, as amended) is amended to read:

"59A-35-12. PERMIT AS INDUCEMENT.--

A. The granting of a securities permit is permissive only and shall not constitute an endorsement or approval by the superintendent or any other agency or department of the state of New Mexico of any person or thing related to the offering of securities or constitute evidence of the completeness or accuracy of information presented in any prospectus or other sales publicity or literature, or a recommendation of purchase of any securities offered. The existence of the permit shall not be advertised or used as an inducement in any solicitation.

B. Each permit issued by the superintendent shall state conspicuously in boldface type the substance of Subsection A of this section in terminology prescribed by the superintendent."

### **Chapter 74 Section 32 Laws 2013**

SECTION 32. Section 59A-46-51 NMSA 1978 (being Laws 2010, Chapter 94, Section 3) is amended to read:

"59A-46-51. HEALTH MAINTENANCE ORGANIZATIONS--DIRECT SERVICES.-

A. A health maintenance organization shall make reimbursement for direct services at a level not less than eighty-five percent of premiums across all health product lines, except individually underwritten health insurance policies, contracts or plans, that are governed by the provisions of Chapter 59A, Article 22 NMSA 1978, the Health Maintenance Organization Law and the Nonprofit Health Care Plan Law.



Reimbursement shall be made for direct services provided over the preceding three calendar years, but not earlier than calendar year 2010, as determined by reports filed with the office of superintendent of insurance. Nothing in this subsection shall be construed to preclude a purchaser from negotiating an agreement with a health maintenance organization that requires a higher amount of premiums paid to be used for reimbursement for direct services for one or more products or for one or more years.

B. For individually underwritten health care policies, plans or contracts, the superintendent shall establish, after notice and informal hearing, the level of reimbursement for direct services, as determined by the reports filed with the office of superintendent of insurance, as a percent of premiums. Additional informal hearings may be held at the superintendent's discretion. In establishing the level of reimbursement for direct services, the superintendent shall consider the costs associated with the individual marketing and medical underwriting of these policies, plans or contracts at a level not less than seventy-five percent of premiums. A health insurer or health maintenance organization writing these policies, plans or contracts shall make reimbursement for direct services at a level not less than that level established by the superintendent pursuant to this subsection over the three calendar years preceding the date upon which that rate is established, but not earlier than calendar year 2010. Nothing in this subsection shall be construed to preclude a purchaser of one of these policies, plans or contracts from negotiating an agreement with a health insurer or health maintenance organization that requires a higher amount of premiums paid to be used for reimbursement for direct services.

C. A health maintenance organization that fails to comply with the reimbursement requirements pursuant to this section shall issue a dividend or credit against future premiums to all policy or contract holders in an amount sufficient to assure that the benefits paid in the preceding three calendar years plus the amount of the dividends or credits are equal to the required direct services reimbursement level pursuant to Subsection A of this section for group health coverage and blanket health coverage or the required direct services reimbursement level pursuant to Subsection B of this section for individually underwritten health policies, contracts or plans for the preceding three calendar years. If the insurer fails to issue the dividend or credit in accordance with the requirements of this section, the superintendent shall enforce these requirements and may pursue any other penalties as provided by law, including general penalties pursuant to Section 59A-1-18 NMSA 1978.

D. After notice and hearing, the superintendent may adopt and promulgate reasonable rules necessary and proper to carry out the provisions of this section.

E. For the purposes of this section:

(1) "direct services" means services rendered to an individual by a health maintenance organization or a health care practitioner, facility or other provider, including case management, disease management, health education and promotion, preventive services, quality incentive payments to providers and any portion of an

assessment that covers services rather than administration and for which an insurer does not receive a tax credit pursuant to the Medical Insurance Pool Act or the Health Insurance Alliance Act; provided, however, that "direct services" does not include care coordination, utilization review or management or any other activity designed to manage utilization or services;

(2) "health maintenance organization" means any person who undertakes to provide or arrange for the delivery of basic health care services to enrollees on a prepaid basis, except for enrollee responsibility for copayments or deductibles, but does not include a person that only issues a limited-benefit policy or contract intended to supplement major medical coverage, including medicare supplement, vision, dental, disease-specific, accident-only or hospital indemnity-only insurance policies, or that only issues policies for long-term care or disability income; and

(3) "premium" means all income received from individuals and private and public payers or sources for the procurement of health coverage, including capitated payments, self-funded administrative fees, self-funded claim reimbursements, recoveries from third parties or other insurers and interests less any premium tax paid pursuant to Section 59A-6-2 NMSA 1978 and fees associated with participating in a health insurance exchange that serves as a clearinghouse for insurance."

## **Chapter 74 Section 33 Laws 2013**

SECTION 33. Section 59A-47-46 NMSA 1978 (being Laws 2010, Chapter 94, Section 4) is amended to read:

"59A-47-46. HEALTH INSURERS--DIRECT SERVICES.--

A. A health care plan shall make reimbursement for direct services at a level not less than eighty-five percent of premiums across all health product lines, except individually underwritten health care policies, contracts or plans, that are governed by the provisions of Chapter 59A, Article 22 NMSA 1978, the Health Maintenance Organization Law and the Nonprofit Health Care Plan Law. Reimbursement shall be made for direct services provided over the preceding three calendar years, but not earlier than calendar year 2010, as determined by reports filed with the office of superintendent of insurance. Nothing in this subsection shall be construed to preclude a purchaser from negotiating an agreement with a health insurer that requires a higher amount of premiums paid to be used for reimbursement for direct services for one or more products or for one or more years.

B. For individually underwritten health care policies, plans or contracts, the superintendent shall establish, after notice and informal hearing, the level of reimbursement for direct services as determined as a percent of premiums. Additional hearings may be held at the superintendent's discretion. In establishing the level of reimbursement for direct services, the superintendent shall consider the costs

associated with the individual marketing and medical underwriting of these policies, plans or contracts at a level not less than seventy-five percent of premiums. A health insurer writing these policies, plans or contracts shall make reimbursement for direct services at a level not less than that level established by the superintendent pursuant to this subsection over the three calendar years preceding the date upon which that rate is established, but not earlier than calendar year 2010. Nothing in this subsection shall be construed to preclude a purchaser of one of these policies, plans or contracts from negotiating an agreement with a health insurer that requires a higher amount of premiums paid to be used for reimbursement for direct services.

C. A health care plan that fails to comply with the reimbursement requirements pursuant to this section shall issue a dividend or credit against future premiums to all policyholders in an amount sufficient to assure that the benefits paid in the preceding three calendar years plus the amount of the dividends or credits are equal to the required direct services reimbursement level pursuant to Subsection A of this section for group health coverage and blanket health coverage or the required direct services reimbursement level pursuant to Subsection B of this section for individually underwritten health policies, contracts or plans for the preceding three calendar years. If the insurer fails to issue the dividend or credit in accordance with the requirements of this section, the superintendent shall enforce these requirements and may pursue any other penalties as provided by law, including general penalties pursuant to Section 59A-1-18 NMSA 1978.

D. After notice and hearing, the superintendent may adopt and promulgate reasonable rules necessary and proper to carry out the provisions of this section.

E. For the purposes of this section:

(1) "direct services" means services rendered to an individual by a health care plan, health insurer or a health care practitioner, facility or other provider, including case management, disease management, health education and promotion, preventive services, quality incentive payments to providers and any portion of an assessment that covers services rather than administration and for which a health care plan or a health insurer does not receive a tax credit pursuant to the Medical Insurance Pool Act or the Health Insurance Alliance Act; provided, however, that "direct services" does not include care coordination, utilization review or management or any other activity designed to manage utilization or services;

(2) "health care plan" means a nonprofit corporation authorized by the superintendent to enter into contracts with subscribers and to make health care expense payments but does not include a person that only issues a limited-benefit policy intended to supplement major medical coverage, including medicare supplement, vision, dental, disease-specific, accident-only or hospital indemnity-only insurance policies, or that only issues policies for long-term care or disability income; and

(3) "premium" means all income received from individuals and private and public payers or sources for the procurement of health coverage, including capitated payments, self-funded administrative fees, self-funded claim reimbursements, recoveries from third parties or other insurers and interests less any premium tax paid pursuant to Section 59A-6-2 NMSA 1978 and fees associated with participating in a health insurance exchange that serves as a clearinghouse for insurance."

## **Chapter 74 Section 34 Laws 2013**

SECTION 34. Section 59A-53-19 NMSA 1978 (being Laws 2006, Chapter 103, Section 8, as amended) is amended to read:

"59A-53-19. FIRE PROTECTION GRANT COUNCIL--DUTIES.--

A. The "fire protection grant council" is created. Subject to the requirements of Subsection B of this section, the council shall consist of:

- (1) a representative of the New Mexico municipal league;
  - (2) a representative of the New Mexico association of counties;
  - (3) two members appointed by the public regulation commission who shall serve at the pleasure of the commission;
  - (4) three members, one from each congressional district, appointed by the governor who shall serve at the pleasure of the governor; and
  - (5) the marshal, who shall serve as a nonvoting advisory member.
- The council shall elect a chair and vice chair from its membership.

B. No appointee to the council shall be a member or employee of the public regulation commission or the office of superintendent of insurance.

C. The public members are entitled to receive per diem and mileage as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

D. The council shall develop criteria for assessing the critical needs of municipal 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; and
- (6) stipends for volunteer firefighters in underserved areas.

E. Applications for grant assistance from the fire protection grant fund shall be made by fire districts to the council in accordance with the requirements of the council. Using criteria developed by the council, the council shall evaluate applications and prioritize those applications most in need of grant assistance from the fund. To the extent that money in the fund is available, the council shall award grant assistance for those prioritized applications.

F. In awarding grant assistance, the council may require conditions and procedures necessary to ensure that the money is expended in the most prudent manner.

G. When considering applications for grant assistance to pay stipends to volunteer firefighters in underserved areas, the council shall:

- (1) define "underserved area";
- (2) ensure the proposed stipends will comply with the federal Fair Labor Standards Act of 1938 and United States department of labor requirements for maintaining volunteer status;
- (3) require a basic level of training before a volunteer may receive a stipend;
- (4) consider whether the fire district requires a service commitment from its volunteer firefighters in exchange for stipends; and
- (5) weight the applications against other criteria or requirements determined by the council."

## **Chapter 74 Section 35 Laws 2013**

SECTION 35. Section 59A-56-3 NMSA 1978 (being Laws 1994, Chapter 75, Section 3, as amended) is amended to read:

"59A-56-3. DEFINITIONS.--As used in the Health Insurance Alliance Act:

- A. "alliance" means the New Mexico health insurance alliance;
- B. "approved health plan" means any arrangement for the provisions of health insurance offered through and approved by the alliance;

C. "board" means the board of directors of the alliance;

D. "child" means a dependent unmarried individual who is less than twenty-five years of age;

E. "creditable coverage" means, with respect to an individual, coverage of the individual pursuant to:

(1) a group health plan;

(2) health insurance coverage;

(3) Part A or Part B of Title 18 of the federal Social Security Act;

(4) Title 19 of the federal Social Security Act except coverage consisting solely of benefits pursuant to Section 1928 of that title;

(5) 10 USCA Chapter 55;

(6) a medical care program of the Indian health service or of an Indian nation, tribe or pueblo;

(7) the Medical Insurance Pool Act;

(8) a health plan offered pursuant to 5 USCA Chapter 89;

(9) a public health plan as defined in federal regulations; or

(10) a health benefit plan offered pursuant to Section 5(e) of the federal Peace Corps Act;

F. "department" means the office of superintendent of insurance;

G. "director" means an individual who serves on the board;

H. "earned premiums" means premiums paid or due during a calendar year for coverage under an approved health plan less any unearned premiums at the end of that calendar year plus any unearned premiums from the end of the immediately preceding calendar year;

I. "eligible expenses" means the allowable charges for a health care service covered under an approved health plan;

J. "eligible individual":

(1) means an individual who:

(a) as of the date of the individual's application for coverage under an approved health plan, has an aggregate of eighteen or more months of creditable coverage, the most recent of which was under a group health plan, governmental plan or church plan as those plans are defined in Subsections P, N and D of Section 59A-23E-2 NMSA 1978, respectively, or health insurance offered in connection with any of those plans; but for the purposes of aggregating creditable coverage, a period of creditable coverage shall not be counted with respect to enrollment of an individual for coverage under an approved health plan if, after that period and before the enrollment date, there was a sixty-three-day or longer period during all of which the individual was not covered under any creditable coverage; or

(b) is entitled to continuation coverage pursuant to Section 59A-56-20 or 59A-23E-19 NMSA 1978; and

(2) does not include an individual who:

(a) has or is eligible for coverage under a group health plan;

(b) is eligible for coverage under medicare or a state plan under Title 19 of the federal Social Security Act or any successor program;

(c) has health insurance coverage as defined in Subsection R of Section 59A-23E-2 NMSA 1978;

(d) during the most recent coverage within the coverage period described in Subparagraph (a) of Paragraph (1) of this subsection was terminated from coverage as a result of nonpayment of premium or fraud; or

(e) has been offered the option of coverage under a COBRA continuation provision as that term is defined in Subsection F of Section 59A-23E-2 NMSA 1978, or under a similar state program, except for continuation coverage under Section 59A-56-20 NMSA 1978, and did not exhaust the coverage available under the offered program;

K. "enrollment date" means, with respect to an individual covered under a group health plan or health insurance coverage, the date of enrollment of the individual in the plan or coverage or, if earlier, the first day of the waiting period for that enrollment;

L. "gross earned premiums" means premiums paid or due during a calendar year for all health insurance written in the state less any unearned premiums at the end of that calendar year plus any unearned premiums from the end of the immediately preceding calendar year;

M. "group health plan" means an employee welfare benefit plan to the extent the plan provides hospital, surgical or medical expenses benefits to employees or

their dependents, as defined by the terms of the plan, directly through insurance, reimbursement or otherwise;

N. "health care service" means a service or product furnished an individual for the purpose of preventing, alleviating, curing or healing human illness or injury and includes services and products incidental to furnishing the described services or products;

O. "health insurance" means "health" insurance as defined in Section 59A-7-3 NMSA 1978; any hospital and medical expense-incurred policy; nonprofit health care plan service contract; health maintenance organization subscriber contract; short-term, accident, fixed-indemnity, specified-disease policy or disability income insurance contracts and limited health benefit or credit health insurance; coverage for health care services under uninsured arrangements of group or group-type contracts, including employer self-insured, cost-plus or other benefits methodologies not involving insurance or not subject to New Mexico premium taxes; coverage for health care services under group-type contracts that are not available to the general public and can be obtained only because of connection with a particular organization or group; or coverage by medicare or other governmental programs providing health care services; but "health insurance" does not include insurance issued pursuant to provisions of the Workers' Compensation Act or similar law, automobile medical payment insurance or provisions by which benefits are payable with or without regard to fault and are required by law to be contained in any liability insurance policy;

P. "health maintenance organization" means a health maintenance organization as defined by Subsection M of Section 59A-46-2 NMSA 1978;

Q. "incurred claims" means claims paid during a calendar year plus claims incurred in the calendar year and paid prior to April 1 of the succeeding year, less claims incurred previous to the current calendar year and paid prior to April 1 of the current year;

R. "insured" means a small employer or its employee and an individual covered by an approved health plan, a former employee of a small employer who is covered by an approved health plan through conversion or an individual covered by an approved health plan that allows individual enrollment;

S. "medicare" means coverage under both Parts A and B of Title 18 of the federal Social Security Act;

T. "member" means a member of the alliance;

U. "nonprofit health care plan" means a health care plan as defined in Subsection K of Section 59A-47-3 NMSA 1978;



V. "premiums" means the premiums received for coverage under an approved health plan during a calendar year;

W. "small employer" means a person that is a resident of this state, that has employees at least fifty percent of whom are residents of this state, that is actively engaged in business and that, on at least fifty percent of its working days during either of the two preceding calendar years, employed no fewer than two and no more than fifty eligible employees; provided that:

(1) in determining the number of eligible employees, the spouse or dependent of an employee may, at the employer's discretion, be counted as a separate employee;

(2) companies that are affiliated companies or that are eligible to file a combined tax return for purposes of state income taxation shall be considered one employer; and

(3) in the case of an employer that was not in existence throughout a preceding calendar year, the determination of whether the employer is a small or large employer shall be based on the average number of employees that it is reasonably expected to employ on working days in the current calendar year;

X. "total premiums" means the total premiums for business written in the state received during a calendar year; and

Y. "unearned premiums" means the portion of a premium previously paid for which the coverage period is in the future."

## **Chapter 74 Section 36 Laws 2013**

SECTION 36. Section 59A-56-25 NMSA 1978 (being Laws 1994, Chapter 75, Section 25, as amended) is amended to read:

"59A-56-25. EXPANDED SERVICE DEVELOPMENT.--The office of superintendent of insurance, in cooperation with the alliance, shall develop a plan to provide health insurance coverage for uninsured children, individuals and other employers, including outreach and technical assistance activities conducted by the alliance to increase employer, employee and public awareness of available health insurance coverage options and to assist employers in securing or retaining health insurance coverage for employees and their dependents."

## **Chapter 74 Section 37 Laws 2013**

SECTION 37. Section 59A-58-2 NMSA 1978 (being Laws 2001, Chapter 206, Section 2) is amended to read:

"59A-58-2. DEFINITIONS.--As used in the Service Contract Regulation Act:

A. "administrator" means a person who is responsible for administering a service contract that is issued, sold or offered for sale by a provider;

B. "consumer" means a person who purchases, other than for resale, property used primarily for personal, family or household purposes and not for business or research purposes;

C. "holder" means a resident of this state who:

(1) purchases a service contract; or

(2) is legally in possession of a service contract and is entitled to enforce the rights of the original purchaser of the service contract;

D. "maintenance agreement" means a contract for a limited period that provides only for scheduled maintenance;

E. "major manufacturing company" means a person who:

(1) manufactures or produces and sells products under its own name or label or is a wholly owned subsidiary of the person who manufactures or produces products; and

(2) maintains, or its parent company maintains, a net worth or stockholders' equity of at least one hundred million dollars (\$100,000,000);

F. "property" means all property, whether movable at the time of purchase or a fixture, that is used primarily for personal, family or household purposes;

G. "provider" means a person who is contractually obligated to a holder or to indemnify the holder for the costs of repairing, replacing or performing maintenance on property;

H. "service contract" means a contract pursuant to which a provider, in exchange for separately stated consideration, is obligated for a specified period to a holder to repair, replace or perform maintenance on, or indemnify or reimburse the holder for the costs of repairing, replacing or performing maintenance on, property that is described in the service contract and that has an operational or structural failure as a result of a defect in materials, workmanship or normal wear and tear, including:

(1) a contract that includes a provision for incidental payment of indemnity under limited circumstances, including towing, rental and emergency road service and food spoilage; and

(2) a contract that provides for the repair, replacement or maintenance of property for damages that result from power surges or accidental damage from handling; and

I. "warranty" means a warranty provided solely by a manufacturer, importer or seller of property for which the manufacturer, importer or seller did not receive separate consideration and that:

(1) is not negotiated or separated from the sale of the property;

(2) is incidental to the sale of the property; and

(3) guarantees to indemnify the consumer for defective parts, mechanical or electrical failure, labor or other remedial measures required to repair or replace the property."

## **Chapter 74 Section 38 Laws 2013**

SECTION 38. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS, PERSONNEL, APPROPRIATIONS, PROPERTY, RECORDS, CONTRACTS AND REFERENCES IN LAW.--On the effective date of this act, all:

A. staff positions and all money, appropriations, records, furniture, equipment, supplies and other property belonging to the insurance division of the public regulation commission are transferred to the office of superintendent of insurance;

B. existing contracts, agreements and other obligations in effect for the insurance division of the public regulation commission shall be binding on the office of superintendent of insurance;

C. pending cases, legal actions, appeals and other legal proceedings and all pending administrative proceedings that involve the insurance division of the public regulation commission shall be unaffected and shall continue in the name of the office of superintendent of insurance;

D. rules, orders and other official acts of the insurance division of the public regulation commission shall continue in effect until amended, replaced or repealed by the office of superintendent of insurance; and

E. references in law, rules, orders and other official acts to the insurance department or the insurance division of the public regulation commission shall be deemed to be references to the office of superintendent of insurance.

## **Chapter 74 Section 39 Laws 2013**

SECTION 39. TEMPORARY PROVISION--APPOINTMENTS TO INSURANCE  
NOMINATING COMMITTEE--SUPERINTENDENT SELECTION.--

A. Within fifteen days of the effective date of this act, if it is adopted with an emergency clause, or as soon as practicable otherwise, the governor and the New Mexico legislative council shall appoint their members to the insurance nominating committee.

B. The insurance nominating committee shall pursue its duties on a foreshortened schedule as necessary to select a superintendent of insurance by July 1, 2013.

**Chapter 74 Section 40 Laws 2013**

SECTION 40. REPEAL.--Sections 8-8-9, 59A-1-4 and 59A-18-13.4 NMSA 1978 (being Laws 1998, Chapter 108, Section 9, Laws 1984, Chapter 127, Section 4 and Laws 2011, Chapter 144, Section 7, as amended) are repealed.

**Chapter 74 Section 41 Laws 2013**

SECTION 41. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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HJC/House Bill 45, aa, w/ec

Approved March 29, 2013

**LAWS 2013, CHAPTER 75**

AN ACT

RELATING TO CORPORATIONS; IMPLEMENTING A CONSTITUTIONAL MANDATE TO TRANSFER RESPONSIBILITY FOR CHARTERING AND REGULATING CORPORATIONS FROM THE PUBLIC REGULATION COMMISSION TO THE SECRETARY OF STATE.

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

**Chapter 75 Section 1 Laws 2013**

SECTION 1. Section 3-28-4 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-27-4, as amended) is amended to read:

"3-28-4. ACKNOWLEDGMENT AND FILING OF ORIGINAL CERTIFICATE--RECORDING OF COPY.--The certificate of association shall be acknowledged as required for deeds of real estate and shall be filed in the office of the secretary of state, and a copy of the certificate, duly certified by the secretary of state, shall be recorded in the office of the county clerk of the county or counties where the lands or works are located. The certificate or a copy thereof duly certified by the secretary of state or county clerk shall be evidence in all courts and places."

## **Chapter 75 Section 2 Laws 2013**

SECTION 2. Section 3-28-6 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-27-6, as amended) is amended to read:

"3-28-6. AMENDMENT OF CERTIFICATE OF INCORPORATION.--Every association formed under Chapter 3, Article 28 NMSA 1978 may change its name, increase or decrease its capital stock or membership, change the location of its principal office in this state, extend the period of its existence and make such other amendment, change or alteration as may be desired, not inconsistent with Chapter 3, Article 28 NMSA 1978 or other law of this state, by a resolution duly adopted by a two-thirds' vote of the entire membership of the board of directors. A certified copy of such resolution with the affidavit of the president and secretary that the resolution was duly adopted by a two-thirds' vote of the entire membership of the board of directors at a meeting held in accordance with the provisions of its bylaws shall be filed and recorded as provided for filing the original certificate of incorporation, and, thereupon, the certificate of incorporation shall be deemed to be amended accordingly, and a copy of the certificate of amendment certified by the secretary of state and the county clerk shall be accepted as evidence of such change or amendment in all courts and places."

## **Chapter 75 Section 3 Laws 2013**

SECTION 3. Section 3-29-17 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-28-17, as amended) is amended to read:

"3-29-17. FILING OF CERTIFICATE AND BYLAWS.--The certificate of association and bylaws shall be acknowledged as required for deeds of real estate and shall be filed in the office of the secretary of state. A copy of the certificate, duly certified by the secretary of state or county clerk, shall be evidence in all courts and places."

## **Chapter 75 Section 4 Laws 2013**

SECTION 4. Section 3-29-17.2 NMSA 1978 (being Laws 2001, Chapter 200, Section 5) is amended to read:

"3-29-17.2. CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT.--

A. An association may change its registered office or its registered agent, or both, by filing in the office of the secretary of state a statement that includes:

- (1) the name of the association;
- (2) the address of its registered office;
- (3) if the address of the association's registered office is changed, the address to which the registered office is changed;
- (4) the name of its registered agent;
- (5) if the association's registered agent is changed:
  - (a) the name of its successor registered agent; and
  - (b) if the successor registered agent is an individual, a statement executed by the successor registered agent acknowledging acceptance of the appointment by the filing association as its registered agent; or
  - (c) if the successor registered agent is a corporation, an affidavit executed by the president or vice president of the corporation in which the officer acknowledges the corporation's acceptance of the appointment by the filing association as its registered agent;
- (6) a statement that the address of the association's registered office and the address of the office of its registered agent, as changed, will be identical; and
- (7) a statement that the change was authorized by resolution duly adopted by its board of directors.

B. The statement made pursuant to the provisions of Subsection A of this section shall be executed by the association by any two members and delivered to the secretary of state. If the secretary of state finds that the statement conforms to the provisions of the Sanitary Projects Act, it shall file the statement in the office of the secretary of state. The change of address of the registered office, or the appointment of a new registered agent, or both, shall become effective upon filing of the statement required by this section.

C. A registered agent of an association may resign as agent upon filing a written notice thereof, executed in duplicate, with the secretary of state. The secretary of state shall mail a copy immediately to the association in care of an officer, who is not the resigning registered agent, at the address of the officer as shown by the most recent annual report of the association. The appointment of the agent shall terminate upon the expiration of thirty days after receipt of the notice by the secretary of state."

## **Chapter 75 Section 5 Laws 2013**

SECTION 5. Section 3-29-17.4 NMSA 1978 (being Laws 2001, Chapter 200, Section 7, as amended) is amended to read:

"3-29-17.4. ANNUAL REPORT.--

A. An association shall file, within the time prescribed by the Sanitary Projects Act, on forms prescribed and furnished by the secretary of state to the association not less than thirty days prior to the date the report is due, an annual report setting forth:

(1) the name of the association;

(2) the address of the registered office of the association in the state and the name of its registered agent in this state at that address;

(3) a brief statement of the character of the affairs that the association is actually conducting; and

(4) the names and respective addresses of the directors and officers of the association.

B. The report shall be signed and sworn to by two of the members of the association. If the association is in the hands of a receiver or trustee, the report shall be executed on behalf of the association by the receiver or trustee. A copy of the report shall be maintained at the association's principal place of business as contained in the report and shall be made available to the general public for inspection during regular business hours."

## **Chapter 75 Section 6 Laws 2013**

SECTION 6. Section 3-29-19 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-28-19, as amended) is amended to read:

"3-29-19. AMENDMENT OF CERTIFICATE OF ASSOCIATION AND BYLAWS--METHOD.--Every association may make such amendment, change or alteration to its certificate of association or bylaws as may be desired not inconsistent with the Sanitary Projects Act or other law of this state by a resolution adopted by a vote of a majority of the members present at any regular or special meeting duly held upon such notice as the bylaws provide. A certified copy of such resolution with the affidavit of the president and secretary that the resolution was duly adopted by a majority vote of the members at a meeting held in accordance with the provisions of this section shall be filed and recorded as provided for filing and recording the original certificate of association and bylaws, and thereupon the certificate of association and bylaws shall be deemed to be amended accordingly, and a copy of such certificate of amendment certified by the

secretary of state or the county clerk shall be accepted as evidence of each change or amendment in all courts and places."

## **Chapter 75 Section 7 Laws 2013**

SECTION 7. Section 3-29-20 NMSA 1978 (being Laws 2000, Chapter 56, Section 4, as amended) is amended to read:

"3-29-20. REORGANIZATION OF COOPERATIVE ASSOCIATIONS AND NONPROFIT CORPORATIONS PURSUANT TO THE SANITARY PROJECTS ACT.--

A. Cooperative associations formed pursuant to Sections 53-4-1 through 53-4-45 NMSA 1978 and nonprofit corporations formed under the Nonprofit Corporation Act may reorganize under the Sanitary Projects Act upon approval of the reorganization by a majority vote of a quorum of the members of a cooperative association or nonprofit corporation. Notice of the meeting to consider the reorganization and a copy of the proposed certificate of association shall be sent at least fifteen days prior to such meeting by the cooperative association to each member at the member's last known address and by the nonprofit corporation to each member, if any, at the member's last known address. Upon approval of the reorganization by the majority vote of a quorum of the members, the cooperative association or the nonprofit corporation shall execute a certificate of association pursuant to Sections 3-29-16 and 3-29-17 NMSA 1978. The certificate of association shall state that it supersedes the articles of incorporation and all amendments to the articles of incorporation of the cooperative association or the nonprofit corporation.

B. Duplicate originals of the certificate of association shall be filed with the secretary of state. One duplicate original of the certificate of association shall be returned to the association.

C. The certificate of association is effective upon filing and supersedes the articles of incorporation and all amendments to the articles of incorporation of the prior cooperative association or nonprofit corporation. The association shall:

(1) be the surviving entity, and the separate existence of the prior cooperative association or nonprofit corporation shall cease;

(2) have all of the rights, privileges, immunities and powers and shall be subject to all the duties and liabilities of an association organized pursuant to the Sanitary Projects Act;

(3) possess all the rights, privileges, immunities and franchises of the prior cooperative association or nonprofit corporation. All property, real, personal and mixed; all debts due on whatever account; all other choses in action; and all and every other interest of or belonging to or due to the prior cooperative association or nonprofit corporation shall be taken and deemed to be transferred to and vested in the



association without further act or deed. The title to any real estate, or any interest therein, vested in the prior cooperative association or nonprofit corporation shall not revert or be in any way impaired by reason of the reorganization; and

(4) be liable for all the liabilities and obligations of the prior cooperative association or nonprofit corporation, and any claim existing or action or proceeding pending by or against the cooperative association or nonprofit corporation may be prosecuted as if the reorganization had not taken place or the new association may be substituted in its place. Neither the rights of creditors nor any liens upon the property of the cooperative association or nonprofit corporation shall be impaired by the reorganization.

D. A cooperative association formed pursuant to the Cooperative Association Act or nonprofit corporation formed pursuant to the Nonprofit Corporation Act that reorganized under Subsection A of this section prior to June 30, 2006 may, within three years of the effective date of this 2006 act, reorganize pursuant to the act under which it had previously been organized upon approval of the reorganization by a two-thirds' vote of the directors of the association or corporation. Notice of the meeting to consider the reorganization and a copy of the proposed articles of incorporation shall be sent by the association or the corporation at least fifteen days prior to the meeting to each member at the member's last known address. Upon approval of the reorganization, the association or corporation shall execute articles of incorporation pursuant to Sections 53-4-5 and 53-4-6 or 53-8-31 and 53-8-32 NMSA 1978. The articles of incorporation shall state that they supersede the certificate of association or incorporation and all amendments thereto of the association or corporation and shall follow the filing procedures of Subsections B and C of this section."

## **Chapter 75 Section 8 Laws 2013**

SECTION 8. Section 7-1-80 NMSA 1978 (being Laws 1965, Chapter 248, Section 83, as amended) is amended to read:

"7-1-80. DISSOLUTION OR WITHDRAWAL OF CORPORATION.--The secretary of state shall not issue any certificate of dissolution to any taxpayer or allow any corporate taxpayer to withdraw from the state until:

A. the taxpayer files with the secretary of state a certificate signed by the secretary of taxation and revenue or the secretary of taxation and revenue's delegate stating that as of a certain date the taxpayer is not liable for any tax and containing a statement verified by a responsible official of the corporation to the effect that the taxpayer has not engaged in business after the date above specified. If the taxpayer has so engaged in business, any certificate of dissolution or withdrawal shall be of no effect and all liabilities of the corporation shall continue as if no certificate had been granted;

B. a successor, acceptable to the secretary of taxation and revenue or the secretary's delegate, to any corporation requesting dissolution or withdrawal enters into a binding agreement by provision of which the successor assumes full liability for payment of all taxes due or expected to become due from the corporation and certification thereof is given by the secretary of taxation and revenue or the secretary's delegate; or

C. satisfactory security for payment of the taxes due or expected to become due from the corporation is furnished in accordance with the provisions of Section 7-1-54 NMSA 1978 and certification thereof is given by the secretary of taxation and revenue or the secretary's delegate."

## **Chapter 75 Section 9 Laws 2013**

SECTION 9. A new section of Chapter 8, Article 4 NMSA 1978 is enacted to read:

" CORPORATIONS.--As of July 1, 2013, the secretary of state, pursuant to Article 11, Section 19 of the constitution of New Mexico, shall assume responsibility for chartering corporations as provided by law, including the performance of the functions of the former corporations bureau of the public regulation commission. As used in Chapter 53, Articles 1, 2, 4 through 6, 7B, 8, 11 through 14 and 16 through 20 NMSA 1978, except for Subsection D of Section 53-5-8 NMSA 1978, references to the "public regulation commission", "state corporation commission" or "commission" shall be construed to be references to the secretary of state."

## **Chapter 75 Section 10 Laws 2013**

SECTION 10. Section 8-8-7 NMSA 1978 (being Laws 1998, Chapter 108, Section 7, as amended) is amended to read:

"8-8-7. ADMINISTRATIVE SERVICES DIVISION--CHIEF CLERK.--

A. The director of the administrative services division of the commission shall record the judgments, rules, orders and other proceedings of the commission and make a complete index to the judgments, rules, orders and other proceedings; issue and attest all processes issuing from the commission and affix the seal of the commission to them; and preserve the seal and other property belonging to the commission.

B. The administrative services division shall perform the following functions:

- (1) case docketing;
- (2) budget and accounting;

- (3) personnel services;
- (4) procurement; and
- (5) information systems services."

## **Chapter 75 Section 11 Laws 2013**

SECTION 11. Section 21-21A-16 NMSA 1978 (being Laws 1981, Chapter 319, Section 16, as amended) is amended to read:

"21-21A-16. ANNUAL REPORT AND AUDIT.--

A. The foundation shall, promptly following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor, the secretary of state, the state auditor and the legislative finance committee. Each report shall set forth a complete operating and financial statement of the foundation during the year. The board of directors of the foundation shall annually contract with an independent certified public accountant, licensed by the state, to perform an examination and audit of the accounts and books of the foundation, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing, and shall make a determination as to whether the foundation has complied with the provisions of the Educational Assistance Act. The person performing the audit shall furnish copies of the audit report to the governor, the secretary of state, the state auditor and the legislative finance committee, where they shall be placed on file and made available for inspection by the general public.

B. Subject to the provisions of any contract with bondholders or noteholders, the foundation shall prescribe a system of accounts.

C. The costs of audits and examinations performed pursuant to this section shall be paid by the foundation."

## **Chapter 75 Section 12 Laws 2013**

SECTION 12. Section 21-23-12 NMSA 1978 (being Laws 1975, Chapter 148, Section 12, as amended) is amended to read:

"21-23-12. COOPERATION.--The higher education department shall cooperate with federal and other state agencies in administering the provisions of the Post-Secondary Educational Institution Act. The secretary of state shall cooperate with the higher education department by identifying post-secondary educational institutions that apply for corporate charters. The public education department shall cooperate with the higher education department by providing the technical assistance necessary to develop minimum standards that post-secondary educational institutions shall meet and

any other assistance that would be of aid in the administration of the Post-Secondary Educational Institution Act."

## **Chapter 75 Section 13 Laws 2013**

SECTION 13. Section 21-28-17 NMSA 1978 (being Laws 1989, Chapter 264, Section 17, as amended) is amended to read:

"21-28-17. ANNUAL REPORT AND AUDIT.--

A. A research park corporation shall, within ninety days following the close of each fiscal year, submit an annual report of its activities for the preceding year as required by the Nonprofit Corporation Act or the Business Corporation Act under which the research park is incorporated. The board of directors of the research park corporation shall annually contract with an independent certified public accountant, licensed by the state, to perform an examination and audit of the accounts and books of the research park corporation, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing, and the certified public accountant shall make a determination as to whether the research park corporation has complied with the provisions of the University Research Park and Economic Development Act. The person performing the audit shall furnish copies of the audit report to the regents of the university and the secretary of state, where they shall be placed on file and made available for inspection by the general public.

B. Subject to the provisions of any contract with bondholders or noteholders, a research park corporation shall prescribe a system of accounts.

C. The costs of audits and examinations performed pursuant to this section shall be paid by the research park corporation."

## **Chapter 75 Section 14 Laws 2013**

SECTION 14. Section 49-2-18 NMSA 1978 (being Laws 1967, Chapter 43, Section 1) is amended to read:

"49-2-18. CONVERSION OF CORPORATIONS ORGANIZED UNDER LAWS 1891, CHAPTER 86 INTO GENERAL CORPORATIONS.--Twenty or more owners and proprietors of record of a corporation organized under Laws 1891, Chapter 86 may prepare proposed articles of incorporation and bylaws and a plan of conversion for the purpose of converting the existing corporation into a corporation organized under the general corporation law of this state. Upon notice, the proposers shall call a meeting of all owners and proprietors of record entitled to vote in the affairs of the existing corporation. The notice shall be published in English in a newspaper of general circulation in a county in which the existing corporation is located, once a week for three consecutive weeks, the last publication to be not more than thirty days prior to the date

set for the meeting. Similar publication shall also be made in Spanish if there is a Spanish language newspaper of general circulation in the county. The proposed articles of incorporation and bylaws and the plan of conversion shall be presented at the meeting, and, if approved by a vote of the majority of the owners and proprietors of record present at the meeting, then, upon the filing of the articles of incorporation and bylaws with the secretary of state and the issuance of a certificate of incorporation, the corporation organized under Laws 1891, Chapter 86 is converted into a domestic corporation authorized to do business and entitled to all privileges and immunities of a domestic corporation organized under the general corporation laws of this state."

## **Chapter 75 Section 15 Laws 2013**

SECTION 15. Section 57-5-1 NMSA 1978 (being Laws 1933, Chapter 177, Section 1) is amended to read:

"57-5-1. DEFINITIONS.--As used in Chapter 57, Article 5 NMSA 1978:

A. "corporation" means any subsidiary holding company, joint purchasing or selling association, business trust, joint stock association and officers and agents or employees serving in any capacity;

B. "person" means a natural person, partnership, firm of two or more persons having a joint or common interest or a corporation, association or business trust;

C. "producer" means all persons or their distributors or agents who make, manufacture, lease, license or sell motion pictures of any kind;

D. "distributor" means all persons or their agents who make, manufacture, buy, act as lessor, sell or traffic in motion pictures in any way;

E. "product" means any stated number of motion pictures, group, series or the annual output of motion pictures of any producer, manufacturer or distributor of motion pictures;

F. "theatre" means any auditorium, room, hall or place where motion pictures are exhibited, played or shown;

G. "exhibitor" means any person engaged in the showing and exhibition of motion pictures;

H. "competitive situation" means any municipality in which there are two or more persons engaged in the business of exhibiting motion pictures and each is a competitor of the other;

I. "competitive exhibitor" means any person owning or operating any motion picture show or theatre or who is in any way interested in the exhibition of motion pictures in any municipality where there are two or more competitive exhibitors engaged in the business;

J. "box office value" means the potential power of a motion picture to draw patronage;

K. "franchise" means any contract, agreement or understanding whereby a producer or distributor either grants or gives the exclusive right to use of its product to another producer, distributor, exhibitor or other person for a period of more than one year;

L. "first run pictures" means any motion picture that has not been previously exhibited or shown in a certain municipality;

M. "second run pictures" means any motion picture that has been previously exhibited or shown in one or more consecutive days in a certain municipality;

N. "first run theatre" means any theatre that exhibits first run pictures, and not more than two second run pictures in each calendar month, throughout the year;

O. "second run theatre" means any theatre that exhibits more than two second run pictures in any calendar month throughout the year;

P. "playing arrangement" means the number of days a motion picture is to be played, the admission price to be charged and the specific conditions governing the playing of a motion picture when any of these arrangements are specified in the contracts or leasing, licensing or renting arrangements between exhibitor and distributor;

Q. "play" means the exhibition, presentation or showing of motion pictures or productions in motion picture theaters; and

R. "state corporation commission" or "corporation commission" means the secretary of state."

## **Chapter 75 Section 16 Laws 2013**

SECTION 16. Section 58-1-3 NMSA 1978 (being Laws 1963, Chapter 305, Section 3, as amended) is amended to read:

"58-1-3. DEFINITIONS.--As used in the Banking Act, unless the context otherwise requires:

A. "action" in the sense of a judicial proceeding means any proceeding in which rights are determined;

B. "allowances for loan and lease losses" means the difference between:

(1) the balance of the valuation reserve on the date of the most recent federal financial institutions examination council report of condition or income plus additions to the reserve charged to operations since that date; and

(2) losses charged against the allowance, net of recoveries;

C. "board" means the board of directors of any given bank;

D. "capital" or "capital stock" means the amount of common stock outstanding and unimpaired plus the amount of perpetual preferred stock outstanding and unimpaired;

E. "capital surplus" means the total of those accounts reflecting:

(1) amounts paid in excess of the par or stated value of capital stock;

(2) amounts contributed to the bank other than for capital stock;

(3) amounts transferred from undivided profits pursuant to Section 58-1-55 NMSA 1978; and

(4) other amounts transferred from undivided profits;

F. "commissioner" or "director" means the director of the financial institutions division of the regulation and licensing department;

G. "community" means a city, town or village in this state;

H. "county" means any of the political subdivisions of this state as defined in Chapter 4 NMSA 1978, except that when applied to locations within the exterior boundaries of a federally recognized Indian reservation or pueblo, "county" means all lands within the exterior boundaries of that reservation or pueblo without regard to the county boundaries established in Chapter 4 NMSA 1978. For purposes of the Banking Act, the Indian reservation or pueblo lands defined as a "county" by this subsection shall be considered to be adjoining any of the counties, as defined by Chapter 4 NMSA 1978, that are adjoining the county or counties in which that Indian reservation or pueblo is located;

I. "court" means a court of competent jurisdiction;

J. "cumulative voting" means, in all elections of directors, each shareholder shall have the right to vote the number of shares owned by the shareholder for as many persons as there are directors to be elected or to cumulate such shares and give one candidate as many votes as the number of directors, multiplied by the number of the shareholder's shares, shall equal or to distribute them on the same principle among as many candidates as the shareholder thinks fit. In deciding all other questions at meetings of shareholders, each shareholder shall be entitled to one vote on each share of stock held by the shareholder, except that this shall not be construed as limiting the voting rights of holders of preferred stock under the terms and provisions of articles of association or amendments thereto;

K. "department" or "division" means the financial institutions division of the regulation and licensing department;

L. "executive officer", when referring to a bank, means any person designated as such in the bylaws and includes, whether or not so designated, the president, any vice president, the treasurer, the cashier and the comptroller or auditor, or any person who performs the duties appropriate to those offices;

M. "fiduciary" means a trustee, agent, executor, administrator, committee, guardian or conservator for a minor or other incompetent person, receiver, trustee in bankruptcy, assignee for creditors or any holder of a similar position of trust;

N. "good faith" means honesty in fact in the conduct or transaction concerned;

O. "intangible assets" means those purchased assets that are required to be reported as intangible assets by the federal deposit insurance corporation;

P. "item" means any instrument for the payment of money, even though it is not negotiable, but does not include money;

Q. "legal tender" means coins and currency;

R. "lessee" means a person contracting with a lessor for the use of a safe deposit box;

S. "lessor" means a bank or subsidiary renting safe deposit facilities and includes a safe deposit company organized and operating under the jurisdiction of the division solely for the purpose of leasing safe deposit facilities;

T. "limited life preferred stock" means preferred stock that has a stated maturity date or may be redeemed at the option of the holder;

U. "mandatory convertible debt" means a subordinated debt instrument that:



(1) unqualifiedly requires the issuer to exchange either common or perpetual preferred stock for the instrument by a date on or before the expiration of twelve years; and

(2) meets the requirements of Subparagraph (b) of Paragraph (2) of Subsection DD of this section or other requirements adopted by the division;

V. "minority interest in consolidated subsidiaries" means the portion of equity capital accounts of all consolidated subsidiaries of the bank that is allocated to minority shareholders of those subsidiaries;

W. "mortgage servicing rights" means the rights owned by the bank to service for a fee mortgage loans that are owned by others;

X. "officer", when referring to a bank, means any person designated as such in the bylaws and includes, whether or not so designated, any executive officer, the chair of the board of directors, the chair of the executive committee and any trust officer, assistant vice president, assistant treasurer, assistant cashier, assistant comptroller or any person who performs the duties appropriate to those offices;

Y. "perpetual preferred stock" means preferred stock that does not have a stated maturity date and cannot be redeemed at the option of the holder;

Z. "person" means an individual, corporation, partnership, joint venture, trust estate or unincorporated association;

AA. "reason to know" means that, to a person of ordinary intelligence, the fact in question exists or has a substantial chance of existing and that the exercise of reasonable care would predicate conduct upon the assumption of its existence;

BB. "safe deposit box" means a safe deposit box, vault or other safe deposit receptacle maintained by a lessor, and the rules relating thereto apply to property or documents kept in safekeeping in the bank's vault;

CC. "state corporation commission" means the secretary of state; and

DD. "surplus" or "unimpaired surplus fund":

(1) means:

(a) the difference between: 1) the sum of capital surplus; undivided profits; reserves for contingencies and other capital reserves, excluding accrued dividends on perpetual and limited life preferred stock; minority interests in consolidated subsidiaries; and allowances for loan and lease losses; and 2) intangible assets, including those, other than mortgage servicing rights, purchased prior to April 15, 1985, but not to exceed twenty-five percent of Item 1) of this subparagraph;

(b) purchased mortgage servicing rights;

(c) mandatory convertible debt to the extent of twenty percent of the sum of Subparagraph (d) and Subparagraphs (a) and (b) of this paragraph; and

(d) other mandatory convertible debt, limited preferred stock and subordinated notes and debentures; and

(2) is subject to the following limitations:

(a) issues of limited life preferred stock and subordinated notes and debentures, except mandatory convertible debt, must have original weighted average maturities of at least five years to be included in surplus;

(b) a subordinated note or debenture must also: 1) be subordinated to the claims of depositors; 2) state on the instrument that it is not a deposit and is not insured by the federal deposit insurance corporation; 3) be approved as capital by the division; 4) be unsecured; 5) be ineligible as collateral for a loan by the issuing bank; 6) provide that once any scheduled payments of principal begin, all scheduled payments shall be made at least annually and the amount repaid in each year shall be no less than in the prior year; and 7) provide that no accelerated payment by reason of default or otherwise may be made without the prior written approval of the division; and

(c) the total amount of mandatory convertible debt included in Subparagraph (d) of Paragraph (1) of this subsection considered as surplus is limited to fifty percent of the sum of Subparagraphs (a) and (c) of Paragraph (1) of this subsection."

## **Chapter 75 Section 17 Laws 2013**

SECTION 17. Section 58-10-2 NMSA 1978 (being Laws 1967, Chapter 61, Section 2, as amended) is amended to read:

"58-10-2. DEFINITIONS.--As used in the Savings and Loan Act:

A. "association" means a savings association or savings and loan association or building and loan association subject to the provisions of the Savings and Loan Act;

B. "dividends or interest on savings accounts" means that part of the income of an association that is declared payable on savings accounts from time to time by the board of directors and is the cost of savings-money to the association;

C. "federal association" means a savings and loan association incorporated pursuant to the Home Owners Loan Act of 1933, as amended, whose principal business office is located within this state;

D. "loss reserves" means the aggregate amount of the reserves allocated by an association for the sole purpose of absorbing losses;

E. "member" means a person holding a savings account in an association, or borrowing from, assuming or obligated upon a loan in which an association has an interest or owning property that secures a loan in which an association has an interest;

F. "savings account" means that part of the savings liability of an association that is credited to a member by reason of the placement of funds in the association;

G. "savings and loan association" means an association whose primary purpose is to promote thrift and home financing and whose principal activity is the lending to its members of money accumulated in savings accounts of its members;

H. "savings liability" means the aggregate amount of the withdrawal value of the savings accounts of the members of an association at any particular time as shown by the books of the association;

I. "service corporation" means an organization, substantially all the activities of which consist of originating, purchasing, selling and servicing loans upon real estate and participating interests therein, or clerical, bookkeeping, accounting, statistical or similar functions performed primarily for financial institutions, plus such other activities as the supervisor may approve;

J. "state corporation commission" means the secretary of state;

K. "supervisor" means the chief of the savings and loan bureau appointed by and acting under supervision of the director of the financial institutions division of the regulation and licensing department or the director of the financial institutions division if the position is vacant;

L. "surplus" means the aggregate amount of the undistributed earnings of an association held as undivided profits or unallocated reserves for general corporate purposes and any paid-in surplus held by an association;

M. "withdrawal value of a savings account" means the credit balance of a savings account at any particular time as shown by the books of the association; and

N. "net worth" means the sum of all reserve accounts, undivided profits, surplus, capital stock and any other notwithdrawable accounts."

## Chapter 75 Section 18 Laws 2013

SECTION 18. Section 58-11-10 NMSA 1978 (being Laws 1987, Chapter 311, Section 10, as amended) is amended to read:

### "58-11-10. FORMATION OF CREDIT UNION.--

A. Any seven or more residents of this state of legal age that share the common bond referred to in Section 58-11-21 NMSA 1978 may organize a credit union and become charter members thereof by complying with this section.

B. The organizers shall prepare, adopt and execute in triplicate articles of organization and agree to the terms thereof. The articles shall state:

(1) the credit union's name and the location of the proposed credit union's principal place of business;

(2) that the existence of the credit union shall be perpetual;

(3) the names and addresses of the organizers; and

(4) that each member shall subscribe to one share of the credit union.

C. The organizers shall prepare, adopt and execute in duplicate bylaws consistent with the Credit Union Act for the general governance of the credit union.

D. The organizers shall select at least five persons who are eligible for membership and who agree to become members and serve on the board of directors and at least three other persons who are eligible for membership and who agree to become members and serve on the supervisory committee. The persons selected to serve on the board of directors and supervisory committee shall execute an agreement to serve in these capacities until the first annual meeting or until the election of their respective successors, whichever is later.

E. The organizers shall forward the triplicate articles of organization, the duplicate bylaws and the agreements to serve to the director who shall act upon the application within sixty days. The director shall issue a certificate of approval if the articles and bylaws are in conformity with applicable provisions of the Credit Union Act and the director is satisfied that:

(1) the characteristics of the common bond set forth in the proposed bylaws are favorable to the economic viability of the proposed credit union;

(2) the reputation and character of the initial board of directors and supervisory committee provide assurance that the credit union's affairs will be properly administered; and

(3) the share and deposit insurance requirements of Section 58-11-48 NMSA 1978 will be met.

F. The following provisions apply to issuance and denial of certificate:

(1) if the director issues a certificate of approval, the director shall return a copy of the bylaws to the organizers and, upon payment of the required fee, file the triplicate originals of the articles of organization with the secretary of state; and

(2) if the director denies a certificate of approval, the director shall notify the organizers and set forth reasons for the denial. The organizers may appeal the director's decision to the court of appeals within thirty days after receipt of the notice of denial.

G. The organizers shall not transact any credit union business until a certificate of approval has been received and shall accept no payments on shares or deposit until insurance of accounts has been obtained as provided by Section 58-11-48 NMSA 1978.

H. Any credit union, the articles of organization of which have been approved by the director, shall commence business within six months after satisfactory proof has been filed with the director showing that insurance of share and deposit accounts has been obtained. Upon showing of good cause for failure to commence business within this time, the director may grant a reasonable extension to overcome the reason for delay. Failure to commence business as required in this section or failure to obtain insurance of accounts within one year from the date of approval of the articles of organization constitutes grounds for forfeiture of the credit union's articles of organization."

## **Chapter 75 Section 19 Laws 2013**

SECTION 19. Section 58-12-3 NMSA 1978 (being Laws 1973, Chapter 114, Section 3, as amended) is amended to read:

"58-12-3. FORMATION OF CORPORATION--PURPOSE.--Any seven or more credit unions in this state or in any other state organized and existing under the provisions of the Credit Union Act or under other substantially similar state laws may, subject to the prior approval of the director, form a corporation under the Credit Union Share Insurance Corporation Act to be known as the "New Mexico credit union share insurance corporation" for the purpose of creating and maintaining a fund for the insurance of shares and deposits of those credit unions that become members. Each of the credit unions participating in the formation of the corporation shall execute articles of

incorporation therefor, which shall be submitted for filing to the secretary of state with a filing fee of five dollars (\$5.00) after the articles of incorporation have been approved by the director. In the event that credit unions chartered in other states join this corporation, the corporate name may be changed by the board of directors to reflect such multistate membership. Any contract or agreement or amendment thereto for the purposes of joining this corporation to which a credit union chartered in another state is a party shall be subject to prior review and approval by the director."

## **Chapter 75 Section 20 Laws 2013**

SECTION 20. Section 59A-34-5 NMSA 1978 (being Laws 1984, Chapter 127, Section 551) is amended to read:

"59A-34-5. FILING, RECORDING OF ARTICLES--AUTHORITY TO RAISE CAPITAL OR TRANSACT INSURANCE REQUIRED.--

A. When executed and acknowledged by the incorporators, the articles of incorporation shall be filed with the secretary of state, and copies thereof certified by the secretary of state shall be filed with the superintendent and recorded in the office of the county clerk in the county of New Mexico wherein the corporation proposes to have its principal place of business.

B. Upon completion of such filings and recording, the secretary of state shall issue to the corporation a certificate of incorporation, and incorporation shall be deemed effective as of date of issuance of such certificate.

C. The corporation shall not raise any capital through sale of shares or otherwise except in compliance with Chapter 59A, Article 35 NMSA 1978, and shall not transact business as an insurer until it has applied for and received from the superintendent a certificate of authority as provided for under Chapter 59A, Article 5 NMSA 1978."

## **Chapter 75 Section 21 Laws 2013**

SECTION 21. Section 59A-34-6 NMSA 1978 (being Laws 1984, Chapter 127, Section 552) is amended to read:

"59A-34-6. AMENDMENT OF ARTICLES OF INCORPORATION.--

A. The articles of incorporation of a stock insurer may be amended in accordance with the general statutes of New Mexico applying to corporations formed for profit. A copy of the amendment, certified by the secretary of state, shall be filed with the superintendent, and a copy likewise certified shall be recorded in the county clerk's office of the county of the corporation's principal place of business. No amendment shall reduce authorized capital below the amount of paid-in capital stock required under

Section 59A-5-16 NMSA 1978 for the certificate of authority covering the kinds of insurance immediately thereafter to be transacted by the insurer.

B. The articles of incorporation of a mutual insurer may be amended by the affirmative vote of two-thirds of its members present in person or by proxy at a regular or special meeting of its members of which notice in writing of the proposed amendment was mailed to all members at least thirty days in advance, unless notice shall otherwise be provided for as approved by the superintendent. A certificate of the amendment, signed and acknowledged by the president and attested by the secretary of the corporation, shall be filed and recorded as required of original articles of incorporation."

## **Chapter 75 Section 22 Laws 2013**

SECTION 22. Section 59A-50-4 NMSA 1978 (being Laws 1984, Chapter 127, Section 910) is amended to read:

"59A-50-4. REQUIREMENTS AND APPLICATION FOR CERTIFICATE OF AUTHORITY.--

A. Each motor club shall obtain a certificate of authority by filing a written application with the superintendent as hereinafter provided and otherwise in such form and manner as the superintendent shall require.

B. The applicant shall furnish to the superintendent such data and information as the superintendent may deem reasonably necessary to enable the superintendent to determine, in accordance with the provisions of Chapter 59A, Article 50 NMSA 1978, whether or not a certificate of authority should be issued to the applicant. It shall be executed under oath by the applicant, or if other than an individual, by an authorized officer of the applicant, and the information filed with the application shall include the following:

(1) if such applicant is a corporation, a certificate of good standing from the secretary of state, together with the names and addresses of all officers and directors, and the names and addresses of all persons owning in excess of ten percent of the capital stock of the corporation issued and outstanding;

(2) if not incorporated, a list of all persons owning an interest in the applicant, the officers thereof and the parties to any operating or management agreement affecting the applicant, together with a copy of such agreement;

(3) a financial statement certified by a registered or certified public accountant, as of the end of the next preceding calendar year, presenting fairly, in accordance with generally accepted accounting principles, the financial position of the applicant and containing such other information as the superintendent may prescribe;

(4) a copy of its service contract, the terms of which shall not:

(a) contain inconsistent, ambiguous or misleading clauses or exceptions or conditions that deceptively affect the risk purported to be assumed or the service to be performed;

(b) contain any inequitable provision or provisions without substantial benefit to the member or subscriber; or

(c) provide for the payment of fees that are unreasonable in relation to the services agreed to be performed;

(5) security in the form of a deposit or bond of not less than twenty-five thousand dollars (\$25,000) nor more than two hundred thousand dollars (\$200,000) with the amount to be based upon annual membership fees collected from state residents at the following rates:

Annual Resident Fees	Amount of Deposit or Bond
\$ 1.00 to \$ 150,000.00	\$25,000.00
\$ 150,001.00 to \$ 250,000.00	\$ 40,000.00
\$ 250,001.00 to \$ 500,000.00	\$ 80,000.00
\$ 500,001.00 to \$1,000,000.00	\$150,000.00
\$1,000.001.00 and over	\$200,000.00

The security shall be deposited with the superintendent in trust or in any other manner the superintendent may direct, and the applicant may deposit either government securities having a market value equal to the amount of security required, or a corporate surety bond in the proper amount in such form as the superintendent may prescribe. The bond shall be issued by a surety insurer authorized to do business in this state, and conditioned upon faithful performance by the applicant of its obligations under Chapter 59A, Article 50 NMSA 1978, including payment of any fines, fees or penalties imposed on it or restitution ordered, but the aggregate liability of the surety for all breaches of the conditions of the bond shall in no event exceed the amount of the bond. The surety on the bond shall have the right to cancel the bond by giving thirty days' notice to the superintendent and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of cancellation. The superintendent may promulgate rules and regulations specifying conditions concerning the bond and providing methods for its termination; and

(6) the bond or deposit provided for in Paragraph (5) of this subsection shall be maintained so long as the licensee has any outstanding liability or



obligation in this state. Upon proof satisfactory to the superintendent that the licensee has ceased to do business and that all its liabilities and obligations have been satisfied, the superintendent shall return the security to the licensee."

### **Chapter 75 Section 23 Laws 2013**

SECTION 23. Section 62-2-1 NMSA 1978 (being Laws 1887, Chapter 12, Section 1, as amended) is amended to read:

"62-2-1. COMPANIES FOR SUPPLYING WATER--ARTICLES OF INCORPORATION.--Any five persons who desire to form a company for the purpose of constructing and maintaining reservoirs and canals or ditches and pipelines for supplying water for irrigation, mining, manufacturing, domestic and other public uses, including cities and towns, and for the improvement of lands in connection therewith shall make and sign articles of incorporation that shall be acknowledged before the secretary of state or some person authorized by law to take the acknowledgment of conveyances of real estate. When so acknowledged, the articles shall be filed with the secretary of state."

### **Chapter 75 Section 24 Laws 2013**

SECTION 24. Section 62-2-3 NMSA 1978 (being Laws 1887, Chapter 12, Section 3, as amended) is amended to read:

"62-2-3. FILING OF ARTICLES--CERTIFIED COPIES.--A duly certified copy of the articles of incorporation executed by the secretary of state shall be filed in the office of the county clerk of each county through or into which any canal, ditch or pipeline may run or any reservoir may be established or in which the company may desire to transact business. Duly certified copies of the articles of incorporation shall be given by the secretary of state or county clerks, on the payment of the fees allowed by law, and shall be received as evidence in any of the courts of this state."

### **Chapter 75 Section 25 Laws 2013**

SECTION 25. Section 62-15-4 NMSA 1978 (being Laws 1939, Chapter 47, Section 4) is amended to read:

"62-15-4. NAME.--The name of each cooperative shall include the words "electric" and "cooperative" and the abbreviation "inc."; provided that limitation shall not apply if, in an affidavit made by the president or vice president of a cooperative and filed with the secretary of state, it appears that the cooperative desires to transact business in another state and is precluded therefrom by reason of its name. The name of a cooperative shall distinguish it from the name of any other corporation organized under the laws of, or authorized to transact business in, this state. The words "electric" and "cooperative" shall not both be used in the name of any corporation organized under the laws of, or authorized to transact business in, this state, except a cooperative or a

corporation transacting business in this state pursuant to the provisions of the Rural Electric Cooperative Act."

## **Chapter 75 Section 26 Laws 2013**

SECTION 26. Section 62-15-6 NMSA 1978 (being Laws 1939, Chapter 47, Section 6) is amended to read:

"62-15-6. ARTICLES OF INCORPORATION.--

A. The articles of incorporation of a cooperative shall recite in the caption that they are executed pursuant to the Rural Electric Cooperative Act, shall be signed and acknowledged by each of the incorporators and shall state:

(1) the name of the cooperative;

(2) the address of its principal office;

(3) the names and addresses of the incorporators;

(4) the names and addresses of the persons who constitute its first board of trustees; and

(5) any provisions not inconsistent with the Rural Electric Cooperative Act deemed necessary or advisable for the conduct of its business and affairs.

B. The articles of incorporation shall be submitted to the secretary of state for filing as provided in the Rural Electric Cooperative Act.

C. It shall not be necessary to set forth in the articles of incorporation of a cooperative the purpose for which it is organized or any of the corporate powers vested in a cooperative under the Rural Electric Cooperative Act."

## **Chapter 75 Section 27 Laws 2013**

SECTION 27. Section 62-15-12 NMSA 1978 (being Laws 1939, Chapter 47, Section 12) is amended to read:

"62-15-12. AMENDMENT OF ARTICLES OF INCORPORATION.--

A. A cooperative may amend its articles of incorporation by complying with the following requirements:

(1) the proposed amendment shall be first approved by the board of trustees and shall then be submitted to a vote of the members at any annual or special

meeting , the notice of which shall set forth the proposed amendment. The proposed amendment, with such changes as the members shall choose to make, shall be deemed to be approved on the affirmative vote of not less than two-thirds of those members voting on the amendment at that meeting; and

(2) upon approval by the members, articles of amendment shall be executed and acknowledged on behalf of the cooperative by its president or vice president, and its corporate seal shall be affixed thereto and attested by its secretary. The articles of amendment shall recite in the caption that they are executed pursuant to the Rural Electric Cooperative Act and shall state:

- (a) the name of the cooperative;
- (b) the address of its principal office;
- (c) the date of the filing of its articles of incorporation in the office of the secretary of state; and
- (d) the amendment to its articles of incorporation.

The president or vice president executing the articles of amendment shall make and annex thereto an affidavit stating that the provisions of this section were duly complied with. The articles of amendment and affidavit shall be submitted to the secretary of state for filing as provided in the Rural Electric Cooperative Act.

B. A cooperative may, without amending its articles of incorporation, upon authorization of its board of trustees, change the location of its principal office by filing a certificate of change of principal office, executed and acknowledged by its president or vice president under its seal attested by its secretary, in the office of the secretary of state and in the office of the county clerk in each county in this state in which its articles of incorporation or any prior certificate of change of principal office was filed. The cooperative shall, within thirty days after the filing of the certificate of change of principal office in the office of the county clerk, file in the county clerk's office certified copies of its articles of incorporation and all amendments thereto, if they are not already on file in the county clerk's office."

## **Chapter 75 Section 28 Laws 2013**

SECTION 28. Section 62-15-13 NMSA 1978 (being Laws 1939, Chapter 47, Section 13, as amended) is amended to read:

"62-15-13. CONSOLIDATION.--Any two or more cooperatives, each of which is designated a "consolidating cooperative" in this section, may consolidate into a new cooperative, designated the "new cooperative" in this section, by complying with the following requirements:

A. the proposition for the consolidation of the consolidating cooperatives into the new cooperative and proposed articles of consolidation to give effect to the consolidation shall be first approved by the board of trustees of each consolidating cooperative. The proposed articles of consolidation shall recite in the caption that they are executed pursuant to the Rural Electric Cooperative Act and shall state:

(1) the name of each consolidating cooperative, the address of its principal office and the date of the filing of its articles of incorporation in the office of the secretary of state;

(2) the name of the new cooperative and the address of its principal office;

(3) the names and addresses of the persons who shall constitute the first board of trustees of the new cooperative;

(4) the terms and conditions of the consolidation and the mode of carrying it into effect, including the manner and basis of converting memberships in each consolidating cooperative into memberships in the new cooperative and the issuance of certificates of membership in respect of the converted memberships; and

(5) any provisions not inconsistent with the Rural Electric Cooperative Act deemed necessary or advisable for the conduct of the business and affairs of the new cooperative;

B. the proposition for the consolidation of the consolidating cooperatives into the new cooperative and the proposed articles of consolidation approved by the board of trustees of each consolidating cooperative shall then be submitted to a vote of the members of each consolidating cooperative at any annual or special meeting, the notice of which shall set forth full particulars concerning the proposed consolidation. The proposed consolidation and the proposed articles of consolidation shall be deemed to be approved upon the affirmative vote of a simple majority of those members of each consolidating cooperative voting thereon at that meeting; and

C. upon approval by the members of the respective consolidating cooperatives, articles of consolidation in the form approved shall be executed and acknowledged on behalf of each consolidating cooperative by its president or vice president, and its seal shall be affixed thereto and attested by its secretary. The president or vice president of each consolidating cooperative executing the articles of consolidation shall make and annex to the articles of incorporation an affidavit stating that the provisions of this section were duly complied with by that cooperative. The articles of consolidation and affidavits shall be submitted to the secretary of state for filing as provided in Section 62-15-19 NMSA 1978."

## **Chapter 75 Section 29 Laws 2013**

SECTION 29. Section 62-15-14 NMSA 1978 (being Laws 1939, Chapter 47, Section 14, as amended) is amended to read:

"62-15-14. MERGER.--Any one or more cooperatives, each of which is designated a "merging cooperative" in this section, may merge into another cooperative, designated the "surviving cooperative" in this section, by complying with the following requirements:

A. the proposition for the merger of the merging cooperatives into the surviving cooperative and proposed articles of merger to give effect to the merger shall be first approved by the board of trustees of each merging cooperative and by the board of trustees of the surviving cooperative. The proposed articles of merger shall recite in the caption that they are executed pursuant to the Rural Electric Cooperative Act and shall state:

(1) the name of each merging cooperative, the address of its principal office and the date of the filing of its articles of incorporation in the office of the secretary of state;

(2) the name of the surviving cooperative and the address of its principal office;

(3) a statement that the merging cooperatives elect to be merged into the surviving cooperative;

(4) the terms and conditions of the merger and the mode of carrying it into effect, including the manner and basis of converting the memberships in the merging cooperatives into memberships in the surviving cooperative and the issuance of certificates of membership in respect of the converted memberships; and

(5) any provisions not inconsistent with the Rural Electric Cooperative Act deemed necessary or advisable for the conduct of the business and affairs of the surviving cooperative;

B. the proposition for the merger of the merging cooperatives into the surviving cooperative and the proposed articles of merger approved by the board of trustees of the respective cooperatives, parties to the proposed merger, shall then be submitted to a vote of the members of each such cooperative at any annual or special meeting, the notice of which shall set forth full particulars concerning the proposed merger. The proposed merger and the proposed articles of merger shall be deemed to be approved upon the affirmative vote of a simple majority of those members of each cooperative voting thereon at that meeting; and

C. upon approval by the members of the respective cooperatives, parties to the proposed merger, articles of merger in the form approved shall be executed and acknowledged on behalf of each such cooperative by its president or vice president,

and its seal shall be affixed thereto and attested by its secretary. The president or vice president of each cooperative executing the articles of merger shall make and annex to the articles of merger an affidavit stating that the provisions of this section were duly complied with by such cooperative. The articles of merger and affidavits shall be submitted to the secretary of state for filing as provided in Section 62-15-19 NMSA 1978."

## **Chapter 75 Section 30 Laws 2013**

SECTION 30. Section 62-15-16 NMSA 1978 (being Laws 1939, Chapter 47, Section 16) is amended to read:

"62-15-16. CONVERSION OF EXISTING CORPORATIONS.--Any corporation organized under the laws of this state for the purpose, among others, of supplying electric energy in rural areas may be converted into a cooperative and become subject to the Rural Electric Cooperative Act with the same effect as if originally organized under that act by complying with the following requirements:

A. the proposition for the conversion of the corporation into a cooperative and proposed articles of conversion to give effect to the conversion shall be first approved by the board of trustees or the board of directors of the corporation. The proposed articles of conversion shall recite in the caption that they are executed pursuant to the Rural Electric Cooperative Act and shall state:

- (1) the name of the corporation prior to its conversion into a cooperative;
- (2) the address of the principal office of the corporation;
- (3) the date of the filing of articles of incorporation of the corporation in the office of the secretary of state;
- (4) the statute under which the corporation was organized;
- (5) the name assumed by the corporation in compliance with the provisions of the Rural Electric Cooperative Act;
- (6) a statement that the corporation elects to become a cooperative nonprofit membership corporation subject to the Rural Electric Cooperative Act;
- (7) the manner and basis of converting either memberships in or shares of stock of the corporation into membership in the converted corporation; and
- (8) any provisions not inconsistent with the Rural Electric Cooperative Act deemed necessary or advisable for the conduct of the business and affairs of the corporation;

B. the proposition for the conversion of the corporation into a cooperative and the proposed articles of conversion approved by the board of trustees or board of directors of the corporation shall then be submitted to a vote of the members or stockholders of the corporation at any duly held annual or special meeting, the notice of which shall set forth full particulars concerning the proposed conversion. The proposition for the conversion of the corporation into a cooperative and the proposed articles of conversion, with such amendments thereto as the members or stockholders of the corporation choose to make, shall be deemed to be approved upon the affirmative vote of not less than two-thirds of those members of the corporation voting thereon at that meeting or, if the corporation is a stock corporation, upon the affirmative vote of the holders of not less than two-thirds of the capital stock of the corporation represented at that meeting;

C. upon approval by the members or stockholders of the corporation, articles of conversion in the form approved by the members or stockholders shall be executed and acknowledged on behalf of the corporation by its president or vice president, and its corporate seal shall be affixed thereto and attested by its secretary. The president or vice president executing the articles of conversion on behalf of the corporation shall make and annex to the articles of conversion an affidavit stating that the provisions of this section with respect to the approval of its trustees or directors and its members or stockholders of the proposition for the conversion of the corporation into a cooperative and the articles of conversion were duly complied with. The articles of conversion and affidavit shall be submitted to the secretary of state for filing as provided in the Rural Electric Cooperative Act; and

D. the term "articles of incorporation" as used in the Rural Electric Cooperative Act shall be deemed to include the articles of conversion of a converted corporation."

## **Chapter 75 Section 31 Laws 2013**

SECTION 31. Section 62-15-18 NMSA 1978 (being Laws 1939, Chapter 47, Section 18, as amended) is amended to read:

"62-15-18. DISSOLUTION.--

A. A cooperative that has not commenced business may dissolve voluntarily by delivering to the secretary of state articles of dissolution, executed and acknowledged on behalf of the cooperative by a majority of the incorporators, which state:

- (1) the name of the cooperative;
- (2) the address of its principal office;
- (3) the date of its incorporation;

(4) that the cooperative has not commenced business;

(5) that the amount, if any, actually paid in on account of membership fees, less any part of that money disbursed for necessary expenses, has been returned to those entitled to it and that all easements have been released to the grantors;

(6) that no debt of the cooperative remains unpaid; and

(7) that a majority of the incorporators elect that the cooperative be dissolved.

The articles of dissolution shall be submitted to the secretary of state for filing as provided in the Rural Electric Cooperative Act.

B. A cooperative that has commenced business may dissolve voluntarily and wind up its affairs in the following manner:

(1) the board of trustees shall first recommend that the cooperative be dissolved voluntarily, and the proposition that the cooperative be dissolved shall be submitted to the members of the cooperative at any annual or special meeting, the notice of which shall set forth that proposition. The proposed voluntary dissolution shall be deemed to be approved upon the affirmative vote of not less than two-thirds of all of the members of the cooperative;

(2) upon such approval, a certificate of election to dissolve, designated the "certificate" in this section, shall be executed and acknowledged on behalf of the cooperative by its president or vice president, and its corporate seal shall be affixed thereto and attested by its secretary. The certificate shall state:

(a) the name of the cooperative;

(b) the address of its principal office;

(c) the names and addresses of its trustees; and

(d) the total number of members of the cooperative and the number of members who voted for and against the voluntary dissolution of the cooperative.

The president or vice president executing the certificate shall make and annex to it an affidavit stating that the provisions of this subsection were duly complied with. The certificate and affidavit shall be submitted to the secretary of state for filing as provided in the Rural Electric Cooperative Act;



(3) upon the filing of the certificate and affidavit with the secretary of state, the cooperative shall cease to carry on its business except insofar as may be necessary for the winding up thereof, but its corporate existence shall continue until articles of dissolution have been filed by the secretary of state;

(4) after the filing of the certificate and affidavit with the secretary of state, the board of trustees shall immediately cause notice of the winding up of proceedings to be mailed to each known creditor and claimant and to be published once a week for two successive weeks in a newspaper of general circulation in the county in which the principal office of the cooperative is located;

(5) the board of trustees shall have full power to wind up and settle the affairs of the cooperative and shall proceed to collect the debts owing to the cooperative, convey and dispose of its property and assets, pay, satisfy and discharge its debts, obligations and liabilities and do all other things required to liquidate its business and affairs. After paying or adequately providing for the payment of all its debts, obligations and liabilities, the board of trustees shall distribute the remainder of its property and assets among its members in proportion to the aggregate patronage of each member during the seven years next preceding the date of filing of the certificate or, if the cooperative was not in existence for that period, during the period of its existence; and

(6) when all debts, liabilities and obligations of the cooperative have been paid and discharged or adequate provision has been made therefor and all of the remaining property and assets of the cooperative have been distributed to the members pursuant to the provisions of this section, the board of trustees shall authorize the execution of articles of dissolution that shall thereupon be executed and acknowledged on behalf of the cooperative by its president or vice president, and its corporate seal shall be affixed thereto and attested by its secretary. The articles of dissolution shall recite in the caption that they are executed pursuant to the Rural Electric Cooperative Act and shall state:

(a) the name of the cooperative;

(b) the address of the principal office of the cooperative;

(c) that the cooperative has delivered to the secretary of state a certificate of election to dissolve and the date on which the certificate was filed by the secretary of state in the records of that office;

(d) that all debts, obligations and liabilities of the cooperative have been paid and discharged or that adequate provision has been made therefor;

(e) that all the remaining property and assets of the cooperative have been distributed among the members in accordance with the provisions of this section; and

(f) that there are no actions or suits pending against the cooperative.

The president or vice president executing the articles of dissolution shall make and annex thereto an affidavit stating that the provisions of this subsection were duly complied with. The articles of dissolution and affidavit, accompanied by proof of the publication required in this subsection, shall be submitted to the secretary of state for filing as provided in the Rural Electric Cooperative Act."

## **Chapter 75 Section 32 Laws 2013**

SECTION 32. Section 62-15-19 NMSA 1978 (being Laws 1939, Chapter 47, Section 19) is amended to read:

"62-15-19. FILING OF ARTICLES.--Articles of incorporation, amendment, consolidation, merger, conversion or dissolution, when executed and acknowledged and accompanied by such affidavits as may be required by applicable provisions of the Rural Electric Cooperative Act, shall be presented to the secretary of state for filing in the records of that office. If the secretary of state finds that the articles presented conform to the requirements of that act, the secretary of state shall, upon the payment of the fees as provided in that act, file the articles in the records of the secretary of state's office, and upon such filing the incorporation, amendment, consolidation, merger, conversion or dissolution provided for in those articles shall be in effect. The secretary of state, immediately upon the filing in the secretary of state's office of any articles pursuant to the Rural Electric Cooperative Act, shall transmit a certified copy of the articles to the county clerk of the county in which the principal office of each cooperative or corporation affected by the incorporation, amendment, consolidation, merger, conversion or dissolution is located. The clerk of any county, upon receipt of any such certified copy, shall file and index it in the records of the clerk's office, but the failure of the secretary of state or of a clerk of a county to comply with the provisions of this section shall not invalidate the articles. The provisions of this section shall apply to certificates of election to dissolve and affidavits of compliance executed pursuant to Paragraph (2) of Subsection B of Section 62-15-18 NMSA 1978."

## **Chapter 75 Section 33 Laws 2013**

SECTION 33. Section 62-15-26 NMSA 1978 (being Laws 1939, Chapter 47, Section 26) is amended to read:

"62-15-26. FOREIGN CORPORATIONS.--Any corporation organized on a nonprofit or a cooperative basis for the purpose of supplying electric energy in rural areas and owning and operating electric transmission or distribution lines in a state adjacent to this state shall be permitted to extend its lines into and to transact business in this state without complying with any statute of this state pertaining to the qualification of foreign corporations for the transaction of business in this state. Any such foreign corporation, as a prerequisite to the extension of its lines into and the transaction of

business in this state, shall, by an instrument executed and acknowledged in its behalf by its president or vice president under its corporate seal attested by its secretary, designate the secretary of state as its agent to accept service of process in its behalf. If any process is served upon the secretary of state, the secretary of state shall forthwith forward the process by registered mail to the corporation at the address specified in such instrument. Any such corporation may sue and be sued in the courts of this state to the same extent that a cooperative may sue or be sued in such courts. Any such foreign corporation may secure its notes, bonds or other evidences of indebtedness by mortgage, pledge, deed of trust or other encumbrance upon any or all of its then-owned or after-acquired real or personal property, assets or franchises located or to be located in this state and upon the revenues and income."

### **Chapter 75 Section 34 Laws 2013**

SECTION 34. Section 62-15-27 NMSA 1978 (being Laws 1939, Chapter 47, Section 27) is amended to read:

"62-15-27. FEES.--The secretary of state shall charge and collect for:

- A. filing articles of incorporation, five dollars (\$5.00);
- B. filing articles of amendment, three dollars (\$3.00);
- C. filing articles of consolidation or merger, five dollars (\$5.00);
- D. filing articles of conversion, five dollars (\$5.00);
- E. filing certificate of election to dissolve, two dollars (\$2.00);
- F. filing articles of dissolution, three dollars (\$3.00); and
- G. filing certificate of change of principal office, one dollar (\$1.00)."

### **Chapter 75 Section 35 Laws 2013**

SECTION 35. Section 63-1-6 NMSA 1978 (being Laws 1878, Chapter 1, Section 1-6, as amended) is amended to read:

"63-1-6. FILING--EFFECT.--Articles of incorporation, with the powers of attorney mentioned in Section 63-1-3 NMSA 1978, if any such there be, and the affidavit mentioned in Section 63-1-5 NMSA 1978 shall be filed in the office of the secretary of state, and thereupon, the persons who have signed the articles, and their associates and successors, shall be a body politic and corporate, by the name stated in the articles, for the term of years therein specified."

### **Chapter 75 Section 36 Laws 2013**

SECTION 36. Section 63-1-7 NMSA 1978 (being Laws 1878, Chapter 1, Section 1-8, as amended) is amended to read:

"63-1-7. ARTICLES OF INCORPORATION--CERTIFIED COPIES.--A copy of any articles of incorporation filed in pursuance of the provisions of this chapter, certified by the secretary of state, or heretofore certified by the secretary of the territory of New Mexico, must be received in all courts and other places as prima facie evidence of the facts therein stated."

### **Chapter 75 Section 37 Laws 2013**

SECTION 37. Section 63-1-42 NMSA 1978 (being Laws 1871-1872, Chapter 13, Section 8, as amended) is amended to read:

"63-1-42. CHANGE OF NAME.--Any corporation formed under the laws of this state may at any time by resolution of its stockholders, at a regular or special meeting, change its corporate name. After the resolution has been adopted, the president of the company or corporation seeking to change its name, and the secretary thereof, shall sign a certificate, attested with the seal of the company, which shall state, substantially, that the company or corporation, by resolution duly adopted, agreed to change the original corporate name of the corporation, to whatever name has been agreed on, and under the new corporate name the corporation proposes, from and after the date of the certificate, to do, carry on and transact all business pertaining to the corporation, which shall be filed in the office of the secretary of state, and immediately upon the filing of the certificate, the name of the corporation shall be changed to the name set forth in the certificate."

### **Chapter 75 Section 38 Laws 2013**

SECTION 38. Section 63-2-2 NMSA 1978 (being Laws 1878, Chapter 1, Section 6-2, as amended) is amended to read:

"63-2-2. ADDITIONAL POWERS.--In addition to those powers enumerated in Section 63-2-1 NMSA 1978, every railroad corporation shall have the following powers:

A. to cause such examinations and surveys to be made as may be necessary to the selection of the most suitable routes for its railroad and telegraph lines, and for that purpose, by its officers and agents, to enter upon the lands and waters of the state, of private persons and of private and public corporations, subject, however, to responsibility for all damages that it may do thereto;

B. to take, hold and convey, by deed or otherwise, the same as a natural person, such voluntary grants and donations of real and personal property as may be made to aid the construction and maintenance and to provide for the accommodation of its railroad and telegraph lines, or either thereof;

C. to purchase and, by voluntary grants and donations, to receive and take and, by its officers, engineers, surveyors and agents, to enter upon, possess, hold and use in any manner it may deem proper all such lands and other property as its directors may deem necessary, proper and convenient for the construction, maintenance and operation of its railroad and telegraph lines, or either thereof, and for the erection of stations, depots, water tanks, side tracks, turnouts, turntables, yards, workshops, warehouses and for all other purposes necessary or convenient to the corporation in the transaction of its business;

D. to lay out its railroad and branches, not exceeding two hundred feet wide, and to construct and maintain the same, with single or double track, with such appendages as its directors may deem necessary for the convenient use thereof. For the purpose of making embankments, excavations, ditches, drains, culverts and the like and of procuring timber, stone, gravel and other materials for the proper construction and security of its railroad and branches, the corporation may take and occupy as much more land as its directors may deem necessary or convenient for the purposes aforesaid;

E. to construct its railroads and telegraphs across, along or upon any stream of water, water course, street, avenue or highway or across any railway, canal, ditch or flume that its railroad and telegraph, or either thereof, shall intersect, cross or run along; but the corporation shall restore such stream, water courses, streets, avenues, highways, railways, canals, ditches and flumes, so intersected, to their former state, as near as may be, so as not to unnecessarily impair their use or injure their franchises. Wherever its road crosses a navigable stream or body of water, the bridge shall be constructed with a draw, if a draw is necessary, to avoid obstructing the navigation of such stream or body of water;

F. to cross, intersect, join and unite its railroad with any other railroads that have been constructed or that may be constructed at any point on the routes thereof, and upon the grounds of such other railroad companies, with the necessary turnouts, sidings and switches and such other conveniences and appliances as may be necessary to make and complete the crossings, intersections and connections. Such other railroad companies shall unite with the directors of the corporation in making the crossings, intersections and connections and shall grant the facilities therefor upon such terms and conditions as may be agreed upon between them; but if they are unable to agree upon the compensation to be made therefor or the points at which or the manner in which such crossings, intersections and connections shall be made, the same shall be ascertained, determined and declared in the manner and by the proceedings hereinafter provided for the taking of private property for the use of the corporation;

G. to purchase or take by donation or otherwise, land, timber, stone, gravel or other materials to be used in the construction and maintenance of its railroads and telegraphs, or either thereof, and if the same cannot be obtained by agreement with the owners thereof, to take the same by the proceedings and in the manner hereinafter provided for the taking of private property for the use of the corporation;

H. to take, transport, carry and convey persons and property on its railroads by the force and power of steam, of animals or any other mechanical power, or by any combination thereof, and to collect and receive tolls or compensation therefor;

I. to erect and maintain all necessary and convenient buildings, stations, depots, watering places, fixtures and machinery for the accommodation of its passengers, freight and business and to obtain and hold, by purchase, donation or condemnation as hereinafter provided, lands and other property necessary therefor;

J. to take, possess and enjoy, by purchase, donation or condemnation, such natural springs and streams of water, or so much thereof as may be necessary for its uses and purposes in operating its railroad, together with the right of way thereto for pipes, ditches, canals or aqueducts for the conveyance thereof;

K. to regulate the time and manner in which passengers and property shall be transported over its roads and the tolls or compensation to be paid therefor; provided that it shall be unlawful for such corporation to charge more than six cents (\$.06) per mile for each passenger and fifteen cents (\$.15) per mile for each ton of two thousand pounds, or forty cubic feet, of freight transported on its roads; provided, further, that in no case shall such corporation be required to receive less than twenty-five cents (\$.25) for any one lot of freight for any distance; provided, further, that such corporation shall not be required to transport domestic animals, nitroglycerine compounds, gunpowder, acids, phosphorous and other explosive or destructive combustible materials except upon such terms, conditions and rates of freightage as its board of directors may from time to time prescribe and establish;

L. to regulate the force and speed of its locomotives, cars, trains or other machinery used on its roads and to establish, execute and enforce all needful and proper rules and regulations for the management of its trains, the conduct of its business and to secure the safety, comfort and good behavior of its passengers and employees and agents and for the prevention and suppression of gambling of every kind and description on its cars or within its depots or station grounds;

M. to expel from its cars at any stopping place, using no more force than may be necessary, any passenger who, upon demand, refuses to pay the passenger's fare or behaves in a rude, riotous or disorderly manner toward other passengers or the employees of such corporations in charge of such cars or, upon the passenger's attention being called thereto, persists in violating the rules of the corporation against gambling upon its cars;

N. to borrow on the credit of the corporation and under authority of its board of directors or in such manner as the board may prescribe under regulation, resolution or otherwise such sums of money as may be necessary for constructing and equipping its railroad and telegraph lines or for making extensions or additions thereto or betterments or improvements thereof or for funding or refunding its outstanding indebtedness or retiring its obligations and for such other purposes as may be deemed

proper in the conduct of its business or in the execution of its powers and to issue and dispose of its bonds and promissory notes or obligations therefor in denominations of not less than one hundred dollars (\$100) or any multiple thereof and at a rate of interest not exceeding ten percent per year and for such amounts as the board of directors may deem proper, although in excess of its capital stock. To secure the payment of such bonds, notes or obligations or the bonds or obligations of any other corporation that may be issued in its interest, or for any of the above purposes or to raise funds therefor, it may mortgage or convey in trust its corporate property or any part thereof and the rights, privileges, powers and franchises in connection therewith or appurtenant thereto;

O. to grant to any railroad corporation the right to use in common with its railroad and telegraph lines or any part thereof. In making such grants and in agreeing upon and prescribing the terms and conditions thereof and the amount and nature of the consideration therefor, such corporation shall have all the rights, powers, capacities and abilities that are enjoyed by natural persons;

P. to take grants of the right to use in common railroad and telegraph lines of other railroad corporations and, in taking and receiving such grants, to have and enjoy the same rights, powers, capacities and abilities that are granted in Subsection O of this section;

Q. to change the line of its road, in whole or in part, whenever a majority of its directors may so determine; provided no such change shall vary the general route of such road as described in its articles of incorporation. The land required for such new line may be acquired by contract with the owners thereof or by condemnation, as provided by law, as in the case of the original line;

R. to increase or diminish its capital stock if at any time it appears that the amount thereof, as fixed in its articles of incorporation, is either more or less than is actually required for constructing, equipping, operating and maintaining its road and telegraph lines. Such increase or decrease shall not be made except by a vote of stockholders representing at least two-thirds of the subscribed capital stock. A certified copy of the proceedings of the meeting and its action in the premises, under the seal of the corporation, shall be filed in the office of the secretary of state and be, by the secretary of state, attached to the articles of incorporation on file in the secretary of state's office; and

S. to consolidate with one or more railroad corporations or under the laws of any other state or territory, its capital stock, properties, roads, equipments, adjuncts, franchises, claims, demands, contracts, agreements, obligations, debts, liabilities and assets of every kind and description upon such terms and in such manner as may be agreed upon by the respective boards of directors; provided no such consolidation shall take effect until it has been ratified and confirmed in writing by stockholders of the respective corporations representing three-fourths of the subscribed capital stock of their respective corporations. In case of such consolidation, articles of incorporation and consolidation shall be prepared setting forth:

- (1) the name of the new corporation;
- (2) the purpose for which it is formed;
- (3) the place where its principal business is to be transacted;
- (4) the term for which it is to exist, which shall not exceed fifty

years;

(5) the number of its directors, which shall not be less than five nor more than eleven, and the names and residences of the persons appointed to act as such until their successors are elected and qualified;

(6) the amount of its capital stock, which shall not exceed the amount actually required for the purposes of the new corporation, as estimated by competent engineers, and the number of shares into which it is divided;

(7) the amount of stock actually subscribed and by whom;

(8) the termini of its road and branches;

(9) the estimated length of its road and branches;

(10) that at least ten percent of its subscribed capital stock has been paid in;

(11) the names of the constituent corporations and the terms and conditions of consolidation in full. The articles of incorporation and consolidation shall be signed and countersigned by the presidents and secretaries of the several constituent corporations and sealed with their corporate seals. There shall be annexed thereto memoranda of the ratification and confirmation thereof by the stockholders of each constituent corporation, which must be respectively signed by stockholders representing at least three-fourths of the capital stock of their respective corporations. When completed, the articles shall be filed in the office of the secretary of state, and thereupon the constituent corporations named therein must be deemed and held to have become extinct in all courts and places and the new corporation shall be deemed and held in all courts and places to have succeeded to all their several capital stocks, properties, roads, equipments, adjuncts, franchises, claims, demands, contracts, agreements, assets, choses and rights in action, of every kind and description, both at law and in equity, and to be entitled to possess, enjoy and enforce the same and every thereof, as fully and completely as either and every of its constituents might have done had no consolidation taken place. The consolidated or new corporation shall also, in all courts and places, be deemed and held to have become subrogated to its several constituents and each thereof in respect to all their contracts and agreements with other parties and all their debts, obligations and liabilities of every kind and nature to any persons, corporations or bodies politic. The new corporation shall sue and be sued in its



own name in any and every case in which any or either of its constituents might have sued or might have been sued, at law or in equity, had no such consolidation been made. Such consolidated or new corporation shall possess, enjoy and exercise all its franchises, properties, powers, privileges, abilities, rights and immunities under the provisions of this chapter, and shall conduct its business according to its provisions and be subject to all its pains and penalties. Nothing in this paragraph shall be construed to impair the obligation of any contract to which any of such constituents were parties at the date of consolidation. All such contracts may be enforced by action or suit, as the case may be, against the consolidated corporation and satisfaction obtained out of the property that, at the date of the consolidation, belonged to the constituent, that was a party to the contract in action or suit, as well as out of any other property belonging to the consolidated corporation; and

(12) every railroad corporation, in addition to the foregoing, shall have such further powers as may be necessary or convenient to enable it to exercise and enjoy, fully and completely, all the powers granted by this chapter and, generally all such powers as are usually conferred upon, required and exercised by railroad corporations and, in the exercise of its powers and every thereof, shall have and enjoy all the rights, privileges, abilities and capacities that are enjoyed by natural persons."

## **Chapter 75 Section 39 Laws 2013**

SECTION 39. Section 63-2-9 NMSA 1978 (being Laws 1878, Chapter 1, Section 8-19, as amended) is amended to read:

"63-2-9. LOCATION MAPS TO BE FILED.--Every corporation formed under this chapter within a reasonable time after its road has been finally located shall cause a map and profile thereof and of the land required and taken for the use thereof and the boundaries of the several counties through which the same may run to be made and file the same in the office of the secretary of state and also similar maps of the parts thereof located in different counties and file the same in the office of the county clerk of the county in which such parts of the road shall be situated, there to remain on record forever. In case the line of the road is changed at any time, as in this chapter provided, similar maps of the new line must be made and filed. The maps and profiles shall be certified by the chief engineer of the corporation and copies so filed and certified shall be kept in the office of the secretary of the corporation, subject to examination by all persons interested. Copies of the maps and profiles certified by any secretary of the territory of New Mexico or by the secretary of state shall be received as prima facie evidence of what they contain in all courts and places within this state."

## **Chapter 75 Section 40 Laws 2013**

SECTION 40. Section 63-2-10 NMSA 1978 (being Laws 1878, Chapter 1, Section 8-24, as amended) is amended to read:

"63-2-10. COMMENCEMENT AND COMPLETION OF ROAD.--Every corporation formed under this chapter shall commence the construction of its road within two years after the date of the filing of its articles of incorporation in the office of the secretary of state and shall finish and put the same in full operation within six years thereafter or its right to further complete the same, in the discretion of the legislature of this state, may be forfeited."

## **Chapter 75 Section 41 Laws 2013**

SECTION 41. Section 63-2-13 NMSA 1978 (being Laws 1878, Chapter 3, Section 1, as amended) is amended to read:

"63-2-13. CORPORATE POWER UNDER FORMER ACTS.--All the powers, privileges and exemptions conferred upon corporations organized under the preceding sections of this chapter are conferred upon all corporations incorporated under the laws of this state for the purpose of constructing railroads and also upon all corporations organized for railroad purposes that have registered in the office of the secretary of state the original, or a certified copy, of their articles of incorporation, in accordance with an act entitled, "An act to amend an act entitled an act to create a general incorporation law, permitting persons to associate themselves together as bodies corporate, for mining, manufacturing and other industrial pursuits, and to repeal the sixteenth section of said act, approved January 30th, 1868"."

## **Chapter 75 Section 42 Laws 2013**

SECTION 42. Section 63-2-16 NMSA 1978 (being Laws 1901, Chapter 9, Section 2, as amended) is amended to read:

"63-2-16. FOREIGN ROADS--EXTENSIONS--CERTIFICATE TO BE FILED--TIME FOR COMMENCEMENT AND COMPLETION.--Any such railroad corporation owning or operating a line of railroad in this state and projecting one or more extensions or branches of such line of railroad in this state shall file in the office of the secretary of state and in the office of the county clerk of each county through or in which the line of any such extension or branch shall be located a declaration, subscribed by its president or vice president and attested under its corporate seal, of its intention to construct such extension or branch line, stating the places from and to which it is intended to build the same, together with a map or plat showing the surveyed line or route thereof. The filing of such declaration and map or plat shall entitle such railroad corporation to a prior right to construct such extension or branch line along the line or route described therein; provided such corporation shall commence construction within four years after date of filing in the office of the secretary of state and complete the same within six years, and provided further, that it shall comply with the laws of this state for acquiring lands for right of way. Nothing in this section or Section 63-2-15 NMSA 1978 shall be deemed to exclude the jurisdiction of this state over the control of all railroads or parts thereof situate within the boundaries of this state."

## **Chapter 75 Section 43 Laws 2013**

SECTION 43. Section 63-5-1 NMSA 1978 (being Laws 1897, Chapter 19, Section 1, as amended) is amended to read:

"63-5-1. FORECLOSURE--RIGHTS OF PURCHASERS--NEW CORPORATION--ORGANIZATION.--Whenever the railroad lands or other property of any railroad corporation created by or under any law of the United States or of the state or the part of the railroad, lands or other property of any such corporation situated in the state is sold by virtue of a mortgage or deed of trust or pursuant to the judgment or decree of any court of competent jurisdiction or by virtue of any execution issued thereon, the purchasers at any such sale may acquire and become vested with the property sold and may acquire any other property and franchises, rights and powers of the corporation in this state or elsewhere. Purchasers may associate with themselves any number of persons and with their associates may become a corporation with power to own, operate, exercise and enjoy the properties, franchises, rights and powers acquired by the purchasers upon making, acknowledging and filing in the office of the secretary of state a certificate in which the purchasers describe by name and by reference to the charter or law under which it was organized, the corporation whose property or part of whose property the purchasers have acquired, the court by whose authority the sale was made, with the date of the judgment or decree authorizing or directing the sale, a brief description of the property sold and also the following particulars:

A. the name of the new corporation intended to be formed by the filing of the certificate;

B. the maximum amount of its capital stock and the number of shares into which it is divided, and specifying the classes thereof, whether common or preferred, and the amount of and rights pertaining to each class; and

C. the number of directors, not less than three nor more than fifteen, who shall manage the affairs of the new corporation and the names and post office addresses of the directors for the first year."

## **Chapter 75 Section 44 Laws 2013**

SECTION 44. Section 73-1-12 NMSA 1978 (being Laws 1931, Chapter 97, Section 12) is amended to read:

"73-1-12. RECORDING OF FINDINGS AND DECREE--FEES.--As soon as practical and within thirty days after the district has been declared a corporation by the court, the clerk of the court shall transmit to the secretary of state and to the county clerk of each of the counties having lands in the district certified copies of the findings and the decree of the court incorporating the district. The copies shall be filed in the office of the secretary of state, and copies shall also be filed in the office of the county clerk of each county in which a part of the district may be, where they shall become

permanent records. The clerk in each county shall receive a fee of one dollar (\$1.00) for filing and preserving the copies. The secretary of state shall receive a fee of five dollars (\$5.00) for filing and preserving the copies."

### **Chapter 75 Section 45 Laws 2013**

SECTION 45. Section 73-5-3 NMSA 1978 (being Laws 1909, Chapter 76, Section 3, as amended) is amended to read:

"73-5-3. ACKNOWLEDGMENT--RECORDING--EVIDENCE.--The certificate shall be acknowledged as required for deeds of real estate and shall be filed in the office of the secretary of state. A copy thereof duly certified by the secretary of state shall be recorded in the office of the county clerk of the county or counties where the lands or works are located, and the certificate or a copy thereof duly certified by the secretary of state or county clerk shall be evidence in all courts and places."

### **Chapter 75 Section 46 Laws 2013**

SECTION 46. Section 73-5-5 NMSA 1978 (being Laws 1909, Chapter 76, Section 5, as amended) is amended to read:

"73-5-5. AMENDMENTS TO CERTIFICATE.--Every such association may change its name, increase or decrease its capital stock or membership, change the location of its principal office in this state, extend the period of its existence and make such other amendment, change or alteration as may be desired, not inconsistent with Chapter 73, Article 5 NMSA 1978 or other law of this state, by a resolution adopted by a vote of two-thirds in interest of the shareholders or members present at any regular or special meeting duly held upon such notice as the bylaws provide or, in the absence of such provision, upon twenty days' notice in writing given personally or by mail. The notice shall state that the amendment or change is to be voted upon at such meeting and the nature and purpose thereof, and provided, further, that a majority in interest of the shareholders or members are present at the meeting in person or by duly authorized representative. A certified copy of the resolution with the affidavit of the president and secretary that the resolution was duly adopted by a two-thirds' vote of the shareholders or members at a meeting held in accordance with the provisions of this section shall be filed and recorded as provided for filing and recording the original certificate of incorporation. The certificate of incorporation shall be deemed to be amended accordingly and a copy of the certificate of amendment certified by the secretary of state or the county clerk shall be accepted as evidence of such change or amendment in all courts and places."

### **Chapter 75 Section 47 Laws 2013**

SECTION 47. Section 73-14-16 NMSA 1978 (being Laws 1927, Chapter 45, Section 207) is amended to read:

"73-14-16. FILING ORDER OF INCORPORATION.--Within thirty days after the district has been declared a corporation by the court, the clerk shall transmit to the secretary of state and to the probate clerk and ex-officio recorder in each of the counties having lands in the district, copies of the findings and the order of the court incorporating the district. The copies of the findings shall be filed in the office of the secretary of state in the same manner as articles of incorporation are now required to be filed under the general laws concerning corporations. Copies shall also be filed in the office of the probate clerk and ex-officio recorder of each county in which a part of the district may be, where they shall become permanent records. The recorder in each county shall receive a fee of one dollar (\$1.00) for filing and preserving them, and the secretary of state shall receive a fee of five dollars (\$5.00) for filing and preserving them."

## **Chapter 75 Section 48 Laws 2013**

SECTION 48. Section 76-2-10 NMSA 1978 (being Laws 1919, Chapter 74, Section 1, as amended) is amended to read:

"76-2-10. COUNTY FARM AND LIVESTOCK BUREAUS.--

A. For the purpose of further extending the cooperative work provided in Sections 76-2-1 and 76-2-2 NMSA 1978 and the work provided in Sections 76-2-4 through 76-2-9 NMSA 1978, there may be created in each county a public corporation known as the county farm and livestock bureau.

B. Whenever any number of bona fide farmers and stockmen comprising not less than five percent of the total number of farmers and stockmen within any county, as determined by the last United States decennial census, desire to form an organization for doing extension work in agriculture, home economics and marketing and have held a meeting at which the organization is approved by a majority of those present, application may be made to the secretary of state for incorporation as a nonprofit corporation or association under the provisions of the Nonprofit Corporation Act. When such corporation or association has been effected, it shall be recognized as the official body within the county for carrying on extension work in agriculture and home economics in cooperation with New Mexico state university. When its charter has been issued, the corporation may make regulations and bylaws for its government and the carrying on of its work, not inconsistent with the provisions of this section and Sections 76-2-11 and 76-2-12 NMSA 1978.

C. Any county farm and livestock bureau or other county organization that is now doing extension work in agriculture and home economics in cooperation with New Mexico state university may be incorporated by furnishing satisfactory evidence of compliance with this section to the secretary of state; provided that only one such corporation may be formed in any county."

## **Chapter 75 Section 49 Laws 2013**

SECTION 49. Section 76-12-7 NMSA 1978 (being Laws 1937, Chapter 152, Section 7) is amended to read:

"76-12-7. ARTICLES OF INCORPORATION.--The incorporators of an association to be formed under the Cooperative Marketing Association Act must prepare and file articles of incorporation setting forth:

A. the name of the association, which may or may not include the word "cooperative";

B. its purposes;

C. its duration;

D. its principal place of business in the state;

E. the name and post office address of each of the incorporators;

F. the names and addresses of those who are to serve as incorporating directors for the first term or until the election and qualifications of their successors;

G. if organized without capital stock, whether the property rights and interests of each member are to be equal or unequal; if unequal, the general rule applicable to all members by which the property rights and interests respectively of each member shall be determined; and provision for the admission of new members who shall share in the property of the association in accordance with the general rule;

H. if organized with capital stock, the amount of such stock and the number of shares into which the capital stock is to be divided, whether all or part of the capital stock shall have par value and, if so, the par value thereof; and if there is to be more than one class of stock created, a description of the different classes, the number of shares in each class, the relative rights, interests and preferences each class shall represent and the dividends, which may be cumulative not exceeding eight percent per year, to which each share shall be entitled; and

I. in addition to the foregoing, the articles of incorporation may contain any provision consistent with law with respect to management, regulation, government, financing, indebtedness, membership, the establishment of voting districts and the election of delegates for representative purposes, the issuance, retirement and transfer of its stock, if formed with capital stock, or any provision relative to the way or manner in which it shall operate with respect to its members, officers or directors and any other provisions relating to its affairs.

The articles of incorporation must be subscribed by the incorporators and acknowledged by one of them before an officer authorized by the law of the state to take and certify acknowledgments of deeds and conveyances and shall be filed with the

secretary of state. When filed, the articles of incorporation or certified copies thereof shall be received in all courts of the state as prima facie evidence of the facts contained therein and of the due incorporation of the association."

### **Chapter 75 Section 50 Laws 2013**

SECTION 50. Section 76-12-8 NMSA 1978 (being Laws 1937, Chapter 152, Section 8, as amended) is amended to read:

"76-12-8. FILING AND RECORDING ARTICLES OF INCORPORATION.--The articles of incorporation shall be filed with the secretary of state, and a copy thereof, duly certified by the secretary of state shall be recorded in the office of the county clerk of the county where the principal office of the association is to be located in this state. For filing the articles of incorporation, an association shall pay to the secretary of state fifty dollars (\$50.00), together with the proportionate part of the annual license fee that may be due for the succeeding fraction of the fiscal year, and for filing an amendment to the articles, twenty-five dollars (\$25.00)."

### **Chapter 75 Section 51 Laws 2013**

SECTION 51. Section 76-12-20 NMSA 1978 (being Laws 1937, Chapter 152, Section 20, as amended) is amended to read:

"76-12-20. TAXATION.--It is the duty of every association organized pursuant to provisions of the Cooperative Marketing Association Act and foreign associations admitted to do business in this state under that act to procure annually from the secretary of state a license authorizing the transaction of business in the state. Each domestic or foreign corporation shall pay annually a license fee of twenty-five dollars (\$25.00) to the secretary of state before receiving such license."

### **Chapter 75 Section 52 Laws 2013**

SECTION 52. TEMPORARY PROVISIONS.--

A. On July 1, 2013, all personnel and all money, appropriations, records, furniture, equipment, supplies and other property belonging to or used by the corporations bureau of the public regulation commission are transferred to the secretary of state.

B. On and after July 1, 2013, all existing contracts, agreements and other obligations in effect for the corporations bureau of the public regulation commission shall be binding on the secretary of state.

C. On and after July 1, 2013, all pending cases, legal actions, appeals and other legal proceedings of every description and all pending administrative proceedings

that involve the corporations bureau of the public regulation commission shall be unaffected and shall continue in the name of the secretary of state.

D. On and after July 1, 2013, all rules, tariffs, orders and other official acts of the corporations bureau of the public regulation commission or of the public regulation commission on behalf of the corporations bureau shall continue in effect until amended, replaced or repealed by the secretary of state.

E. On and after July 1, 2013, all references in law, rules, tariffs, orders and other official acts to the corporations bureau of the public regulation commission or to the public regulation commission in regard to matters performed by the corporations bureau shall be construed to be references to the secretary of state.

### **Chapter 75 Section 53 Laws 2013**

SECTION 53. REPEAL.--Section 8-8-21 NMSA 1978 (being Laws 1998, Chapter 108, Section 80) is repealed.

### **Chapter 75 Section 54 Laws 2013**

SECTION 54. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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House Bill 46

Approved March 29, 2013

## **LAWS 2013, CHAPTER 76**

AN ACT

RELATING TO LICENSING; MAKING AMENDMENTS TO THE HOISTING OPERATORS SAFETY ACT; CLARIFYING LICENSE REQUIREMENTS AND EXEMPTIONS; PROVIDING FOR ADMINISTRATIVE PENALTIES RATHER THAN CRIMINAL OR CIVIL PENALTIES.

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

### **Chapter 76 Section 1 Laws 2013**

SECTION 1. Section 60-15-4 NMSA 1978 (being Laws 1993, Chapter 183, Section 4, as amended) is amended to read:



"60-15-4. LICENSE REQUIRED--EXEMPTION.--

A. No person shall operate hoisting equipment in construction, demolition or excavation work when the hoisting equipment is used to hoist or lower individuals or material unless the person is licensed under the Hoisting Operators Safety Act or the operation is exempt pursuant to Subsection M of Section 60-15-3 NMSA 1978.

B. Operating hoisting equipment without a license shall be considered unlicensed operation and shall subject the person who is operating the hoisting equipment and the employer, or the employer's representative, that allows a person not licensed under the Hoisting Operators Safety Act to operate hoisting equipment to the penalties as provided in that act.

C. The licensee and the licensee's employer shall be subject to applicable regulations controlling the use and operation of cranes as promulgated by the occupational safety and health administration, the mine safety and health administration or the American national standards institute."

## **Chapter 76 Section 2 Laws 2013**

SECTION 2. Section 60-15-7 NMSA 1978 (being Laws 1993, Chapter 183, Section 7, as amended) is amended to read:

"60-15-7. REQUIREMENTS FOR LICENSURE.--

A. The department shall issue a license for a class I hoisting operator with a conventional crane, hydraulic crane or tower crane endorsement to an applicant who files a completed application, accompanied by the required fees, and who submits satisfactory evidence that the applicant:

(1) is at least twenty-one years of age;

(2) has passed a written examination as prescribed by the department or has successfully completed an employer's in-house training program approved by the council;

(3) has had a physical examination, including substance abuse testing, within the twelve-month period preceding the date of application, showing that the applicant is in satisfactory physical condition for performing the functions of a class I hoisting operator; and

(4) within the past three years, has completed at least five hundred hours of seat time in the type of hoisting equipment for which the applicant seeks a license and an endorsement and has successfully passed a practical examination administered by a council-approved examining vendor or completed an employer's in-

house training course approved by the council in the type of hoisting equipment for which the applicant seeks a license and an endorsement.

B. The department shall issue a license for a class II hoisting operator to an applicant who files a completed application, accompanied by the required fees, and who submits satisfactory evidence that the applicant:

(1) is at least eighteen years of age;

(2) has passed a written examination prescribed by the department or has successfully completed an employer's in-house training course approved by the council;

(3) has had a physical examination, including substance abuse testing, within the twelve-month period preceding the date of application, showing that the applicant is in satisfactory physical condition for performing the functions of a class II hoisting operator; and

(4) within the past three years, has completed at least five hundred hours of seat time in the actual operation of hydraulic cranes with over ten tons and up to one hundred tons lifting capacity with a maximum boom length of one hundred fifty feet, regardless of mounting or means of mobility and has successfully passed a practical examination administered by a council-approved examining vendor or has completed an employer's in-house training course approved by the council in the type of hoisting equipment for which the applicant seeks a license.

C. A class II hoisting operator who seeks to become licensed as a class I hoisting operator shall keep a log book of the class II hoisting operator's seat time and must accumulate five hundred hours of seat time under the direct supervision of a class I hoisting operator.

D. The department shall issue a license for a class III hoisting operator to an applicant who files a completed application, accompanied by the required fees, and who submits satisfactory evidence that the applicant:

(1) is at least eighteen years of age;

(2) has passed an examination prescribed by the department; and

(3) has had a physical examination, including substance abuse testing, within the twelve-month period preceding the date of application, showing that the applicant is in satisfactory physical condition for performing the functions of a class III hoisting operator.

E. A class III hoisting operator who seeks to become licensed as a class I or class II hoisting operator shall keep a log book of the class III hoisting operator's seat

time within the past three years and must accumulate five hundred hours of seat time under the direct supervision of a class I or class II hoisting operator who is properly licensed in the kind of crane being operated.

F. A class III hoisting operator shall not operate hoisting equipment unless under the direct supervision of a class I or class II hoisting operator who is properly licensed in the type of hoisting equipment being operated.

G. The department shall recognize an in-house hoisting operator card issued to an applicant who:

(1) is at least eighteen years of age;

(2) is participating in an in-house training course approved by the council; and

(3) has had a physical examination, including substance abuse testing, within the twelve-month period preceding the date of application, showing that the applicant is in satisfactory physical condition for performing the functions of a hoisting operator.

H. A person with an in-house hoisting operator card shall only operate hoisting equipment for the employer who provided the approved in-house training course. The employer of a person with an in-house hoisting operator card shall provide that operator with supervision and additional training by a class I or class II hoisting operator who is properly licensed in the type of hoisting equipment being operated to ensure compliance and safe operation of the hoisting equipment pursuant to the Hoisting Operators Safety Act.

I. An in-house hoisting operator card shall be valid for two years and is not subject to extension or renewal."

## **Chapter 76 Section 3 Laws 2013**

SECTION 3. Section 60-15-8 NMSA 1978 (being Laws 1993, Chapter 183, Section 8, as amended) is amended to read:

"60-15-8. LICENSE RENEWAL.--

A. A license issued pursuant to Section 60-15-7 NMSA 1978 shall be valid for two years from the date of issuance.

B. License renewal procedures shall be prescribed by the department by rule.

C. Any license not renewed by the expiration date shall be considered expired, and the licensee shall not operate hoisting equipment within the state until the license is renewed. Operating hoisting equipment with an expired license shall be considered unlicensed operation and shall subject the person who is operating the hoisting equipment to the penalties as provided in the Hoisting Operators Safety Act.

D. The department shall adopt and promulgate rules for renewal of an expired license and may require the licensee to reapply as a new applicant."

## **Chapter 76 Section 4 Laws 2013**

SECTION 4. Section 60-15-11 NMSA 1978 (being Laws 1993, Chapter 183, Section 11, as amended) is amended to read:

"60-15-11. FINES--DENIAL, SUSPENSION OR REVOCATION OF LICENSE--STOP WORK ORDERS--INJUNCTIVE PROCEEDINGS--VIOLATIONS.--

A. Notwithstanding any other provision of the Hoisting Operators Safety Act, the department upon reasonable cause that a violation of the provisions of the Hoisting Operators Safety Act or a rule adopted pursuant to that act has occurred that creates a health or safety risk for the community, which requires immediate action, may issue a stop work order. At any time after service of the order to stop work, the person may request a prompt hearing to determine whether a violation occurred. If a person fails to comply with a stop work order within twenty-four hours, the department may bring a suit for a temporary restraining order and for injunctive relief to prevent further violations.

B. Whenever the department possesses evidence that indicates a person has engaged in or intends to engage in an act or practice constituting a violation of the Hoisting Operators Safety Act or a rule adopted pursuant to that act, the department may seek temporarily or permanently to restrain or to enjoin the act or practice. The department shall not be required to post a bond when seeking a temporary or permanent injunction.

C. Unless otherwise provided in the Hoisting Operators Safety Act, it is a violation of that act for a person to:

(1) operate, or employ a person to operate, hoisting equipment in construction, demolition or excavation work without a valid license issued pursuant to the Hoisting Operators Safety Act;

(2) refuse to comply with a stop work order issued by the department;

(3) refuse or fail to comply with the provisions of the Hoisting Operators Safety Act or a rule adopted pursuant to that act;

(4) make a material misstatement in an application for licensure;

(5) intentionally make a material misstatement to the department during an official investigation;

(6) aid or abet another in violating provisions of the Hoisting Operators Safety Act or a rule adopted pursuant to that act;

(7) alter or falsify a license issued by the department; or

(8) fail to furnish to the department, its investigators or its representatives information requested by the department in the course of an official investigation.

D. The department may deny, suspend or revoke a license for a violation of the rules adopted by the department pursuant to the Hoisting Operators Safety Act or for a violation of the provisions of that act.

E. Disciplinary proceedings may be instituted by sworn complaint by any person, including department staff or a member of the council, and shall conform with the provisions of the Uniform Licensing Act.

F. The department may issue a citation and fine to an individual or business for violation of the provisions of the Hoisting Operators Safety Act. The amount of such fines and terms of such orders shall be established by the department by rule subject to the limitations of Section 60-15-13 NMSA 1978."

## **Chapter 76 Section 5 Laws 2013**

SECTION 5. Section 60-15-13 NMSA 1978 (being Laws 1993, Chapter 183, Section 13, as amended) is amended to read:

"60-15-13. CIVIL AND ADMINISTRATIVE PENALTIES.--

A. A person who engages in unlicensed operation may be assessed an administrative penalty not to exceed one thousand dollars (\$1,000).

B. An employer, firm, partnership, corporation, association or other organization that knowingly violates the provisions of the Hoisting Operators Safety Act may be assessed an administrative penalty not to exceed five thousand dollars (\$5,000).

C. Any licensed hoisting operator who violates a provision of the Hoisting Operators Safety Act may be assessed an administrative penalty not to exceed five thousand dollars (\$5,000).

D. The department may bring an action in a court of competent jurisdiction to enforce the provisions of or to enjoin a person from violating the provisions of the Hoisting Operators Safety Act. If the court finds that a violation has occurred, the person who committed the violation shall be liable for the expenses incurred by the department in investigating and enforcing the provisions of that act plus reasonable attorney fees and costs associated with court action."

## **Chapter 76 Section 6 Laws 2013**

SECTION 6. Section 60-15-14 NMSA 1978 (being Laws 1993, Chapter 183, Section 14, as amended) is amended to read:

"60-15-14. HOISTING OPERATORS LICENSURE EXAMINING COUNCIL--  
APPOINTED.--

A. The "hoisting operators licensure examining council" is created. The members of the council shall serve at the pleasure of the superintendent. The superintendent shall appoint at least five members to the council with consideration given to geographical representation and proportional representation of operator, contractor, labor and public members. The members of the council shall include at least:

- (1) one class I hoisting operator;
- (2) one contractor, as defined by Section 60-13-3 NMSA 1978, who employs at least one hoisting operator;
- (3) one representative of organized labor; and
- (4) two members from the public at large who are not licensed hoisting operators.

B. The duties of the council include:

- (1) reviewing and approving the applications, qualifications and examinations of applicants for licensure as hoisting operators and recommending to the superintendent whether licensure should be granted based on their evaluation of the operating experience and competence of the applicants;
- (2) reporting findings and recommendations from the hearings to the superintendent;
- (3) proceeding according to regulations adopted by the department;  
and
- (4) approving examinations and training programs that meet the requirements of the federal occupational safety and health administration, United States

department of labor or occupational health and safety bureau of the department of environment."

## **Chapter 76 Section 7 Laws 2013**

SECTION 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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House Bill 101, aa

Approved March 29, 2013

## **LAWS 2013, CHAPTER 77**

AN ACT

RELATING TO MOTOR CARRIERS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE MOTOR CARRIER ACT; PROVIDING FOR COMMUNITY QUALITY OF SERVICE STANDARDS; SIMPLIFYING AND CLARIFYING ADMINISTRATIVE PROCEDURES; PROVIDING FOR ADDITIONAL UNFAIR PRACTICES ACT CIVIL PENALTIES; PROVIDING FOR FEES.

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

## **Chapter 77 Section 1 Laws 2013**

SECTION 1. Section 65-2A-2 NMSA 1978 (being Laws 2003, Chapter 359, Section 2) is amended to read:

"65-2A-2. TRANSPORTATION POLICY.--It is the policy of this state to foster the development, coordination and preservation of a safe, sound and adequate motor carrier system, requiring financial responsibility and accountability on the part of motor carriers through state licensing and regulation of motor carriers."

## **Chapter 77 Section 2 Laws 2013**

SECTION 2. Section 65-2A-3 NMSA 1978 (being Laws 2003, Chapter 359, Section 3, as amended) is amended to read:

"65-2A-3. DEFINITIONS.--As used in the Motor Carrier Act:

A. "ability to provide certificated service" means that an applicant or carrier can provide reasonably continuous and adequate transportation service of the type

required by its application or its operating authority in the territory authorized or sought to be authorized;

B. "ambulance service" means the intrastate transportation of sick or injured persons in an ambulance meeting the standards established by the commission under the Ambulance Standards Act;

C. "amendment of a certificate or permit" means a permanent change in the type or nature of service, territory or terms of service authorized by an existing certificate or permit;

D. "antitrust laws" means the laws of this state relating to combinations in restraint of trade;

E. "base state" means the registration state for an interstate motor carrier that either is subject to regulation or is transporting commodities exempt from regulation by the federal motor carrier safety administration pursuant to the unified carrier registration system;

F. "cancellation of an operating authority" means the voluntary, permanent termination of all or part of an operating authority;

G. "certificate" means the authority issued by the commission to a person that authorizes the person to offer and provide a certificated service as a motor carrier;

H. "certificated service" means one of the following transportation services:

- (1) an ambulance service;
- (2) a household goods service;
- (3) a shuttle service;
- (4) a specialized passenger service; or
- (5) a taxicab service;

I. "change in a certificate or permit" means the voluntary amendment, cancellation, change in form of legal entity of the holder, lease, reinstatement, transfer or voluntary suspension of a certificate or permit;

J. "charter service" means the compensated transportation of a group of persons in a motor vehicle who, pursuant to a common purpose, under a single contract, at a fixed charge for the motor vehicle and driver, have acquired the exclusive



use of the motor vehicle to travel together under an itinerary either specified in advance or modified after having left the place of origin;

K. "commission" means the public regulation commission;

L. "commuter service" means the intrastate transportation of passengers in motor vehicles having a capacity of seven to fifteen persons, including the driver, provided to a volunteer-driver commuter group that shares rides to and from the workplace or training site, where participation is open to the public and incidental to the primary work or training-related purposes of the commuter group, and where the volunteer drivers have no employer-employee relationship with the commuter service;

M. "continuous and adequate service" means:

(1) for full-service carriers, reasonably continuous availability, offering and provision of transportation services through motor vehicles, equipment and resources satisfying safety and financial responsibility requirements under the Motor Carrier Act and commission rule, which are reasonably adequate to serve the entire full-service territory authorized in the certificate, with reasonable response to all requests for service for the nature of passenger service authorized, based on the nature of public need, expense and volume of demand for the type of service authorized during seasonal periods; and

(2) for general-service carriers, reasonably continuous availability and offering of transportation services through motor vehicles, equipment and resources satisfying safety and financial responsibility requirements under the Motor Carrier Act and commission rule for the nature of the transportation service authorized in the certificate;

N. "contract driver" means a person who contracts with a motor carrier as an independent contractor to drive a vehicle pursuant to an operating authority issued to the motor carrier;

O. "endorsement" means the specification in a certificate of the territory in which the carrier is authorized to operate, the nature of service to be provided by a certificated passenger service and any additional terms of service that may be reasonably granted or required by the commission for the particular authority granted;

P. "fare" means the full compensation charged for transportation by a tariffed passenger service;

Q. "financial responsibility" means the ability to respond in damages for liability arising out of the ownership, maintenance or use of a motor vehicle in the provision of transportation services;

R. "fitness to provide a transportation service" means that an applicant or carrier complies with state law as provided in the Motor Carrier Act or by rule of the commission;

S. "for hire" means that transportation is offered or provided to the public for remuneration, compensation or reward of any kind, paid or promised, either directly or indirectly;

T. "full service" means one of the following certificated passenger services that are endorsed and required to meet specific standards for the provision of service to or throughout a community:

(1) an ambulance service;

(2) a scheduled shuttle service; or

(3) a municipal taxicab service;

U. "general service" means one of the following certificated services that provides transportation services of the type authorized, but is not required to provide unprofitable or marginally profitable carriage:

(1) a general shuttle service;

(2) a general taxicab service;

(3) a specialized passenger service; or

(4) a household goods service;

V. "highway" means a way or place generally open to the use of the public as a matter of right for the purpose of vehicular travel, even though it may be temporarily closed or restricted for the purpose of construction, maintenance, repair or reconstruction;

W. "holder of an operating authority" means the grantee of the operating authority or a person that currently holds all or part of the right to exercise the authority through a transfer by operation of law;

X. "household goods" means personal effects and property used or to be used in a dwelling when a part of the equipment or supply of the dwelling and other similar property as the federal motor carrier safety administration may provide by regulation, but shall not include property moving to or from a factory or store, other than property the householder has purchased to use in the householder's dwelling that is transported at the request of, and the transportation charges are paid to the carrier by, the householder;

Y. "household goods service" means the intrastate transportation, packing and storage of household goods for hire;

Z. "interested person" means a motor carrier operating in the territory involved in an application or grant of temporary authority, a person affected by an order of the commission or a rule proposed for adoption by the commission or a person the commission may deem interested in a particular matter;

AA. "interstate motor carrier" means a person providing compensated transportation in interstate commerce, whether or not the person is subject to regulation by the federal motor carrier safety administration;

BB. "intrastate motor carrier" means a motor carrier offering or providing transportation for hire by motor vehicle between points and places in the state;

CC. "involuntary suspension" means the temporary cessation of use of all or part of an operating authority ordered by the commission for cause for a stated period of time or pending compliance with certain conditions;

DD. "lease of a certificate or permit" means an agreement by which the holder of a certificate or permit grants to another person the exclusive right to use all or part of the certificate or permit for a specified period of time in exchange for consideration, but does not include an agreement between a motor carrier and its contract driver;

EE. "lease of equipment" means an agreement whereby a motor carrier obtains equipment owned by another person for use by the motor carrier in the exercise of its operating authority, but does not include an agreement between a motor carrier and its contract driver;

FF. "motor carrier" or "carrier" means a person offering or providing transportation of persons, property or household goods for hire by motor vehicle, whether in intrastate or interstate commerce;

GG. "motor carrier organization" means an organization approved by the commission to represent motor carriers and to discuss and propose industry interests and matters other than rates, as well as discussing and proposing rates and other matters pertaining to statewide tariffs;

HH. "motor vehicle" or "vehicle" means a vehicle, machine, tractor, trailer or semitrailer propelled or drawn by mechanical power and used on a highway in the transportation of property, household goods or persons, but does not include a vehicle, locomotive or car operated exclusively on rails;

II. "nature of service" means the type of transportation service to be provided by a certificated passenger service as set forth in Subsection A of Section 65-2A-8 NMSA 1978;

JJ. "nonconsensual tow" means the compensated transportation of a motor vehicle by a towing service, if such transportation is performed at the request of a law enforcement officer or without the prior consent or authorization of the owner or operator of the motor vehicle;

KK. "notice period" means the period of time specified in Section 65-2A-6 NMSA 1978 following publication of notice during which the commission may not act;

LL. "objection" means a document filed with the commission by an interested person or a member of the public during the notice period for an application for a certificate or a permit, or for amendment, lease or transfer of a certificate or permit, that expresses an objection to, or provides information concerning, the matter before the commission;

MM. "operating authority" means a certificate, permit, warrant, unified carrier registration or temporary authority issued by the commission to a motor carrier;

NN. "passenger" means a person other than the driver of a motor vehicle transported in a motor vehicle;

OO. "passenger service" means a transportation service offered or provided for the transportation of passengers by motor vehicle;

PP. "permit" means the authority issued by the commission to a person that authorizes the person to offer and provide a permitted service as a motor carrier;

QQ. "permitted service" means the intrastate transportation of passengers or household goods for hire pursuant to a contract between the motor carrier and another person;

RR. "predatory rate or practice" means the knowing and willful requirement by a carrier that a passenger or shipper pay a rate, fare or other charge in excess of the rates and charges or in a manner other than in accordance with terms of service as provided by law, as provided in a tariff governing the carrier or as provided in a pre-existing written contract regarding the carriage, when such charge is made:

(1) by a passenger carrier as a prior condition for the provision of transportation or continued transportation of a passenger; or

(2) as a prior condition by a towing service carrier performing nonconsensual tows or a household goods service carrier for delivery of, release of or access to vehicles or household goods by the shipper or registered owner;

SS. "process" means, in the context of legal process, an order, subpoena or notice issued by the commission or an order, subpoena, notice, writ or summons issued by a court;

TT. "property" means movable articles of value, including cadavers, hazardous matter, farm products, livestock feed, stock salt, manure, wire, posts, dairy products, livestock hauled in lots of twenty-five thousand pounds or more, farm or ranch machinery and the items transported by a towing service, but does not include household goods or unprocessed farm products transported by a farmer from the place of harvesting to market, storage or a processing plant;

UU. "protest" means a document in the form of a pleading filed with the commission by a full-service carrier that expresses an objection to an application before the commission for a certificate for passenger service or for a permit for ambulance service or for passenger service pursuant to a public-charge contract or for amendment, lease or transfer of such a certificate or permit:

(1) when the territory involved in the application includes all or a portion of the full-service territory of the protesting carrier; and

(2) for a carrier other than an ambulance service carrier, when the grant of the application will, or presents a reasonable potential to, impair, diminish or otherwise adversely affect its existing provision of full-service passenger service to the public within its full-service territory;

VV. "public-charge contract" means a contract or contractual arrangement between a motor carrier and a third party for passenger service that requires or allows the motor carrier to charge passengers a fare for the transportation service to be provided pursuant to the contract;

WW. "rate" means a form of compensation charged, whether directly or indirectly, by a person for a transportation service subject to the jurisdiction of the commission;

XX. "record of a motor carrier" means an account, correspondence, memorandum, tape, disc, paper, book or transcribed information, or electronic data information, including the electronic hardware or software necessary to access the electronic data information in its document form, regarding the operation of a motor carrier;

YY. "registration year" means a calendar year;

ZZ. "revocation" means the involuntary, permanent termination of all or part of an operating authority ordered by the commission for cause;

AAA. "shipper" means a person who consigns or receives property or household goods for transportation;

BBB. "shuttle service" means the intrastate transportation of passengers for hire pursuant to a set fare for each passenger between two or more specified terminal points or areas and includes both scheduled shuttle service and general shuttle service as follows:

(1) "scheduled shuttle service" means a shuttle service that transports passengers to and from an airport both through prior arrangement and through presentment at terminal locations, on the basis of a daily time schedule filed with the commission, which must be met in a timely fashion with a vehicle present at the terminal location regardless of the number of passengers carried on any run, if any, and includes general shuttle service; and

(2) "general shuttle service" means a shuttle service that is not required to operate on a set schedule, that may optionally use a grid map to specify distant or adjacent terminal areas and that is not required to accept passengers other than pre-arranged passengers;

CCC. "specialized passenger service" means the intrastate transportation for hire of passengers with special physical needs by specialized types of vehicles, or for specialized types of service to the public or community, as the commission may by rule provide;

DDD. "tariff" means a document filed by a tariffed service carrier that has been approved by the commission and sets forth the transportation services offered by the motor carrier to the general public, including the rates, terms of service and applicable time schedules relating to those services;

EEE. "tariffed service" means one of the following transportation services authorized by the commission for the provision of service on the basis of rates and terms of service contained in a tariff approved by the commission:

- (1) an ambulance service;
- (2) a household goods service;
- (3) a shuttle service;
- (4) a specialized passenger service;
- (5) a taxicab service; or
- (6) a towing service performing nonconsensual tows;

FFF. "taxicab association" means an association, cooperative or other legal entity whose members are taxicab drivers, which shall be treated in the same manner as any other applicant with regard to applications for a certificate for general taxicab service or for full-service municipal taxicab service, and shall be subject in the same manner to all other provisions, requirements and limitations of the Motor Carrier Act;

GGG. "taxicab service" means intrastate transportation of passengers for hire in a motor vehicle having a capacity of not more than eight persons, including the driver, for which the passenger or other person engaging the vehicle is allowed to specify not only the origin and destination points of the trip but also, within reason, the route taken by the vehicle, any intermediate stop, any optional waiting at a stop and any other passengers transported during the trip and that charges a fare for use of the vehicle primarily on the basis of a drop-flag fee, cumulative mileage and cumulative wait time through a taxicab meter used to cumulate and display the fare to the passenger and includes both municipal taxicab service and general taxicab service, as follows:

(1) "municipal taxicab service" means a taxicab service that deploys vehicles at all times of the day and year, is centrally dispatched and reasonably responds to all calls for service within its endorsed full-service territory regardless of profitability of the individual trip, in addition to the transportation service provided by a general taxicab service; and

(2) "general taxicab service" means a taxicab service that need not be dispatched, that may pick up on-demand passengers through flagging or at a taxicab stand or queue, that need not deploy vehicles in any particular manner and that may charge for trips to destination points or places outside of the taxicab service's certificated territories on the basis of a set fare;

HHH. "terms of service" means all terms, aspects, practices, limitations, conditions and schedules of service other than specific rate amounts pertaining to a tariffed service;

III. "towing service" means the use of specialized equipment, including repossession services using towing equipment, to transport or store:

(1) a damaged, disabled or abandoned motor vehicle and its cargo;

(2) a motor vehicle to replace a damaged, disabled or abandoned motor vehicle;

(3) parts and equipment to repair a damaged, disabled or abandoned motor vehicle;

(4) a motor vehicle whose driver has been declared unable to drive by a law enforcement officer;

(5) a motor vehicle whose driver has been removed from the scene or is unable to drive; or

(6) a motor vehicle repossessed or seized pursuant to lawful authority;

JJJ. "transfer of a certificate or permit" means a permanent conveyance of all or part of a certificate or permit;

KKK. "transfer by operation of law" means that all or a part of a grantee's interest in an operating authority passes to a fiduciary or other person by application of established rules of law;

LLL. "transportation service" means transportation subject to the jurisdiction of the commission, offered or provided by a motor carrier, that requires the carrier to obtain an operating authority from the commission under the Motor Carrier Act, regardless of whether the motor carrier has obtained appropriate operating authority from the commission;

MMM. "verification" means a notarized signature verifying the contents of the document or other filing or a signature verifying the contents of the document or other filing under penalty of perjury, expressly providing that the signatory swears or affirms the contents under penalty of perjury as provided in Subsection A of Section 65-2A-33 NMSA 1978;

NNN. "voluntary suspension" means the commission-authorized cessation of use of all or part of a certificate or permit at the request of the holder for a specified period of time, not to exceed twelve consecutive months;

OOO. "warrant" means the authority issued by the commission to a person that authorizes the person to offer and provide a warranted service as a motor carrier;

PPP. "warranted service" means one of the following intrastate transportation services offered or provided for hire:

- (1) a charter service;
- (2) a commuter service;
- (3) a property transportation service; or
- (4) a towing service; and

QQQ. "weight-bumping" means the knowing and willful statement of a fraudulent weight on a shipment of household goods."



## Chapter 77 Section 3 Laws 2013

SECTION 3. Section 65-2A-4 NMSA 1978 (being Laws 2003, Chapter 359, Section 4) is amended to read:

"65-2A-4. POWERS AND DUTIES OF THE COMMISSION.--

A. In accordance with the Motor Carrier Act, the commission shall:

(1) issue operating authorities for a motor carrier operating in New Mexico;

(2) establish minimum requirements for financial responsibility for motor carriers; provided that the financial responsibility standards required shall not be inconsistent with applicable federal standards;

(3) establish safety requirements for intrastate motor carrier motor vehicles and drivers subject to the jurisdiction of the commission, provided that the safety requirements shall not be inconsistent with or more stringent than applicable federal safety standards;

(4) establish reasonable requirements with respect to continuous and adequate service to be provided under an operating authority;

(5) regulate the rates of tariffed service carriers to the extent provided in the Motor Carrier Act, including rates and terms of service for storing household goods and motor vehicles;

(6) determine matters of public interest and other matters relating to authorities, rates, territories, nature of service and other terms of service of motor carriers;

(7) have jurisdiction to determine any matter under the Motor Carrier Act relating to any transportation service carrier that has not obtained an appropriate operating authority from the commission;

(8) subpoena witnesses and records, enforce its subpoenas through a court and, through the court, seek a remedy for contempt;

(9) hold a public hearing specific to a protest or a request by the transportation division of the commission that has been filed within the notice period in opposition to or in consideration of an application;

(10) create a statewide tariff for household goods service carriers establishing maximum rates that may be charged by carriers; and

(11) adopt rules, issue orders and conduct activities necessary to implement and enforce the Motor Carrier Act.

B. The commission may:

(1) designate inspectors who may inspect the records of a motor carrier subject to the Motor Carrier Act and who shall have the powers of peace officers in the state's political subdivisions with respect to a law or rule that the commission is empowered to enforce pursuant to Section 65-1-6 NMSA 1978, excluding the enforcement authority granted to the motor transportation division of the department of public safety;

(2) institute civil actions in the district court of Santa Fe county in its own name to enforce the Motor Carrier Act, its orders and rules, and in the name of the state to recover assessments of administrative fines;

(3) from time to time, modify the type and nature of service, territory and terms of service of operating authorities previously issued, and change or rescind rates previously approved;

(4) establish statewide tariffs as needed for voluntary and optional use by tariffed service carriers; and

(5) adopt rules to implement these powers."

## **Chapter 77 Section 4 Laws 2013**

SECTION 4. Section 65-2A-5 NMSA 1978 (being Laws 2003, Chapter 359, Section 5) is amended to read:

"65-2A-5. APPLICATIONS IN GENERAL--MINISTERIAL GRANTS OF AUTHORITY--WHEN PUBLIC HEARINGS REQUIRED.--

A. A person shall file an application for any matter for which commission approval is required. An application shall be made in writing, verified and in a form that contains information and is accompanied by proof of service upon interested persons as required by the commission.

B. The commission shall simplify to the extent possible the process for approving applications. The commission may hold a public hearing on its own initiative or specific to an objection that has been filed within the notice period in opposition to or in consideration of an application.

C. The commission shall hold a public hearing on an application whenever a protest is filed concerning the application during the notice period or the transportation division of the commission requests a hearing during the notice period.

D. The commission may approve or deny an application in whole or in part, or allow or require particular terms of service as it may find reasonable and appropriate. If no objection, protest or request for hearing by the transportation division of the commission is filed during the notice period, the commission may grant the application by ministerial action, if the application complies with the provisions of the Motor Carrier Act and the rules of the commission regarding fitness, ability, financial responsibility and safety."

## **Chapter 77 Section 5 Laws 2013**

SECTION 5. Section 65-2A-6 NMSA 1978 (being Laws 2003, Chapter 359, Section 6) is amended to read:

"65-2A-6. NOTICE.--

A. The commission shall electronically publish notice regarding an application before the commission for a certificate or permit or for a change in a certificate or permit, regarding proposed rulemaking, or regarding other orders of the commission of general application, by posting a copy of the notice or document on the commission's internet web site and sending electronic mail to all motor carriers, public officials or agencies, or other persons or entities who have previously supplied electronic mail addresses to the commission for the purpose of publication, advising such persons of the filing and posting. If the commission in its discretion should also require publication by newspaper, the requirement is met if notice is published once in a newspaper of general circulation in the state. The commission shall not act on an application for a certificate or permit or for an amendment, lease or transfer of a certificate or permit less than twenty days after the date notice was published.

B. Whenever the Motor Carrier Act requires publication of notice regarding any other matter, the requirement is met if notice is published once in a newspaper of general circulation in the state. The commission shall not act on a matter less than ten days after the date notice was published."

## **Chapter 77 Section 6 Laws 2013**

SECTION 6. Section 65-2A-7 NMSA 1978 (being Laws 2003, Chapter 359, Section 7) is amended to read:

"65-2A-7. OPERATING AUTHORITIES IN GENERAL.--

A. No person shall offer or provide a transportation service for hire within the state without first obtaining an appropriate operating authority from the commission. Every motor carrier providing a transportation service shall meet and comply with the requirements of the Motor Carrier Act and the lawfully adopted rules and orders of the commission.

B. A certificate, permit or warrant, or a change in a certificate or permit, shall be effective from the date issued by the commission and shall remain in effect until canceled, revoked, suspended or amended.

C. A motor carrier shall carry a copy of its operating authority in each motor vehicle it operates in New Mexico.

D. A certificated service carrier shall render reasonably continuous and adequate service as the commission may by rule prescribe."

## **Chapter 77 Section 7 Laws 2013**

SECTION 7. Section 65-2A-8 NMSA 1978 (being Laws 2003, Chapter 359, Section 8) is amended to read:

"65-2A-8. CERTIFICATES FOR PASSENGER SERVICE.--

A. The commission may issue a certificate for a passenger service as follows:

(1) a certificate for an ambulance service;

(2) a certificate for a shuttle service shall be endorsed for nature of service as a scheduled shuttle service or as a general shuttle service;

(3) a certificate for a specialized passenger service shall be endorsed for nature of service as provided by commission rule; and

(4) a certificate for a taxicab service shall be endorsed for nature of service as a municipal taxicab service or as a general taxicab service.

B. Except as provided in this section and in Section 65-2A-13 NMSA 1978, the commission shall issue a certificate allowing a person to provide passenger service after notice and public hearing requirements are met, if:

(1) the applicant is fit and able to provide the transportation service to be authorized by the certificate;

(2) the applicant is in compliance with the safety and financial responsibility requirements of the Motor Carrier Act, the rules of the commission and other applicable federal and state laws and rules;

(3) for an application for ambulance service, the transportation service to be provided under the certificate is or will serve a useful public purpose that is responsive to a public demand or need; and

(4) the applicant has filed a tariff as provided in Section 65-2A-20 NMSA 1978.

C. Before granting a certificate for passenger service, the commission shall consider any objections or protests that were filed within the notice period.

D. Before granting a certificate for ambulance service, the commission shall also consider the effect that issuance of the certificate would have on existing ambulance service in the territory.

E. A certificate issued by the commission for provision of passenger service shall contain one or more endorsements, each of which shall specify the:

(1) nature of service to be rendered;

(2) territory authorized to be served; and

(3) reasonable terms of service as the commission may allow or require for the particular certificate.

F. Territorial endorsements to a certificate for passenger service shall:

(1) be limited to territory sought in the application that will be served in a reasonably continuous and adequate manner beginning within thirty days of the issuance of the certificate or such other definite period or date as the commission may provide for a particular application and shall generally be authorized on the basis of county or incorporated municipal boundaries, subject to other specification reasonably allowed or required by the commission;

(2) except for shuttle services, authorize transportation between points and places within the specified territory, and from points and places within the specified territory to all points and places in the state and return, unless otherwise expressly allowed or specified in the terms of service in the endorsement to the certificate; and

(3) for shuttle services, provide for transportation between two or more specified end or intermediate terminal points or areas, and authorize pick-up or drop-off of passengers throughout a terminal area, but shall not authorize transportation between points and places within a single terminal area or the provision of transportation services in any other areas of the state."

## **Chapter 77 Section 8 Laws 2013**

SECTION 8. Section 65-2A-9 NMSA 1978 (being Laws 2003, Chapter 359, Section 9) is amended to read:

"65-2A-9. CERTIFICATES FOR HOUSEHOLD GOODS SERVICE.--

A. Except as provided in this section and in Section 65-2A-13 NMSA 1978, the commission shall issue a certificate allowing a person to provide household goods service after notice and public hearing requirements are met, if the applicant:

(1) is fit and able to provide the transportation to be authorized by the certificate;

(2) has a place of business and stations equipment within the state and is in compliance with the safety and financial responsibility requirements of the Motor Carrier Act, the rules of the commission and other applicable federal and state laws and rules; and

(3) has filed a tariff as provided in Section 65-2A-20 NMSA 1978.

B. Before granting a certificate for household goods service to an applicant, the commission shall consider any objections that were filed within the notice period.

C. A certificate issued by the commission for provision of household goods service shall contain one or more endorsements, each of which shall specify:

(1) the territory to be served, which shall be limited to territory sought in the application that will be served in a reasonably continuous and adequate manner beginning within thirty days of the issuance of the certificate or such other definite period or date as the commission may provide for a particular application, and shall generally be specified on the basis of county boundaries, subject to other or further specification by the commission by rule or in regard to a particular application; and

(2) any reasonable terms of service that the commission may allow or require for the particular certificate."

## **Chapter 77 Section 9 Laws 2013**

SECTION 9. Section 65-2A-10 NMSA 1978 (being Laws 2003, Chapter 359, Section 10, as amended) is amended to read:

"65-2A-10. PERMITS.--

A. Except as provided in this section and in Section 65-2A-13 NMSA 1978, the commission shall issue a permit allowing a person to provide permitted service for transportation of passengers or household goods pursuant to contract after notice and public hearing requirements are met, if the applicant is:

(1) fit to provide the transportation to be authorized by the permit;  
and

(2) in compliance with the safety and financial responsibility requirements of the Motor Carrier Act, the rules of the commission and other applicable federal and state laws and rules.

B. Before granting a permit to an applicant, the commission shall consider any objections or protests that were filed within the notice period.

C. The commission shall not grant a permit for ambulance or household goods service, or for provision of passenger service pursuant to a public-charge contract, or for a lease or transfer of such a permit, unless the applicant holds a certificate for provision of the appropriate certificated service in the territory to be served under contract. A carrier's operations pursuant to permits for contracts for ambulance service or household goods service, or for public-charge contracts for passenger service, shall be held to the same standards as are the carrier's certificated service operations. If the transportation to be provided under the contract is passenger service other than ambulance service, the contractual rates and terms of service affecting passengers shall be provided in the carrier's tariff.

D. The commission shall not issue a permit for passenger service if the contract or arrangement between the carrier and the other contracting party effectively excludes or otherwise impairs a certificated carrier's access to public places or the public's access to certificated carriers for the provision of transportation services by a certificated passenger service carrier then serving the same territory, and no permit issued may be used to effect such exclusion or impairment of certificated passenger service.

E. A permit issued by the commission shall specify the business of the carrier, the scope of the authority granted to it and the terms, conditions and limitations of the authority.

F. An applicant for a permit shall file with the commission each contract under which it intends to operate."

## **Chapter 77 Section 10 Laws 2013**

SECTION 10. Section 65-2A-11 NMSA 1978 (being Laws 2003, Chapter 359, Section 11) is amended to read:

"65-2A-11. TEMPORARY AUTHORITY.--

A. The commission may without notice grant temporary authority to an applicant for a certificate or permit or for amendment, lease or transfer of all or part of a

certificate or permit for a period not to exceed the duration of the application process, if it finds that:

(1) the notice period for such application has not yet expired, the application is one directly involving public safety, a governmental program or a specific public event, there is an urgent and immediate public need for such service and the public may be harmed by waiting for the notice period to expire;

(2) the applicant for temporary authority has a complete application for a certificate or permit or for amendment, lease or transfer of all or part of a certificate or permit, pending before the commission;

(3) the applicant is fit to provide the transportation service requested, is able to provide any certificated service requested and is in compliance with the safety and financial responsibility requirements of the Motor Carrier Act and the rules of the commission; and

(4) satisfactory proof of urgent and immediate need has been made by verified proof as the commission shall by rule prescribe.

B. An applicant for temporary authority as a tariffed service carrier shall file tariffs covering the transportation services for which temporary authority is being sought.

C. If a hearing is held before a hearing examiner for any reason on an application for a certificate or permit or for amendment, lease or transfer of all or part of a certificate or permit or for a tariff rate increase, the applicant may move in such proceeding for a grant of temporary authority or rate approval for a period not to exceed the duration of the application process, and any protesting carrier or the transportation division of the commission may move in such proceeding for reconsideration or modification of any grant of temporary authority previously granted by the commission or the hearing examiner. The hearing examiner in the proceeding shall hold an expedited preliminary public hearing on the grant of temporary authority on the issues in the proceeding and the testimony evidence presented in the hearing on such procedural basis as the commission shall by rule prescribe.

D. Motor carriers operating under temporary authority shall comply with the requirements of the Motor Carrier Act and the rules of the commission.

E. A grant of temporary authority shall not create a presumption that permanent authority will be granted."

## **Chapter 77 Section 11 Laws 2013**

SECTION 11. Section 65-2A-12 NMSA 1978 (being Laws 2003, Chapter 359, Section 12) is amended to read:



"65-2A-12. WARRANTS.--

A. The commission shall issue a warrant that allows a person to provide warranted service as a commuter service, charter service, towing service or motor carrier of property if the commission finds that the applicant is in compliance with the financial responsibility and safety requirements of the Motor Carrier Act and the rules of the commission.

B. A towing service carrier performing nonconsensual tows is subject to tariff rates and terms of service. A towing service carrier performing nonconsensual tows shall not use the same motor vehicles, equipment and facilities used by another warranted towing service carrier performing nonconsensual tows.

C. A warrant shall not be transferred or leased to another person.

D. The commission may without notice or a public hearing cancel a warrant if the owner fails to operate under the warrant for twelve consecutive months or fails to provide proof of financial responsibility as required by the commission for four consecutive months."

## **Chapter 77 Section 12 Laws 2013**

SECTION 12. Section 65-2A-13 NMSA 1978 (being Laws 2003, Chapter 359, Section 13) is amended to read:

"65-2A-13. PROTESTS, OBJECTIONS AND HEARINGS.--

A. Any interested person or any member of the public may provide information to the commission or express an objection to any application for a certificate or permit, or for amendment, lease or transfer of a certificate or permit, during the notice period for the application by filing a written objection in regard to the application. The commission shall consider any objections filed in regard to determining whether to hold a hearing on the application. The commission is not required to hold a hearing pursuant to any objection but may, in its discretion or on its own motion for any reason, hold a hearing on any application for a certificate or permit or for an amendment, lease or transfer of a certificate or permit.

B. The commission shall hold a hearing on an application whenever a protest is filed within the notice period or the transportation division of the commission files a request for a hearing relative to an application within the notice period. The commission shall allow a protesting carrier to proceed as an intervenor in the application proceeding.

C. In any hearing held on an application:

(1) the applicant has the burden of proving that the applicant meets the requirements of the Motor Carrier Act and the rules of the commission for the application at issue, the burden of demonstrating with reasonable specificity the nature and scope of its proposed transportation service, the burden of proving any particular factual matters that the commission or the transportation division of the commission may identify and require, the burden of proving any additional allegations and matters of public interest that it may raise and, if the application pertains to ambulance service, the burden of proving that the ambulance service that currently exists in the territory sought in the application is inadequate and that the proposed service is directly responsive to a public need and demand for the service proposed;

(2) a protesting carrier has the burden of proving all matters of fact pertaining to its full-service operation within its certificated full-service territory, the burden of proving the potential impairment or adverse impact on its existing full-service operation by the transportation service proposed by the applicant and the burden of proving all other allegations and matters of public interest that it may raise. The protesting carrier's proof should include, without limitation, a demonstration with reasonable specificity of the nature of the existing full service being provided, the volume of passengers transported, economic analysis related to expenses and revenues of the full-service operation and the anticipated economic, business or functional effect of the proposed service on the existing provision of, or rates for, full-service transportation within the full-service territory;

(3) the commission may allow other interested persons to intervene, either generally or on the basis of specific facts or issues. A permissive intervenor has the burden of proof for its position on all factual matters and legal issues that it alleges and on which it is permitted to intervene; and

(4) all parties to a hearing may base their demonstration and proof on business data, experienced persons and mathematical calculations. Expert testimony shall not be required of any party but may be provided at the option of a party.

D. The commission shall not grant an application:

(1) for a certificate or permit for ambulance service, or for amendment, lease or transfer of such a certificate or permit, if it finds after hearing that the existing ambulance service is provided on a reasonably continuous and adequate basis in the territory in which the new service is sought or that the holder of the certificate or lessee providing the existing ambulance service in such territory is willing and able to provide, and does subsequently provide, reasonably continuous and adequate service within such territory, as specified by commission order;

(2) for a new certificate for general taxicab service within the full-service territory of a protesting municipal taxicab service carrier; or

(3) for a certificate for any passenger service other than those identified in Paragraphs (1) and (2) of this subsection, or for a permit for passenger service other than for an ambulance service pursuant to a public-charge contract, or for amendment, lease or transfer of such a certificate or permit, within a protesting full-service carrier's full-service territory, if it finds after hearing that the grant of the application presents a reasonable potential to impair, diminish or otherwise adversely affect the existing provision of full-service passenger service to the public in the full-service territory or if the application is otherwise contrary to the public interest in the full-service territory. In considering the potential effect on provision of transportation services to the public in regard to such an application, the commission shall consider all evidence presented pertaining to such potential effect, including evidence of the effect that diversion of revenue or traffic may have on the provision of full-service passenger service to the community. Diversion of revenue or traffic from an existing motor carrier shall not, however, be sufficient grounds for denying the application without a showing that the diversion presents a reasonable potential to affect the provision of full-service passenger service to the community."

## **Chapter 77 Section 13 Laws 2013**

SECTION 13. Section 65-2A-14 NMSA 1978 (being Laws 2003, Chapter 359, Section 14) is amended to read:

"65-2A-14. CHANGES IN CERTIFICATES OR PERMITS.--

A. A change in a certificate or permit shall not be valid or effective without the approval of the commission.

B. The commission may, for good cause and after notice and public hearing requirements are met, authorize the following changes in all or part of a certificate or permit at the request of the holder if the commission finds:

(1) that the applicant for amendment, lease or transfer of a certificate for passenger service meets the requirements pursuant to Section 65-2A-8 NMSA 1978 for a certificate for such passenger service;

(2) that the applicant for amendment, lease or a transfer of a certificate for household goods service meets the requirements pursuant to Section 65-2A-9 NMSA 1978 for a certificate for such household goods service;

(3) that the applicant for amendment, lease or a transfer of a permit meets the requirements pursuant to Section 65-2A-10 NMSA 1978 for such a permit; and

(4) in addition, that:

(a) for transfer or lease of all or part of a certificate or permit, the transferor-applicant has rendered reasonably continuous and adequate service in the territory to be transferred or leased prior to the application for lease or transfer; and

(b) for transfer of all or a part of a certificate or permit, accrued taxes, rents, wages of employees and other indebtedness pertaining to all or part of a certificate or permit proposed to be transferred have been paid by the transferor-applicant or assumed by the transferee-applicant.

C. The commission may, without notice or a public hearing, authorize the following changes in all or part of a certificate or permit at the request of the holder:

(1) voluntary cancellation of the certificate or permit;

(2) voluntary suspension of the certificate or permit for a period not to exceed twelve consecutive months;

(3) change in the form of legal entity or name of the holder of the certificate or permit;

(4) reinstatement of the certificate or permit following voluntary suspension of a period not exceeding twelve consecutive months;

(5) change in control of a holder of the certificate or permit through issuance or transfer of stock or other legal interest in a holder that is a corporation, partnership, trust or other legal business entity; and

(6) matters pertaining to transfers by operation of law."

## **Chapter 77 Section 14 Laws 2013**

SECTION 14. Section 65-2A-15 NMSA 1978 (being Laws 2003, Chapter 359, Section 15) is amended to read:

"65-2A-15. MULTIPLE OPERATING AUTHORITIES AND BUSINESS TRADE NAMES ALLOWED.--

A. A person may simultaneously hold certificates for different kinds of certificated services, permits for different contracts and warrants for different kinds of warranted service within the same territory.

B. Any motor carrier that holds more than one certificate for the same kind and nature of certificated service in the same territory or more than one permit for the same contract shall file an application with the commission to consolidate such operating authorities.

C. The commission shall not grant any new operating authority to a motor carrier that duplicates the operating authority of the same kind and for the same territory already held by that motor carrier.

D. Certificated service carriers holding both a certificate and permit or warrant for related services may use the same vehicles and may transport passengers and property, or mixed loads of household goods and property, pursuant to those authorities in the same vehicles and on the same trip.

E. Every certificated, permitted or warranted service carrier shall file with the transportation division of the commission all business trade names under which the carrier operates its service or services authorized and shall provide the transportation division of the commission with proof of financial responsibility for all business trade names in addition to its legal name. The commission shall accept business trade names as submitted by a carrier. Filing with the transportation division of the commission shall not, by itself, establish or otherwise affect the ownership or right to use a business trade name under the intellectual property laws of the state of New Mexico."

## **Chapter 77 Section 15 Laws 2013**

SECTION 15. Section 65-2A-16 NMSA 1978 (being Laws 2003, Chapter 359, Section 16, as amended) is amended to read:

### **"65-2A-16. INTERSTATE MOTOR CARRIERS.--**

A. Foreign and domestic motor carriers, motor private carriers, leasing companies, brokers and freight forwarders shall not operate in interstate commerce in this state without first registering with a base state and paying all fees as required under the federal Unified Carrier Registration Act of 2005. The 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. 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."

## **Chapter 77 Section 16 Laws 2013**

SECTION 16. Section 65-2A-18 NMSA 1978 (being Laws 2003, Chapter 359, Section 18, as amended) is amended to read:

"65-2A-18. FINANCIAL RESPONSIBILITY.--

A. The commission shall prescribe minimum requirements for financial responsibility for all motor carriers.

B. A motor carrier shall not operate on the highways of this state without having filed with the commission proof of financial responsibility in the form and amount as the commission shall by rule prescribe.

C. In prescribing minimum requirements for financial responsibility for motor carriers, the commission shall adopt the same minimum liability insurance requirements as those required by the federal motor carrier safety administration for interstate motor carriers for all motor vehicles for carriage of property or household goods and for all passenger motor vehicles with such capacities. The commission shall adopt reasonable minimum liability insurance requirements for the use of passenger motor vehicles with capacities less than those regulated by the federal motor carrier safety administration and in doing so shall consider the number of passengers being transported and the nature of the transportation services provided by the motor carriers using vehicles of those capacities.

D. The commission may authorize a motor carrier to carry its own insurance in lieu of filing a policy of insurance, certificate showing the issuance of a policy of insurance or a surety bond. In approving an application to be self-insured, the commission shall consider:

- (1) the financial stability of the carrier;
- (2) previous loss history of the carrier;
- (3) the safety record of the carrier;
- (4) the size, nature of operations and other operating characteristics of the carrier; and
- (5) other factors necessary for the protection of passengers, shippers and the public.

E. Notwithstanding any requirement of the New Mexico Insurance Code to the contrary, the commission may accept proof of public liability insurance from an insurer not authorized in New Mexico if:

- (1) the insurance is for an interstate motor carrier transporting commodities exempt from regulation by the federal motor carrier safety administration participating in the unified carrier registration system for those motor carriers; and
- (2) the insurer is authorized to write public liability insurance in at least one other state.

F. All motor carriers shall carry proof of financial responsibility in each motor vehicle they operate in this state."

## **Chapter 77 Section 17 Laws 2013**

SECTION 17. Section 65-2A-19 NMSA 1978 (being Laws 2003, Chapter 359, Section 19) is amended to read:

"65-2A-19. SAFETY REQUIREMENTS FOR MOTOR VEHICLES AND DRIVERS.--

A. A motor carrier shall provide safe and adequate service, equipment and facilities for the rendition of transportation services in this state.

B. The commission shall prescribe safety requirements for drivers and for motor vehicles weighing twenty-six thousand pounds or less or carrying fifteen or fewer persons, including the driver, used by intrastate motor carriers operating in this state. The commission may prescribe additional requirements related to safety, including

driver safety training programs, vehicle preventive maintenance programs, inquiries regarding the safety of the motor vehicles and drivers employed by a motor carrier, and the appropriateness of the motor vehicles and equipment for the transportation services to be provided by the motor carrier.

C. A commuter service shall certify that it has a program providing for an initial drug test for a person seeking to be a commuter service driver. The program shall use reasonable collection and analysis procedures to ensure accurate results, require testing only for substances controlled by federal regulation of commercial motor carriers and ensure the confidentiality of the test results and medical information obtained.

D. The motor transportation division of the department of public safety may immediately order, without notice or a public hearing, a motor vehicle to be taken out of service for violation of a federal or state law or rule relating to safety if the violation would endanger the public health or safety.

E. The commission shall implement rules requiring carriers to obtain criminal background reports for all employed or contract drivers of certificated service carriers and for all other persons employed by certificated household goods service carriers who enter private dwellings in the course of household goods service."

## **Chapter 77 Section 18 Laws 2013**

SECTION 18. Section 65-2A-20 NMSA 1978 (being Laws 2003, Chapter 359, Section 20) is amended to read:

"65-2A-20. TARIFFS.--

A. A tariffed service carrier shall not commence operations or perform a new service under its operating authority without having an approved tariff on file with the commission.

B. A tariffed service carrier shall file with the commission proposed tariffs showing the rates for transportation and all related activities and containing a description of the type and nature of the service, territory and all terms of service for transportation and related services. The rates shall be stated in terms of United States currency. Tariffs for individual carriers shall also include the carrier's legal name, all business trade names used by the carrier, contact information, information for service of process, the territory authorized for each transportation service listed in the tariff and any terms of service contained in the operating authorities for that particular carrier. Each tariffed service carrier operating pursuant to a statewide tariff shall file with the commission a tariff statement referencing the statewide tariff being used and include the carrier's legal name, all business trade names used by the carrier, contact information, information for service of process, the territory authorized for that carrier and any terms of service contained in the operating authority for that particular carrier.



C. A tariffed service carrier shall not charge, or permit its agents, employees or contract drivers to charge, a different or additional rate, or to use different or additional practices or terms of service, for transportation or for a service rendered to or for the user of the service other than the rates and terms of service specified in approved tariffs in effect at the time, except:

(1) for ambulance and household goods service carriers, in accordance with rates and terms of service established by federal or state law for federal or state governmental programs or operations; and

(2) for tariffed passenger service carriers other than ambulance service carriers, in accordance with the rates and terms of service established by governmental programs or operations in which they voluntarily participate.

D. A tariffed service carrier shall not pay or refund, directly or indirectly to any person, a portion of the rate specified in its approved tariff, offer to a person privileges or facilities, perform a service or remit anything of value, except:

(1) in accordance with tariffs approved by the commission;

(2) for ambulance and household goods service carriers, in accordance with rates and terms of service established by federal and state law for federal and state governmental entities, programs or operations;

(3) for tariffed passenger service carriers other than ambulance service carriers, in accordance with the rates and terms of service established by governmental programs or operations in which they voluntarily participate; or

(4) in settling or resolving a claim by a customer.

E. The commission shall post on its internet web site electronic copies of all currently approved individual and statewide tariffs, and all tariff statements filed by carriers using statewide tariffs, in a manner to facilitate public access, review and comparison of rates and terms of service. A certificated passenger service carrier other than an ambulance service carrier shall post its tariff rates in each vehicle used in the provision of its transportation service.

F. A tariffed service carrier shall file an application with the commission for any change in the tariff, accompanied by the proposed tariff, at least twenty days prior to implementation of the amended rates and terms of service contained in the tariff. Except as provided in this section, an amended tariff shall be approved and become effective twenty days after filing of the application for a change in the tariff. The commission shall post notice of each application for a change in a tariff along with a copy of the proposed tariff on the commission web site.

G. No changes in terms of service disapproved by the transportation division of the commission as inconsistent with the Motor Carrier Act, rule of the commission, the individual operating authority of the carrier or otherwise in violation of law shall become effective or be part of the approved tariff. The following terms of service contained in a tariff shall not be considered inconsistent with, or predatory or discriminatory in nature under the Motor Carrier Act or commission rule:

(1) a carrier may decline or terminate service under circumstances that reasonably appear to present a physical danger to the driver, to another employee of the carrier or to passengers or, for carriers other than ambulance service carriers, a danger to the condition of the motor vehicle or cargo;

(2) a carrier is not responsible for cancellations or delays due to weather or road conditions when reasonably required for safety or when due to road construction, road closures, law enforcement stops or similar matters beyond the control of the carrier;

(3) a passenger service carrier may require that all firearms carried by any passenger other than an authorized law enforcement officer be unloaded and placed in a locked area of the vehicle during transport, along with all ammunition and any other weapons; or

(4) a passenger service carrier other than an ambulance service carrier may decline or terminate service when the passenger cannot give an adequate description of, or direction to, the destination or cannot transfer into or out of the motor vehicle without requiring physical assistance from the driver.

H. An application for amendment of tariff rates that increases any tariff rate to a level greater than that previously approved by the commission for a full-service carrier or a towing service providing nonconsensual tows shall not become effective until approved by the commission as reasonable under Section 65-2A-21 NMSA 1978. The commission shall hold a hearing appropriate to the type of transportation service provided by the carrier for any such application, if requested by the applicant or by the transportation division of the commission, or if ordered in the discretion of the commission. The commission may provide for reasonable periodic rate increases for full-service carriers or towing services providing nonconsensual tows pursuant to a rate escalator or adjustment clause for any or all rates of a carrier on such basis as the commission finds reasonable.

I. A person may make a complaint in writing to the commission that a rate or term of service contained in a tariff, or a rate otherwise charged or practice otherwise effected, is inconsistent with or in violation of the Motor Carrier Act, commission rule or the operating authority or current tariff of the motor carrier. The commission may suspend the operation of a rate, term of service or practice for a period not to exceed sixty days to investigate its reasonableness. If the commission finds that a rate charged by a tariffed carrier, or a term of service or practice effected by a tariffed carrier, is

unauthorized, predatory or discriminatory, the commission shall prescribe the rate or the maximum or minimum rate to be observed or the terms of service to be made effective."

## **Chapter 77 Section 19 Laws 2013**

SECTION 19. Section 65-2A-21 NMSA 1978 (being Laws 2003, Chapter 359, Section 21) is amended to read:

"65-2A-21. RATES.--

A. Tariffed service carriers shall observe nonpredatory and nondiscriminatory rates and terms of service for the transportation services they provide. A predatory or discriminatory charge for service is unlawful.

B. Reduced rates for minor children accompanied by an adult, for students traveling between their homes and their schools and for persons sixty-five years of age or older shall not be considered discriminatory. A motor carrier shall not furnish free transportation to persons except to bona fide owners, officers, employees or other business personnel of the motor carrier and their dependents.

C. Towing services performing nonconsensual tows may charge rates lower than the rates in their approved tariff to members of not-for-profit motor clubs after those rates have been filed with the commission.

D. A household goods service carrier shall establish and observe nonpredatory and nondiscriminatory rates and practices relating to the manner and method of presenting, marking, packing and delivering household goods for transportation and other matters relating to the transportation of household goods.

E. In proceedings to determine the reasonableness of rates, the commission shall authorize revenue levels that are adequate under honest, economical and efficient management to cover total operating expenses, including the operation of leased motor vehicles, and depreciation, plus a reasonable profit. The rules adopted by the commission to implement this section shall allow a carrier to achieve revenue levels that will provide a flow of net income, plus depreciation, adequate to support prudent capital outlays, ensure the repayment of a reasonable level of debt, permit the raising of needed equity capital and attract and retain capital in amounts adequate to provide a sound motor carrier transportation system in the state."

## **Chapter 77 Section 20 Laws 2013**

SECTION 20. Section 65-2A-22 NMSA 1978 (being Laws 2003, Chapter 359, Section 22) is amended to read:

"65-2A-22. TIME SCHEDULES.--

A. A scheduled shuttle service carrier shall file a proposed time schedule with its tariff and shall file any change in its schedule through an amended tariff.

B. Failure by a scheduled shuttle service carrier to operate the service on each day pursuant to commission rule as scheduled in its tariff shall result in an appropriate penalty as the commission, in its discretion, shall determine.

C. A time schedule shall not be designed to require the operation of a motor vehicle between given terminals or terminal areas at a rate of speed greater than the maximum speed allowed."

## **Chapter 77 Section 21 Laws 2013**

SECTION 21. Section 65-2A-23 NMSA 1978 (being Laws 2003, Chapter 359, Section 23) is amended to read:

### **"65-2A-23. MOTOR CARRIER ORGANIZATIONS.--**

A. A tariffed service carrier may enter into discussions with another tariffed service carrier to establish a motor carrier organization. The organization shall obtain authorization from the commission before its members enter into any discussions concerning the rates contained in a statewide tariff. The commission may authorize the creation of a motor carrier organization to discuss and promote industry matters, other than the rates of individual carriers, if the organization:

(1) allows any intrastate motor carrier authorized to provide the same type of service to become a member of the organization, and allows a member carrier to discuss matters before the organization and to vote upon any proposal;

(2) does not interfere with a member carrier's right to establish its own tariff and does not change or cancel an independently established tariff;

(3) does not file an objection, protest or complaint with the commission against a tariff item independently published by or for the account of a member carrier;

(4) does not permit its employees or an employee committee to file or act upon a proposal effecting a change in a tariff item published by or for the account of a member carrier; and

(5) proposes matters concerning statewide tariffs for approval by the commission.

B. A member carrier of the organization shall file with the commission information as the commission may by rule prescribe.

C. A motor carrier organization approved by the commission pursuant to this section shall be subject to accounting, record-keeping, reporting and inspection requirements as the commission may by rule prescribe.

D. The commission may, upon complaint or upon its own initiative, investigate and determine whether a motor carrier organization previously authorized by it is not in conformity with the requirements of this section or with the terms and conditions upon which the motor carrier organization was granted authorization. The commission may modify or terminate its authorization of a motor carrier organization found to be noncompliant with the requirements of this rule.

E. The antitrust laws of the state shall not apply to discussions concerning general industry matters, terms of service or any matters concerning a statewide tariff, including the rates contained in a statewide tariff, by member carriers of a motor carrier organization authorized by the commission."

## **Chapter 77 Section 22 Laws 2013**

SECTION 22. Section 65-2A-24 NMSA 1978 (being Laws 2003, Chapter 359, Section 24) is amended to read:

"65-2A-24. MOTOR VEHICLE LEASES--DRIVER CONTRACTS.--

A. An intrastate motor carrier shall not lease a motor vehicle or operate a leased motor vehicle in the course of its transportation service except as provided by commission rule. The commission may approve a motor vehicle lease without notice or a public hearing.

B. A motor carrier may use employed or contract drivers or taxicab association member drivers in the provision of a transportation service. Regardless of the provisions of any written or oral agreement between a motor carrier and a contract driver or taxicab association member driver, motor carriers providing transportation services that use contract drivers or taxicab association member drivers remain fully responsible to the commission for complying with all provisions of the Motor Carrier Act and commission rules applicable to transportation service carriers.

C. Motor carriers providing intrastate transportation services that use contract drivers or taxicab association member drivers shall maintain, at their principal places of business within the state, a current written agreement with each such driver. No agreement with any contract driver or taxicab association member driver shall contain any provision contrary to a provision of the Motor Carrier Act or a rule of the commission. Each written agreement shall contain a clause that requires the contract driver or taxicab association member driver to adhere to all provisions of the Motor Carrier Act and to all commission rules applicable to transportation service carriers."

## **Chapter 77 Section 23 Laws 2013**

SECTION 23. Section 65-2A-25 NMSA 1978 (being Laws 2003, Chapter 359, Section 25) is amended to read:

"65-2A-25. HOUSEHOLD GOODS OPERATIONS.--

A. The commission shall establish a statewide tariff for household goods services, containing terms of service and maximum rates that household goods service carriers may charge the public.

B. A certificated household goods service carrier shall be responsible for acts or omissions of its agents that relate to the performance of household goods transportation services, including accessorial or terminal services, that are within the actual or apparent authority of the agent derived from or ratified by the certificated household goods service carrier.

C. A certificated household goods service carrier shall use reasonable care in selecting and retaining household goods agents who are sufficiently knowledgeable, fit, willing and able to provide adequate household goods transportation services, including accessorial and terminal services, and to fulfill the obligations imposed upon them by the Motor Carrier Act and by the certificated household goods service carrier.

D. If the commission has reason to believe from a complaint or investigation that a household goods agent has violated Subsection G or H of Section 65-2A-33 NMSA 1978, or is consistently unfit, unwilling or unable to provide adequate household goods transportation services, including accessorial and terminal services, the commission may issue to that household goods agent notice of the complaint, specific charges and the time and place for a hearing on the complaint. The hearing shall be held no later than sixty days after service of the complaint to the household goods agent. The household goods agent has the right to appear at the hearing and rebut the charges contained in the complaint.

E. If the household goods agent does not appear at the complaint hearing, or if the commission finds that the household goods agent has violated Subsection G or H of Section 65-2A-33 NMSA 1978, or is consistently unfit, unwilling or unable to provide adequate household goods transportation services, including accessorial and terminal services, the commission shall issue an order to compel compliance by the household goods agent. Thereafter, the commission may issue an order to limit or prohibit the household goods agent from any involvement in the provision of household goods transportation services if, after notice and an opportunity to be heard, it finds that the household goods agent has failed to comply with the order within a reasonable time after the date of its issuance, but in no event less than thirty days after its issuance. A household goods agent may file a petition with the commission seeking reconsideration of an order entered by the commission pursuant to this section.

F. The commission shall adopt rules for the following elements of household goods transportation services:

- (1) methods of determining shipping charges;
- (2) cost estimates, for which charges shall be subject to the antitrust laws of this state;
- (3) inventory;
- (4) weighing;
- (5) receipts and bills of lading;
- (6) liability based on value established between the motor carrier and the shipper;
- (7) equipment stationing by, and joint transportation between, household goods service carriers;
- (8) household goods agents; and
- (9) service standards.

G. In adopting reasonable rules for intrastate household goods service carriers, the commission shall balance the interests of shippers and carriers and consider and observe industry standards.

H. The antitrust laws shall not apply to discussions or agreements between a household goods service carrier and its authorized agents, whether or not an agent is also a household goods service carrier when related solely to:

- (1) rates for the transportation of household goods under the authority of the principal carrier;
- (2) accessorial, terminal, storage or other charges for transportation services incidental to the transportation of household goods transported under the authority of the principal carrier;
- (3) allowances relating to transportation of household goods under the authority of the principal carrier; or
- (4) ownership of a household goods service carrier by an agent or membership on the board of directors of any household goods service carrier by an agent."

## Chapter 77 Section 24 Laws 2013

SECTION 24. Section 65-2A-26 NMSA 1978 (being Laws 2003, Chapter 359, Section 26) is amended to read:

### "65-2A-26. HOUSEHOLD GOODS VOLUNTARY DISPUTE SETTLEMENT PROGRAM.--

A. The commission shall establish a program to settle disputes, at the voluntary option of the shipper, between shippers and all household goods service carriers concerning the transportation of household goods, which shall be a fair and expeditious method for settling disputes and complies with each of the following requirements and rules the commission may prescribe:

(1) the program is designed to prevent a household goods service carrier from having any special advantage in a case in which the shipper resides or does business at a place distant from the motor carrier's place of business;

(2) the program provides adequate notice of its availability, including a concise, understandable and accurate summary of the program and disclosure of the legal effects of using the program. The notice shall be given to the shipper before the shipper tenders the household goods to the motor carrier for transportation;

(3) upon request of a shipper, the motor carrier shall promptly provide forms and other information necessary to initiate an action to resolve a dispute under the program;

(4) a person authorized pursuant to the program to settle disputes shall be independent of the parties to the dispute and shall be capable, as determined by rules prescribed by the commission, to resolve disputes fairly and expeditiously. The program shall ensure that a person chosen to settle a dispute is authorized and able to obtain from the shipper or motor carrier any material and relevant information necessary to carry out a fair and expeditious decision-making process;

(5) the person settling the dispute may charge the shipper a fee of not more than twenty-five dollars (\$25.00) for instituting a proceeding under the program if the program is binding solely on the carrier, but shall not charge the shipper a fee otherwise. The person settling the dispute shall refund the fee to the shipper in a case in which the dispute is settled in favor of the shipper, unless the person settling the dispute determines that the refund is inappropriate;

(6) the program shall not require the shipper to agree to use the dispute settlement program prior to the time that a dispute arises;



(7) the program may provide for an oral presentation of a dispute concerning transportation of household goods by a party to the dispute or a party's representative, but an oral presentation shall not be made unless the parties to the dispute expressly agree to the presentation and the date, time and location of the presentation; and

(8) a person settling a dispute under the program shall, as expeditiously as possible, but no later than sixty days after receipt of written notification of the dispute, render a decision based on the information gathered; except that, in a case in which a party to the dispute fails to timely provide information that the person settling the dispute may reasonably require, the person settling the dispute may extend the sixty-day period for a reasonable period of time. A decision resolving a dispute may include remedies appropriate under the circumstances, including repair, replacement, refund or reimbursement for expenses and compensation for damages.

B. The commission may investigate at any time the functioning of the program approved under this section and may, after notice and an opportunity to be heard, take appropriate action against any household goods service carrier for failure to meet the requirements of this section and rules as the commission may prescribe.

C. In a court action to resolve a dispute between a shipper and a household goods service carrier, concerning the transportation of household goods by the carrier, the shipper shall be awarded reasonable attorney fees if:

(1) the shipper submits a claim to the carrier within one hundred twenty days after the date the shipment is delivered or the date delivery is scheduled, whichever is later;

(2) the shipper prevails in the court action; and

(3) a decision resolving the dispute was not rendered under the dispute settlement program within sixty days or an extension of the sixty-day period; or

(4) the court proceeding is to enforce a decision rendered under the dispute settlement program and is instituted after the period for performance under the decision has elapsed.

D. In a court action to resolve a dispute between a shipper and a household goods service carrier concerning the transportation of household goods by the carrier, the carrier shall be awarded reasonable attorney fees by the court only if the shipper brought the action in bad faith:

(1) after resolution of the dispute under the dispute settlement program; or

(2) after institution of a proceeding by the shipper to resolve the dispute under the dispute settlement program and before:

(a) the expiration of the sixty-day period or extension of the sixty-day period for resolution of the dispute; and

(b) a decision resolving the dispute is rendered under the program."

## **Chapter 77 Section 25 Laws 2013**

SECTION 25. Section 65-2A-27 NMSA 1978 (being Laws 2003, Chapter 359, Section 27) is amended to read:

"65-2A-27. INVOLUNTARY SUSPENSION, REVOCATION OR AMENDMENT OF OPERATING AUTHORITIES--REINSTATEMENT.--

A. The commission shall immediately suspend, without notice or a public hearing, the operating authority of a motor carrier for failure to continuously maintain the forms and amounts of financial responsibility prescribed by commission rule.

B. The commission may immediately suspend, without notice or a public hearing, the operating authority of a motor carrier for violation of a safety requirement of the Motor Carrier Act, the commission's rules or the rules of the motor transportation division of the department of public safety, if the violation endangers the public health or safety.

C. The commission may, upon complaint or the commission's own initiative and after notice and a public hearing, if required, order involuntary suspension, revocation or amendment, in whole or in part, of an operating authority for failure to:

(1) comply with a provision of the Motor Carrier Act;

(2) comply with a lawful order or rule of the commission;

(3) comply with a term of service of an operating authority or tariff;

or

(4) render reasonably continuous and adequate service under a certificate.

D. The commission may approve an application for reinstatement of an operating authority following involuntary suspension if it finds, after notice and public hearing requirements are met, that:

and (1) the reasons for the involuntary suspension no longer pertain;

(2) the holder of the operating authority is fit, and a certificate holder is able, to provide the authorized transportation services, and the holder will comply with the Motor Carrier Act and the rules of the commission."

## **Chapter 77 Section 26 Laws 2013**

SECTION 26. Section 65-2A-28 NMSA 1978 (being Laws 2003, Chapter 359, Section 28) is amended to read:

### "65-2A-28. DESIGNATION OF AN AGENT FOR SERVICE OF PROCESS.--

A. An applicant for an operating authority shall file with the commission an appointment in writing of a resident agent for service of process. The appointment shall specify the address of the agent and shall stipulate that service upon the appointed agent of process of the commission or of a court shall have the same force and effect as if service had been made personally upon the motor carrier within this state. The appointment shall continue in force until the motor carrier files an appointment of a substitute agent or until liability against the motor carrier growing out of its operations in the state has terminated. A copy of the appointment, duly certified by the commission, shall be accepted as sufficient evidence of appointment of an agent in a court of the state.

B. If the holder of an operating authority from the commission operates without appointing a resident agent for service of process, or the commission has unsuccessfully attempted to serve process upon the designated resident agent, the holder shall be deemed to have appointed the secretary of state as its resident agent for service of process in an action or proceeding against the motor carrier growing out of an accident, collision or transaction in which the motor carrier may be involved by operating in this state.

C. If the secretary of state is served with process directed to the holder of an operating authority from the commission, the secretary of state shall forward the process by certified mail to the motor carrier at the address shown on its last change of address report, annual report or application with respect to its operating authority, whichever is most recent. The secretary of state shall file a certificate of service with the commission, which shall be accepted as prima facie proof of service.

D. The secretary of state shall assess to the motor carrier the fee prescribed in Section 65-2A-36 NMSA 1978 for a process from a court served upon the secretary of state but shall not charge a fee for service of commission process.

E. The principal motor carrier of a household goods agent shall be deemed to be the agent for service of process of the household goods agent unless the

household goods agent notifies the commission in writing of the substitution of another agent for service of process."

## **Chapter 77 Section 27 Laws 2013**

SECTION 27. Section 65-2A-29 NMSA 1978 (being Laws 2003, Chapter 359, Section 29) is amended to read:

### "65-2A-29. REPORTS AND RECORDS.--

A. The commission shall establish reasonable requirements with respect to reports, records and uniform systems of accounts and preservation of records for motor carriers.

B. The commission may require any holder of an operating authority from the commission or any lessee of an authority to prepare and transmit to the commission an annual report of its operations. The report shall be in the form, contain specific information, including financial information, and be due on a date as the commission may by rule require. Financial data filed by motor carriers in annual reports shall not be made available for inspection by the public.

C. The commission or its employees or duly authorized agents shall, at all times, have access to:

(1) land, buildings, improvements to real property and equipment of motor carriers used in connection with their operations; and

(2) records kept by motor carriers.

D. The commission may, by order, require a motor carrier subject to the Motor Carrier Act, or its officers or agents, to produce within this state at such reasonable time and place as it may designate, original or certified copies of records regardless of where they are kept by the motor carrier when their production is pertinent to a matter before the commission, in order that the commission may examine them. No trade secret or business confidentiality immunity or privilege may be asserted by the motor carrier in response to such an order or request; provided that nothing in this provision shall prevent a carrier from moving for, or the commission from entering, an appropriate protective order to preserve the carrier's trade secrets or business confidentiality from further disclosure, nor shall this provision or any production required under this provision waive or diminish the carrier's trade secret or business confidentiality immunity or privilege as to persons other than the commission.

E. The motor transportation division of the department of public safety shall furnish to the commission all information needed or required by the commission to carry out its responsibilities when the information is obtainable only through field enforcement.

F. All applications, protests, objections, amendments to filings, operating authorities, tariffs, pleadings or any other documents filed in docketed proceedings not subject to confidentiality orders are public records and shall, as soon as practical, be made electronically available to the public."

## **Chapter 77 Section 28 Laws 2013**

SECTION 28. Section 65-2A-30 NMSA 1978 (being Laws 2003, Chapter 359, Section 30) is amended to read:

"65-2A-30. UNAUTHORIZED CARRYING OF PERSONS PROHIBITED.--Except in the case of an emergency, a transportation service carrier not authorized to transport passengers shall not carry a passenger, including a hitchhiker, except on-duty employees of the motor carrier or commission representatives on official business in a vehicle used in the provision of transportation service under its operating authority."

## **Chapter 77 Section 29 Laws 2013**

SECTION 29. Section 65-2A-33 NMSA 1978 (being Laws 2003, Chapter 359, Section 33) is amended to read:

"65-2A-33. CRIMINAL AND CIVIL PENALTIES--UNFAIR TRADE PRACTICES.--

A. A person who knowingly makes a false statement of material fact under oath or penalty of perjury in a commission proceeding, whether orally or in writing, shall be guilty of perjury.

B. A person who willfully makes a false return of process or report to the commission or a member or employee of the commission, and a person who knowingly aids or abets a person who willfully makes a false return of process or report to the commission or a member or employee of the commission, shall be guilty of a felony, and upon conviction shall be imprisoned for not more than five years.

C. A person who willfully makes a false entry in records required by the Motor Carrier Act or the rules of the commission, willfully destroys, mutilates or by other means willfully falsifies the records or willfully neglects or fails to make full, true and correct entries of all facts, shall be guilty of a felony and upon conviction shall be imprisoned for not more than five years.

D. An employee of the commission who divulges information about an inspection, examination or investigation of a record or of the property and facilities of a motor carrier, except insofar as may be authorized by the commission or a court of competent jurisdiction, shall be guilty of a misdemeanor and upon conviction shall be fined not more than one thousand dollars (\$1,000).

E. A person who violates or who procures, aids or abets in the violation of a provision of the Motor Carrier Act or a rule or order of the commission shall be guilty of a misdemeanor and upon conviction shall be fined not more than one thousand dollars (\$1,000), imprisoned for not more than ninety days, or both.

F. A motor carrier shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars (\$500), imprisoned for not more than six months, or both, if the motor carrier:

- (1) refuses to permit examination of its records;
- (2) conceals, destroys or mutilates its records;
- (3) attempts to conceal, destroy or mutilate its records; or
- (4) removes its records beyond the limits of the state for the purpose of preventing examination.

G. A person who commits weight-bumping shall be guilty of a felony and upon conviction shall be fined not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000), imprisoned for not more than two years, or both.

H. A person shall be assessed a civil penalty of not more than two thousand dollars (\$2,000) for each violation and not more than five thousand dollars (\$5,000) for each subsequent violation if the person knowingly engages in or authorizes an agent or other person to:

- (1) falsify the documents used in the transportation of household goods that evidence the weight of shipment; or
- (2) charge for accessorial services that are not performed, or for which the carrier is not entitled to be compensated, in a case in which such services are not reasonably necessary for the safe and adequate transportation of the shipment.

I. A law enforcement officer of the state shall arrest and the district attorney and attorney general shall prosecute a violation of the Motor Carrier Act.

J. It is an unfair and deceptive trade practice under the Unfair Practices Act for any transportation service carrier to offer or provide transportation services of a type for which, or in any territory in which, it is not authorized to do so by the commission. The attorney general or a person who has been damaged or who is likely to be damaged as the result of such unauthorized service, including a shipper, a passenger or an authorized transportation service carrier, may bring an action pursuant to the Unfair Practices Act against the transportation service carrier regarding such unauthorized service. Any such civil action shall be in addition to, and shall not bar, any investigation or civil or criminal enforcement action regarding the unauthorized service

available to the attorney general or a district attorney, or available to the commission under the Motor Carrier Act.

K. It is an unfair and deceptive trade practice under the Unfair Practices Act for any transportation service carrier or its agent, employee or contract driver to charge or collect a predatory rate or to undertake a predatory practice in the provision of transportation services. The attorney general or a person who has been damaged or who is likely to be damaged as the result of a predatory rate or practice may bring an action pursuant to the Unfair Practices Act against the transportation service carrier regarding such predatory rate or practice. Any such civil action shall be in addition to, and shall not bar, any investigation or civil or criminal enforcement action regarding the predatory rate or practice available to the attorney general or a district attorney, or available to the commission under the Motor Carrier Act."

## **Chapter 77 Section 30 Laws 2013**

SECTION 30. Section 65-2A-36 NMSA 1978 (being Laws 2003, Chapter 359, Section 36) is amended to read:

"65-2A-36. FEES.--

A. The commission shall charge and collect the following fees:

(1) for filing an application for a certificate or an application for an amendment of a certificate, or for any protest or permissive intervention in regard to such application, two hundred fifty dollars (\$250);

(2) for filing an application for a permit or an application for amendment of a permit, or for any protest or permissive intervention in regard to such application, two hundred fifty dollars (\$250);

(3) for filing an application for a warrant, twenty-five dollars (\$25.00);

(4) for filing an application or motion for temporary authority, one hundred dollars (\$100);

(5) for filing an application for a change in a tariff for a tariffed service carrier, two hundred dollars (\$200);

(6) for filing an application for lease or transfer of a certificate or permit, or for any protest or permissive intervention in regard to such application, two hundred dollars (\$200);

(7) for filing an application for reinstatement of a certificate or permit following voluntary or involuntary suspension, one hundred dollars (\$100);

(8) for filing an application for voluntary suspension of a certificate or permit, fifteen dollars (\$15.00);

(9) for filing an application for a single trip ticket, five dollars (\$5.00) per vehicle per trip;

(10) for filing a change in the legal name of any holder of an operating authority, or a change of business trade name or the addition or deletion of a business trade name of any holder or lessee of an operating authority, ten dollars (\$10.00);

(11) for filing an equipment lease, five dollars (\$5.00) per vehicle leased;

(12) for a miscellaneous filing, five dollars (\$5.00) per document;

(13) for certifying copies of a record, order or operating authority, the charge per page provided by law for governmental agencies;

(14) for copies of written commission documents or records, the charge per page provided by law for governmental agencies, in addition to any applicable certification charge; and

(15) for copies of other commission records, including electronic media, an amount set by the commission, in addition to any applicable certification charge.

B. The secretary of state shall charge and collect a fee of four dollars (\$4.00) for each process from a court served upon the secretary of state as the designated agent for service of process by operation of law.

C. The "motor transportation fee fund" is created in the state treasury. The commission shall collect all fees at the time an application is filed or service is provided, and shall remit them to the state treasurer, who shall deposit them in the fund. At the end of each month, the state treasurer shall transfer the unencumbered balance in the fund to the state road fund.

D. If a fee has been erroneously paid, the person having paid the fee may apply for a refund in writing to the commission no later than sixty days after the erroneous payment. Upon approval of the application by the commission, the amount erroneously paid shall be refunded from the motor transportation fee fund to the person who made the payment.

E. An application shall be fully completed within sixty days or the fee submitted with the application shall be forfeited to the state. If the applicant renews the application, the applicant shall pay the applicable fee."



## **Chapter 77 Section 31 Laws 2013**

SECTION 31. Section 65-2A-37 NMSA 1978 (being Laws 2003, Chapter 359, Section 37) is amended to read:

"65-2A-37. ELECTRONIC FILING AND CERTIFICATION OF DOCUMENTS--  
ELECTRONIC PAYMENT OF FEES.--

A. The commission may adopt rules permitting the electronic filing, submission and service of documents by facsimile, electronic mail or other electronic transmission, including original documents, and the certification of electronically filed documents when filing or certification is required or permitted pursuant to the Motor Carrier Act. The rules shall provide for the appropriate treatment of electronic filings to satisfy requirements for original documents or copies and shall provide the requirements for signature with respect to electronic filings. If the commission accepts electronic filing of a document, it may accept for filing a document containing a signature line, however made.

B. The commission may accept a credit or debit card or other means of payment, in lieu of cash or check, as payment of a fee pursuant to the Motor Carrier Act. The commission shall determine those credit or debit cards or other means of payment that may be accepted for payment."

## **Chapter 77 Section 32 Laws 2013**

SECTION 32. Section 65-2A-38 NMSA 1978 (being Laws 2003, Chapter 359, Section 38) is amended to read:

"65-2A-38. EXEMPTIONS.--The Motor Carrier Act shall not apply to:

A. school buses, provided that school buses shall be subject to applicable school bus safety provisions established by the state transportation director;

B. United States mail carriers, unless they are engaged in other business as motor carriers of persons or household goods;

C. hearses, funeral coaches or other motor vehicles belonging to or operated in connection with the business of a funeral service practitioner licensed by the state;

D. a county or municipal public bus transportation system; or

E. private carriers."

## **Chapter 77 Section 33 Laws 2013**

SECTION 33. A new section of the Motor Carrier Act is enacted to read:

"TRANSITION.--

A. Except as provided in this section, certificates, permits and warrants issued to a motor carrier by the commission prior to July 1, 2013 shall remain in effect, subject to the provisions of the Motor Carrier Act, the Ambulance Standards Act and the commission's rules.

B. Certificates for limousine service and for tour and sightseeing service issued prior to July 1, 2013 shall, on and after that date, become certificates for specialized passenger service endorsed for the same territory and with the same additional terms of service as in the preexisting certificate, and for nature of service as provided by commission rule. The commission may require holders of such certificates to exchange their certificates for newly issued certificates.

C. Each certificate for terminal shuttle service, shared-ride service and bingo bus service issued prior to July 1, 2013 shall, on and after that date, become a certificate for shuttle service endorsed for the same territory and with the same additional terms of service as in the preexisting certificate, and for nature of service as general shuttle service. The commission may require holders of such certificates to exchange their certificates for newly issued certificates.

D. Each certificate for taxicab service issued prior to July 1, 2013 shall become void on and after that date and shall be replaced by a certificate for taxicab service endorsed for the same territory and with the same additional terms of service as in the preexisting certificate, but endorsed also for nature of service as a municipal taxicab service or a general taxicab service or both, depending on the actual nature of service provided by the holder within the certificated territory directly or under lease of the certificate continuously for the immediately prior twelve-month period. The commission may provide for reasonable procedures regarding replacement of certificates and shall issue new certificates effective on July 1, 2013.

E. Each certificate for shuttle service issued prior to July 1, 2013 shall become void on and after that date and shall be replaced by a certificate for shuttle service endorsed for the same terminals or terminal areas and with the same additional terms of service as in the preexisting certificate, but endorsed also for nature of service as a scheduled shuttle service or a general shuttle service or both, depending on the actual nature of service provided by the holder directly or under lease of the certificate continuously for the immediately prior twelve-month period. The commission may provide by order for reasonable procedures regarding replacement of certificates and shall issue new certificates effective on July 1, 2013.

F. The common tariff of the New Mexico movers and warehousemen's association shall, on July 1, 2013, become the individual tariff of each of the individual

member carriers of the New Mexico movers and warehousemen's association using that common tariff on June 30, 2013.

G. The commission shall not deny the application of a person applying for a new household goods service certificate during the period from July 1, 2013 through June 30, 2015 solely on the grounds that the applicant has provided household goods service without an appropriate operating authority. The commission may consider the nature of the applicant's unauthorized operations or the applicant's response to prior notices or efforts of the commission directed to the applicant, as well as any matters of public safety, financial liability and consumer issues involved in the applicant's unauthorized transportation service, in determining the applicant's fitness for the grant of a certificate."

### **Chapter 77 Section 34 Laws 2013**

SECTION 34. REPEAL.--Sections 65-2A-17 and 65-2A-40 NMSA 1978 (being Laws 2003, Chapter 359, Sections 17 and 40) are repealed.

### **Chapter 77 Section 35 Laws 2013**

SECTION 35. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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HBIC/House Bill 194

Approved March 29, 2013

## **LAWS 2013, CHAPTER 78**

AN ACT

RELATING TO COUNTIES; AMENDING A SECTION OF CHAPTER 4, ARTICLE 36 NMSA 1978 TO PROVIDE FOR COUNTY AUTHORITY TO CONTRACT WITH INDIVIDUALS FOR FIREFIGHTING SERVICES.

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

### **Chapter 78 Section 1 Laws 2013**

SECTION 1. Section 4-36-5 NMSA 1978 (being Laws 1967, Chapter 115, Section 1) is amended to read:

"4-36-5. FIREFIGHTING--COUNTY MAY PURCHASE FROM MUNICIPALITIES.--

A. Counties may contract with municipalities or individuals for purchase of firefighting services for the county or certain areas in a county where such services are needed when, in the opinion of the board of county commissioners, such services may be more economically provided by such contracts than maintaining firefighting services by the county.

B. The contract price shall be based upon the cost of the services, the depreciation of the equipment and the cost of insurance necessary or desirable to protect the municipality from loss or claim during the time it is engaged in extraterritorial firefighting under a contract with the county. Subject to the agreement between the municipality and the county, the contract may provide for annual, monthly or actual-use payments."

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Senate Bill 431

Approved April 1, 2013

## **LAWS 2013, CHAPTER 79**

### **AN ACT**

RELATING TO PENSIONS; AMENDING THE VOLUNTEER FIREFIGHTERS RETIREMENT ACT TO INCREASE THE RETIREMENT BENEFITS FOR ELIGIBLE PLAN RETIREES.

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

### **Chapter 79 Section 1 Laws 2013**

SECTION 1. Section 10-11A-5 NMSA 1978 (being Laws 1983, Chapter 263, Section 5, as amended) is amended to read:

#### **"10-11A-5. RETIREMENT BENEFITS--ELIGIBILITY.--**

A. Any member who attains the age of fifty-five years and has twenty-five years or more of service credit shall be eligible to receive a retirement annuity of two hundred fifty dollars (\$250), payable monthly from the fund during the remainder of the member's life.

B. Any member who attains the age of fifty-five years and has at least ten but less than twenty-five years or more of service credit shall be eligible to receive a

retirement annuity of one hundred twenty-five dollars (\$125), payable monthly from the fund during the remainder of the member's life.

C. Any member who ceases to be a volunteer nonsalaried firefighter after completing at least ten but less than twenty-five years of service credit is eligible to receive upon attaining the age of fifty-five years a retirement annuity of one hundred twenty-five dollars (\$125), payable monthly from the fund during the remainder of the member's life.

D. Any member who ceases to be a volunteer nonsalaried firefighter after completing twenty-five years of service credit is eligible to receive upon attaining the age of fifty-five years a retirement annuity of two hundred fifty dollars (\$250), payable monthly from the fund during the remainder of the member's life.

E. Any member who qualifies for and receives a retirement annuity pursuant to this section may continue as an active member on the rolls of a fire department. However, such member shall not accrue additional service credit for the purpose of increasing the amount of the member's retirement annuity."

## **Chapter 79 Section 2 Laws 2013**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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House Bill 275

Approved April 1, 2013

## **LAWS 2013, CHAPTER 80**

AN ACT

RELATING TO VOLUNTEER FIREFIGHTERS; ALLOWING STIPENDS TO BE PAID TO VOLUNTEER FIREFIGHTERS IN CERTAIN SITUATIONS.

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

## **Chapter 80 Section 1 Laws 2013**

SECTION 1. VOLUNTEER FIREFIGHTERS--STIPEND.--To the extent consistent with the federal Fair Labor Standards Act of 1938 in order to maintain volunteer status, a volunteer firefighter may be paid a stipend by a public agency to perform the services for which the firefighter volunteered if:

A. the stipend represents only actual expenses, reasonable benefits or a nominal fee; and

B. the services are not the same type of services that the volunteer is employed to perform for the same public agency paying the stipend.

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House Bill 615

Approved April 1, 2013

## **LAWS 2013, CHAPTER 81**

AN ACT

RELATING TO ENDANGERED PERSONS; CREATING A SILVER ALERT PROCEDURE FOR THE DEPARTMENT OF PUBLIC SAFETY; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2010.

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

### **Chapter 81 Section 1 Laws 2013**

SECTION 1. A new section of the Missing Persons Information and Reporting Act is enacted to read:

"SILVER ALERT ADVISORY.--

A. The department of public safety shall issue a silver alert if, after review and investigation of a missing person report of a person subject to the alert, the department makes an independent determination that the missing person is a person subject to the alert.

B. The department shall develop and implement silver alert procedures for the purpose of disseminating, as rapidly as possible, information about a person subject to the alert. The procedures shall include:

(1) notification to the lead station of the silver alert;

(2) notification to other public and private media sources and members of the public as necessary; and

(3) providing information about the subject of the silver alert, including all identifying information, to the lead station and other media sources."

## Chapter 81 Section 2 Laws 2013

SECTION 2. Section 29-15-2 NMSA 1978 (being Laws 1995, Chapter 146, Section 2, as amended by Laws 2010, Chapter 32, Section 2 and by Laws 2010, Chapter 33, Section 3) is amended to read:

"29-15-2. DEFINITIONS.--As used in the Missing Persons Information and Reporting Act:

A. "child" means an individual under the age of eighteen years who is not emancipated;

B. "clearinghouse" means the missing persons information clearinghouse;

C. "custodian" means a parent, guardian or other person who exercises legal physical control, care or custody of a child; or a person who performs one or more activities of daily living for an adult;

D. "endangered person" means a missing person who:

(1) is in imminent danger of causing harm to the person's self;

(2) is in imminent danger of causing harm to another;

(3) is in imminent danger of being harmed by another or who has been harmed by another;

(4) has been a victim of a crime as provided in the Crimes Against Household Members Act or in Section 30-3A-3 or 30-3A-3.1 NMSA 1978, or their equivalents in any other jurisdiction;

(5) is or was protected by an order of protection pursuant to the Family Violence Protection Act; or

(6) has Alzheimer's disease, dementia or another degenerative brain disorder or a brain injury;

E. "immediate family member" means the spouse, nearest relative or close friend of a person;

F. "law enforcement agency" means a law enforcement agency of the state, a state agency or a political subdivision of the state;

G. "lead station" means an AM radio station that has been designated as the "state primary station" by the federal communications commission for the emergency alert system;

H. "missing person" means a person whose whereabouts are unknown to the person's custodian or immediate family member and the circumstances of whose absence indicate that:

(1) the person did not leave the care and control of the custodian or immediate family member voluntarily and the taking of the person was not authorized by law; or

(2) the person voluntarily left the care and control of the custodian without the custodian's consent and without intent to return;

I. "missing person report" means information that is:

(1) given to a law enforcement agency on a form used for sending information to the national crime information center; and

(2) about a person whose whereabouts are unknown to the reporter and who is alleged in the form submitted by the reporter to be missing;

J. "person" means an individual, regardless of age;

K. "possible match" means the similarities between unidentified human remains and a missing person that would lead one to believe they are the same person;

L. "reporter" means the person who reports a missing person;

M. "silver alert" means a notification relating to an endangered person:

(1) who is a missing person;

(2) who is fifty years or older; and

(3) about whom there is a clear indication that the individual has an irreversible deterioration of intellectual faculties;

N. "state agency" means an agency of the state, a political subdivision of the state or a public post-secondary educational institution; and

O. "state registrar" means the employee so designated by the public health division of the department of health pursuant to the Vital Statistics Act."

## **Chapter 81 Section 3 Laws 2013**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.



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House Bill 131

Approved April 1, 2013

## **LAWS 2013, CHAPTER 82**

AN ACT

MAKING AN APPROPRIATION FOR DRINKING WATER SYSTEM FINANCING.

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

### **Chapter 82 Section 1 Laws 2013**

SECTION 1. APPROPRIATION.--Two million dollars (\$2,000,000) is appropriated from the public project revolving fund to the drinking water state revolving loan fund for expenditure in fiscal year 2014 and subsequent fiscal years to provide state matching funds for federal Safe Drinking Water Act projects and to carry out the purposes of the Drinking Water State Revolving Loan Fund Act. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the public project revolving fund.

### **Chapter 82 Section 2 Laws 2013**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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House Bill 18

Approved April 1, 2013

## **LAWS 2013, CHAPTER 83**

AN ACT

RELATING TO LAND GRANTS; AMENDING CHAPTER 49, ARTICLE 1 NMSA 1978 TO INCLUDE THE TECOLOTE LAND GRANT-MERCED; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

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

## **Chapter 83 Section 1 Laws 2013**

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

"49-1-2. APPLICATION.--

A. Sections 49-1-1 through 49-1-18 NMSA 1978 shall apply to all land grants-mercedes confirmed by the congress of the United States or by the court of private land claims or designated as land grants-mercedes in any report or list of land grants prepared by the surveyor general and confirmed by congress, but shall not apply to any land grant that is now managed or controlled in any manner, other than as provided in Sections 49-1-1 through 49-1-18 NMSA 1978, by virtue of any general or special act.

B. If a majority of the members of the board of trustees of a land grant-merced covered by specific legislation determines that the specific legislation is no longer beneficial to the land grant-merced, the board has the authority to petition the legislature to repeal the legislation and to be governed by its bylaws and as provided in Sections 49-1-1 through 49-1-18 NMSA 1978.

C. The town of Tome land grant-merced, situated in Valencia county, confirmed by congress in 1858 and patented by the United States to the town of Tome, shall be governed by the provisions of Sections 49-1-1 through 49-1-18 NMSA 1978.

D. The town of Atrisco land grant-merced, situated in Bernalillo county, confirmed by the court of private land claims in 1894 and patented by the United States to the town of Atrisco in 1905, shall be governed by the provisions of Sections 49-1-1 through 49-1-18 NMSA 1978; provided that the board of trustees shall not have regulatory jurisdiction over, and the provisions of Chapter 49, Article 1 NMSA 1978 shall not apply to or govern, any lands or interests in real property the title to which is held by any other person, including a public or private corporation, partnership or limited liability company.

E. The Tecolote land grant-merced, also known as the town of Tecolote, situated in San Miguel county, confirmed by congress in 1858 and patented by the United States to the town of Tecolote in 1902, shall be governed by the provisions of Sections 49-1-1 through 49-1-18 NMSA 1978."

## **Chapter 83 Section 2 Laws 2013**

SECTION 2. REPEAL.--Sections 49-10-1 through 49-10-6 NMSA 1978 (being Laws 1903, Chapter 77, Sections 1 through 6, as amended) are repealed.

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House Bill 34

Approved April 1, 2013

## **LAWS 2013, CHAPTER 84**

AN ACT

RELATING TO MEAT INSPECTION; AMENDING A SECTION OF THE NMSA 1978 TO LIMIT ITS SCOPE; REPEALING SECTIONS 25-3-1 THROUGH 25-3-5 NMSA 1978 (BEING LAWS 1965, CHAPTER 10, SECTIONS 1 THROUGH 5), CITED AS THE "IMPORTED MEAT ACT"; REPEALING SECTIONS 25-3-6 THROUGH 25-3-21 NMSA 1978 (BEING LAWS 1969, CHAPTER 89, SECTIONS 1 THROUGH 16, AS AMENDED), CITED AS THE "MEAT INSPECTION ACT"; REPEALING SECTIONS 25-4-1 AND 25-4-2 NMSA 1978 (BEING LAWS 1901, CHAPTER 45, SECTIONS 1 AND 2, AS AMENDED); REPEALING SECTIONS 77-17-1 THROUGH 77-17-3, 77-17-5 AND 77-17-6 NMSA 1978 (BEING LAWS 1939, CHAPTER 115, SECTIONS 1 THROUGH 5, AS AMENDED), REGARDING LICENSING AND POSTING OF BONDS FOR OPERATORS OF ABATTOIRS, MEAT DEALERS AND STORAGE PLANTS.

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

### **Chapter 84 Section 1 Laws 2013**

SECTION 1. Section 77-17-4 NMSA 1978 (being Laws 1974, Chapter 78, Section 8) is amended to read:

"77-17-4. CRIMINAL OFFENDER'S CHARACTER EVALUATION.--The provisions of the Criminal Offender Employment Act shall govern any consideration of criminal records required or permitted by Sections 77-17-7 through 77-17-14 NMSA 1978."

### **Chapter 84 Section 2 Laws 2013**

SECTION 2. REPEAL.--

A. Sections 25-3-1 through 25-3-5 NMSA 1978 (being Laws 1965, Chapter 10, Sections 1 through 5) are repealed.

B. Sections 25-3-6 through 25-3-21 NMSA 1978 (being Laws 1969, Chapter 89, Sections 1 through 16, as amended) are repealed.

C. Sections 25-4-1 and 25-4-2 NMSA 1978 (being Laws 1901, Chapter 45, Sections 1 and 2, as amended) are repealed.

D. Sections 77-17-1 through 77-17-3, 77-17-5 and 77-17-6 NMSA 1978 (being Laws 1939, Chapter 115, Sections 1 through 5, as amended) are repealed.

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House Bill 154, aa

Approved April 1, 2013

## **LAWS 2013, CHAPTER 85**

AN ACT

RELATING TO NEW MEXICO CHILE PEPPERS; EXPANDING VIOLATIONS OF THE NEW MEXICO CHILE ADVERTISING ACT; PROVIDING AN EXCEPTION TO POTENTIAL RULE-MAKING; PROVIDING FOR STOP-SALE, USE OR REMOVAL ORDERS TO BE ISSUED BY THE NEW MEXICO DEPARTMENT OF AGRICULTURE.

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

### **Chapter 85 Section 1 Laws 2013**

SECTION 1. Section 25-11-1 NMSA 1978 (being Laws 2011, Chapter 57, Section 1) is amended to read:

"25-11-1. SHORT TITLE.--Chapter 25, Article 11 NMSA 1978 may be cited as the "New Mexico Chile Advertising Act"."

### **Chapter 85 Section 2 Laws 2013**

SECTION 2. Section 25-11-3 NMSA 1978 (being Laws 2011, Chapter 57, Section 3) is amended to read:

"25-11-3. UNLAWFUL ADVERTISING, LABELING OR SELLING OF NON-NEW MEXICO CHILE.--

A. It is unlawful for a person to:

(1) knowingly advertise, describe, label or offer for sale chile peppers as New Mexico chile, or to advertise, describe, label or offer for sale a product as containing New Mexico chile, unless the chile peppers or chile peppers in the product were grown in New Mexico; or

(2) knowingly advertise, describe, label or offer for sale chile peppers, or a product containing chile peppers, using the name of any city, town,

county, village, pueblo, mountain, river or other geographic feature or features located in New Mexico in a misleading or deceptive manner that states or reasonably implies that the chile peppers are, or the product contains, New Mexico chile, unless the chile peppers or chile peppers in the product were grown in New Mexico.

B. The prohibitions in this section do not apply to a person whose business name, brand name or trademark was used in advertising, product descriptions, labels or offers for sale and was established prior to the effective date of the New Mexico Chile Advertising Act; provided that, on and after July 1, 2013, the person, in all advertising, descriptions and labels containing that business name, brand name or trademark, shall include in a prominent location and in a prominent typeface a disclaimer stating "NOT GROWN IN NEW MEXICO" if the product contains chile peppers that were not grown in New Mexico.

C. The prohibitions in this section do not apply to a restaurant that describes a menu item using a geographic name provided for in Paragraph (2) of Subsection A of this section; provided that the origin of any chile in the menu item is not misrepresented."

## **Chapter 85 Section 3 Laws 2013**

SECTION 3. Section 25-11-4 NMSA 1978 (being Laws 2011, Chapter 57, Section 4) is amended to read:

"25-11-4. ADMINISTRATION--AUDIT--INSPECTION.--

A. The board may:

(1) enforce and administer the New Mexico Chile Advertising Act through the New Mexico department of agriculture; and

(2) promulgate rules, in consultation with the New Mexico chile industry, necessary for the administration of the New Mexico Chile Advertising Act.

B. Sales of twenty thousand pounds or less of chile peppers per calendar year by the person that grew the chile peppers are exempt from any recordkeeping requirement that the board may establish by rule.

C. The New Mexico department of agriculture through its authorized inspectors or agents is authorized to:

(1) audit the purchase and sales records of a person dealing with the sale of chile peppers or products containing chile peppers that are advertised, described, labeled or offered for sale as New Mexico chile;

(2) enter, on a business day during the usual hours of business, a store, market or other business or place for the limited purpose of inspecting the establishment's records related to chile peppers or products containing chile peppers being advertised, described, labeled or offered for sale as New Mexico chile or as containing New Mexico chile; and

(3) issue stop-sale, use or removal orders with respect to any violation of the New Mexico Chile Advertising Act."

## **Chapter 85 Section 4 Laws 2013**

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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SCONC/HJC/House Bill 238, aa

Approved April 1, 2013

## **LAWS 2013, CHAPTER 86**

AN ACT

RELATING TO SOLAR COLLECTORS; PROMULGATING RULES FOR PERMITS; AMENDING A DEFINITION; REPEALING SECTION 71-6-7.1 NMSA 1978 (BEING LAWS 2007, CHAPTER 38, SECTION 5).

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

## **Chapter 86 Section 1 Laws 2013**

SECTION 1. Section 60-13-10.2 NMSA 1978 (being Laws 2007, Chapter 38, Section 6) is amended to read:

"60-13-10.2. DIVISION AND COMMISSION--STANDARDS TO ACCOMMODATE SOLAR COLLECTORS.--As provided in the Solar Collector Standards Act, the division and commission shall promulgate rules to establish a uniform procedure for the issuance of permits for the construction and installation of solar collectors and to identify the trade bureau having jurisdiction over the construction and installation of solar collectors."

## **Chapter 86 Section 2 Laws 2013**

SECTION 2. Section 60-13-32 NMSA 1978 (being Laws 1967, Chapter 199, Section 35, as amended) is amended to read:

"60-13-32. TRADE BUREAUS--DEFINITIONS.--As used in the Construction Industries Licensing Act:

A. "electrical wiring" means all wiring, conductors, fixtures, devices, conduits, appliances or other equipment, including generating equipment such as solar electricity generating equipment of not over ten kilowatt capacity, used in connection with the general distribution or use of electrical energy;

B. "plumbing" means the installing, altering and repairing of all plumbing fixtures, fixture traps and soil, waste, supply and vent pipes, with their devices, appurtenances and connections, through which water, waste, sewage, oil and air are carried, when done within the property lines of the building or structure to be served by the plumbing or to the point of connection with the utility system. This subsection shall not be construed as prohibiting the installation by a "fixed works" licensee of service lines from the utility system to a point five feet outside the building or structure to be served by the plumbing;

C. "fixtures" includes closet bowls, lavatories, bathtubs, showers, kitchen sinks, laundry trays, hot water tanks, softeners, urinals, bidets, service sinks, shower pans, drink fountains, water compressors, water coolers, septic tanks or similar systems of sewage disposal and such other similar fixtures used in plumbing as designated by the mechanical bureau;

D. "gas fitting" means the installing, altering and repairing of consumers' gas piping and the installation of appliances utilizing natural gas as fuel and their appurtenances in or upon premises of the consumers;

E. "softener" or "water conditioner" means any appliance, apparatus, fixture and equipment that is designed to soften, filter or change the mineral content of water, whether permanent or portable; and

F. "certificate of competence" means evidence of competence issued by the division to a journeyman electrician, journeyman plumber, journeyman gas fitter, journeyman pipe fitter or journeyman welder working on pipelines, collection lines or compressor stations."

## **Chapter 86 Section 3 Laws 2013**

SECTION 3. REPEAL.--Section 71-6-7.1 NMSA 1978 (being Laws 2007, Chapter 38, Section 5) is repealed.

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HENRC/House Bill 279, aa

Approved April 1, 2013

## **LAWS 2013, CHAPTER 87**

AN ACT

RELATING TO TAXATION; AMENDING THE GROSS RECEIPTS AND COMPENSATING TAX ACT; PROVIDING FOR SPECIAL AGREEMENTS TO ALLOW PAYMENT OF TAXES BY A PERSON OTHER THAN THE TAXPAYER; DECLARING AN EMERGENCY.

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

### **Chapter 87 Section 1 Laws 2013**

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

"SPECIAL AGREEMENTS--ALTERNATIVE GROSS RECEIPTS TAXPAYER.--

A. To allow the payment of gross receipts tax by a person who is not the liable taxpayer, the secretary may approve a request by a person to assume the liability for gross receipts tax or governmental gross receipts tax owed by another provided that the person requesting approval agrees to assume the rights and responsibilities as taxpayer pursuant to the Tax Administration Act for:

(1) an agreement to collect and pay over taxes for persons in a business relationship, which is an agreement that may be entered into by persons who wish to remit gross receipts tax on behalf of another person with whom the taxpayer has a business relationship;

(2) an agreement to collect and pay over taxes for a direct sales company:

(a) which agreement may be entered into by a direct sales company that has distributors of tangible personal property in New Mexico; and

(b) in which the direct sales company agrees to pay the gross receipts tax liability of the distributor at the same time the company remits its own gross receipts tax; and

(3) a manufacturer's agreement to pay gross receipts tax or governmental gross receipts tax on behalf of a utility company, which agreement:



(a) allows a person engaged in manufacturing in New Mexico to pay gross receipts tax or governmental gross receipts tax on behalf of a utility company on receipts from sales of utilities that are: 1) not consumed in the manufacturing process; or 2) not otherwise deductible; and

(b) is only applicable to transactions between a manufacturer and a utility company that are associated with the gross receipts tax deduction pursuant to Subsection B of Section 7-9-46 NMSA 1978.

B. To enter into the agreements authorized in this section, a person shall complete a form prescribed by the secretary and provide any additional information or documentation required by department rules or instructions that will assist in the approval of agreements listed in Subsection A of this section.

C. Once approved, an agreement shall be effective only for the period of time specified in each agreement. Any person entering into an agreement to pay tax on behalf of another person shall fulfill all of the requirements set out in the agreement. Failure to fulfill all of the requirements set out in the agreement may result in the revocation of the agreement by the department. An approved agreement may only be revoked prior to expiration by written notification to all persons who are party to the agreement and shall be applied beginning on the first day of a month that occurs at least one month following the date on which the agreement is revoked.

D. A person approved by the secretary to pay the gross receipts tax or governmental gross receipts tax pursuant to Subsection A of this section shall be deemed to be the taxpayer with respect to that tax pursuant to the Tax Administration Act with respect to all rights and responsibilities related to that tax, except that:

(1) the person shall not be entitled to take any credit against the tax for which the person has assumed liability pursuant to this section; and

(2) the person shall not claim a refund of tax on the basis that the person is not statutorily liable to pay the tax.

E. The department shall relieve from liability and hold harmless from the payment of a tax assumed by another person pursuant to an agreement approved pursuant to this section a taxpayer that would otherwise be liable for that tax."

## **Chapter 87 Section 2 Laws 2013**

SECTION 2. Section 7-1-3 NMSA 1978 (being Laws 1965, Chapter 248, Section 3, as amended) is amended to read:

"7-1-3. DEFINITIONS.--Unless the context clearly indicates a different meaning, the definitions of words and phrases as they are stated in this section are to be used,

and whenever in the Tax Administration Act these words and phrases appear, the singular includes the plural and the plural includes the singular:

A. "automated clearinghouse transaction" means an electronic credit or debit transmitted through an automated clearinghouse payable to the state treasurer and deposited with the fiscal agent of New Mexico;

B. "department" means the taxation and revenue department, the secretary or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

C. "electronic payment" means a payment made by automated clearinghouse deposit, any funds wire transfer system or a credit card, debit card or electronic cash transaction through the internet;

D. "employee of the department" means any employee of the department, including the secretary, or any person acting as agent or authorized to represent or perform services for the department in any capacity with respect to any law made subject to administration and enforcement under the provisions of the Tax Administration Act;

E. "financial institution" means any state or federally chartered, federally insured depository institution;

F. "Internal Revenue Code" means the Internal Revenue Code of 1986, as that code may be amended or its sections renumbered;

G. "levy" means the lawful power, hereby invested in the secretary, to take into possession or to require the present or future surrender to the secretary or the secretary's delegate of any property or rights to property belonging to a delinquent taxpayer;

H. "local option gross receipts tax" means a tax authorized to be imposed by a county or municipality upon the taxpayer's gross receipts, as that term is defined in the Gross Receipts and Compensating Tax Act, and required to be collected by the department at the same time and in the same manner as the gross receipts tax; "local option gross receipts tax" includes the taxes imposed pursuant to the Municipal Local Option Gross Receipts Taxes Act, Supplemental Municipal Gross Receipts Tax Act, County Local Option Gross Receipts Taxes Act, Local Hospital Gross Receipts Tax Act, County Correctional Facility Gross Receipts Tax Act and such other acts as may be enacted authorizing counties or municipalities to impose taxes on gross receipts, which taxes are to be collected by the department in the same time and in the same manner as it collects the gross receipts tax;

I. "managed audit" means a review and analysis conducted by a taxpayer under an agreement with the department to determine the taxpayer's compliance with a

tax administered pursuant to the Tax Administration Act and the presentation of the results to the department for assessment of tax found to be due;

J. "net receipts" means the total amount of money paid by taxpayers to the department in a month pursuant to a tax or tax act less any refunds disbursed in that month with respect to that tax or tax act;

K. "overpayment" means an amount paid, pursuant to any law subject to administration and enforcement under the provisions of the Tax Administration Act, by a person to the department or withheld from the person in excess of tax due from the person to the state at the time of the payment or at the time the amount withheld is credited against tax due;

L. "paid" includes the term "paid over";

M. "pay" includes the term "pay over";

N. "payment" includes the term "payment over";

O. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, limited liability partnership, joint venture, syndicate, other association or gas, water or electric utility owned or operated by a county or municipality; "person" also means, to the extent permitted by law, a federal, state or other governmental unit or subdivision, or an agency, department or instrumentality thereof; and "person", as used in Sections 7-1-72 through 7-1-74 NMSA 1978, also includes an officer or employee of a corporation, a member or employee of a partnership or any individual who, as such, is under a duty to perform any act in respect of which a violation occurs;

P. "property" means property or rights to property;

Q. "property or rights to property" means any tangible property, real or personal, or any intangible property of a taxpayer;

R. "return" means any tax or information return, declaration of estimated tax or claim for refund, including any amendments or supplements to the return, required or permitted pursuant to a law subject to administration and enforcement pursuant to the Tax Administration Act and filed with the secretary or the secretary's delegate by or on behalf of any person;

S. "return information" means a taxpayer's name, address, government-issued identification number and other identifying information; any information contained in or derived from a taxpayer's return; any information with respect to any actual or possible administrative or legal action by an employee of the department concerning a taxpayer's return, such as audits, managed audits, denial of credits or refunds, assessments of tax, penalty or interest, protests of assessments or denial of refunds or

credits, levies or liens; or any other information with respect to a taxpayer's return or tax liability that was not obtained from public sources or that was created by an employee of the department; but "return information" does not include statistical data or other information that cannot be associated with or directly or indirectly identify a particular taxpayer;

T. "secretary" means the secretary of taxation and revenue and, except for purposes of Subsection B of Section 7-1-4 NMSA 1978 and Subsection E of Section 7-1-24 NMSA 1978, also includes the deputy secretary or a division director or deputy division director delegated by the secretary;

U. "secretary or the secretary's delegate" means the secretary or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

V. "security" means money, property or rights to property or a surety bond;

W. "state" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico and any territory or possession of the United States;

X. "tax" means the total amount of each tax imposed and required to be paid, withheld and paid or collected and paid under provision of any law made subject to administration and enforcement according to the provisions of the Tax Administration Act and, unless the context otherwise requires, includes the amount of any interest or civil penalty relating thereto; "tax" also means any amount of any abatement of tax made or any credit, rebate or refund paid or credited by the department under any law subject to administration and enforcement under the provisions of the Tax Administration Act to any person contrary to law and includes, unless the context requires otherwise, the amount of any interest or civil penalty relating thereto;

Y. "taxpayer" means a person liable for payment of any tax, a person responsible for withholding and payment or for collection and payment of any tax a person to whom an assessment has been made, if the assessment remains unabated or the amount thereof has not been paid, or a person who entered into a special agreement to assume the liability of gross receipts tax or governmental gross receipts tax of another person and the special agreement was approved by the secretary pursuant to the Tax Administration Act; and

Z. "tax return preparer" means a person who prepares for others for compensation or who employs one or more persons to prepare for others for compensation any return of income tax, a substantial portion of any return of income tax, any claim for refund with respect to income tax or a substantial portion of any claim for refund with respect to income tax; provided that a person shall not be a "tax return preparer" merely because such person:

(1) furnishes typing, reproducing or other mechanical assistance;

(2) is an employee who prepares an income tax return or claim for refund with respect to an income tax return of the employer, or of an officer or employee of the employer, by whom the person is regularly and continuously employed; or

(3) prepares as a trustee or other fiduciary an income tax return or claim for refund with respect to income tax for any person."

### **Chapter 87 Section 3 Laws 2013**

SECTION 3. APPLICABILITY.--The provisions of this act apply to gross receipts or governmental gross receipts received in tax periods beginning on or after May 1, 2013.

### **Chapter 87 Section 4 Laws 2013**

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

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House Bill 315, aa, w/ec

Approved April 1, 2013

## **LAWS 2013, CHAPTER 88**

AN ACT

RELATING TO TRUST COMPANIES; INCREASING THE FEE FOR CERTIFICATES;  
INCREASING MINIMUM CAPITAL REQUIREMENTS.

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

### **Chapter 88 Section 1 Laws 2013**

SECTION 1. Section 58-9-1 NMSA 1978 (being Laws 1973, Chapter 191, Section 1) is amended to read:

"58-9-1. SHORT TITLE.--Chapter 58, Article 9 NMSA 1978 may be cited as the "Trust Company Act"."

### **Chapter 88 Section 2 Laws 2013**

SECTION 2. Section 58-9-5 NMSA 1978 (being Laws 1973, Chapter 191, Section 5) is amended to read:

"58-9-5. APPLICATION FOR CERTIFICATE--FEE.--

A. An application for a certificate shall be in writing, in such form as the director prescribes, verified under oath and supported by such information, data and records as the director may require.

B. Each application for a certificate shall be accompanied by an application fee of one thousand dollars (\$1,000), made payable to the financial institutions division of the regulation and licensing department. No portion of the application fee shall be refunded."

### **Chapter 88 Section 3 Laws 2013**

SECTION 3. Section 58-9-6 NMSA 1978 (being Laws 1973, Chapter 191, Section 6, as amended) is amended to read:

"58-9-6. MINIMUM CAPITAL.--A certificate shall not be issued to an applicant having a paid-up capital of less than five hundred thousand dollars (\$500,000). All trust companies that have been issued certificates pursuant to the Trust Company Act as of December 31, 2012 shall meet the increased paid-up capital requirement of five hundred thousand dollars (\$500,000) on or before December 31, 2017. The minimum capital requirement shall be waived for nonprofit corporations."

### **Chapter 88 Section 4 Laws 2013**

SECTION 4. Section 58-9-10 NMSA 1978 (being Laws 1973, Chapter 191, Section 10, as amended) is amended to read:

"58-9-10. IMPAIRMENT OF CAPITAL--UNSAFE CONDITIONS--RECEIVERSHIP.--If it appears to the director that the capital of a trust company is either reduced or impaired below five hundred thousand dollars (\$500,000), except for nonprofit corporations, or the affairs of the company are in an unsound condition, the director shall order the company to make good any deficit or to remedy the unsafe condition of its affairs within sixty days of the date of the order and may restrict and regulate the operation of the trust business until the capital is restored. If the deficiency in capital has not been made good and the unsafe condition remedied within the prescribed time, the director may apply to the district court in the county in which the principal office of the company is located to be appointed receiver for the liquidation or rehabilitation of the company. The expense of the receivership shall be paid out of the assets of the trust company."

### **Chapter 88 Section 5 Laws 2013**

SECTION 5. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 through 3 of this act is June 14, 2013.

B. The effective date of the provisions of Section 4 of this act is July 1, 2017.

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House Bill 347, aa

Approved April 1, 2013

## **LAWS 2013, CHAPTER 89**

### AN ACT

RELATING TO ELECTIONS; RENUMBERING PRECINCTS IN SECTION 35-1-27 NMSA 1978 (BEING LAWS 1968, CHAPTER 62, SECTION 29, AS AMENDED) TO COINCIDE WITH THE CURRENT PRECINCT NUMBERS USED IN SAN JUAN COUNTY; REDISTRICTING MAGISTRATE DIVISIONS IN SAN JUAN COUNTY.

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

### **Chapter 89 Section 1 Laws 2013**

SECTION 1. Section 35-1-27 NMSA 1978 (being Laws 1968, Chapter 62, Section 29, as amended) is amended to read:

"35-1-27. MAGISTRATE COURT--SAN JUAN DISTRICT ELECTION DIVISION PRECINCTS.--

A. There shall be six magistrate divisions in San Juan magistrate district, each division having its own magistrate. Divisions 1, 4 and 6 shall operate as a single court in Aztec and divisions 2, 3 and 5 shall operate as a single court in Farmington.

B. Magistrate judges shall not be elected at large from the district, but shall be elected by the voters of the division for which the magistrate sits. Magistrate judges may reside anywhere within the magistrate district and shall have district-wide jurisdiction. The composition of the divisions for elections purposes is:

(1) division 1 is composed of San Juan county precincts 41, 48, 55, 57, 58, 60 through 67 and 72;

(2) division 2 is composed of San Juan county precincts 1 through 7, 20, 21, 23, 24 and 50;

(3) division 3 is composed of San Juan county precincts 28, 31, 32, 38 through 40, 42 through 44, 46, 47, 49 and 59;

(4) division 4 is composed of San Juan county precincts 8 through 19, 52, 53, 71 and 77;

(5) division 5 is composed of San Juan county precincts 22, 25 through 27, 29, 30, 33 through 37, 45 and 51; and

(6) division 6 is composed of San Juan county precincts 54, 56, 68 through 70 and 73 through 76."

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HJC/House Bill 368

Approved April 1, 2013

## **LAWS 2013, CHAPTER 90**

### AN ACT

RELATING TO PIPELINES; PROVIDING FOR A POSITIVE RESPONSE NOTICE BY OWNERS OR OPERATORS OF PIPELINES TO VERIFY LOCATIONS FOR EXCAVATORS.

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

### **Chapter 90 Section 1 Laws 2013**

SECTION 1. Section 62-14-2 NMSA 1978 (being Laws 1973, Chapter 252, Section 2, as amended) is amended to read:

"62-14-2. DEFINITIONS.--As used in Chapter 62, Article 14 NMSA 1978:

A. "advance notice" means two working days;

B. "blasting" means the use of an explosive to excavate;

C. "cable television lines and related facilities" means the facilities of any cable television system or closed-circuit coaxial cable communications system or other similar transmission service used in connection with any cable television system or other similar closed-circuit coaxial cable communications system;

D. "commission" means the public regulation commission;



E. "emergency excavation" means an excavation that must be performed due to circumstances beyond the excavator's control and that affects public safety, health or welfare;

F. "excavate" means the movement or removal of earth using mechanical excavating equipment or blasting and includes augering, backfilling, digging, ditching, drilling, grading, plowing in, pulling in, ripping, scraping, trenching, tunneling and directional boring;

G. "excavator" means a person that excavates;

H. "master meter system and operators" means a pipeline system that distributes natural gas or liquid propane gas within a public place, such as a mobile home park, housing project, apartment complex, school, university or hospital where the operator of the master meter system purchases gas from a distributor through a single large meter and resells the gas through a gas distribution pipeline system. The resale may occur as a payment included in a rental payment or association dues or as a separately metered system;

I. "means of location" means a mark such as a stake, a flag, whiskers or paint that is conspicuous in nature and that is designed to last at least ten working days if not disturbed;

J. "mechanical excavating equipment" means all equipment powered by any motor, engine or hydraulic or pneumatic device used for excavating and includes trenchers, bulldozers, backhoes, power shovels, scrapers, draglines, clam shells, augers, drills, cable and pipe plows or other plowing-in or pulling-in equipment;

K. "one-call notification system" means a communication system in which an operation center provides telephone services or other reliable means of communication for the purpose of receiving excavation notice and damage reporting information and distributing that information to owners and operators of pipelines and other underground facilities;

L. "person" means the legal representative of or an individual, partnership, corporation, joint venture, state, subdivision or instrumentality of the state or an association;

M. "pipeline" means a pipeline or system of pipelines and appurtenances for the transportation or movement of any oil or gas, or oil or gas products and their byproducts subject to the jurisdiction of federal law or regulation, with the exception of master meter systems and operators;

N. "positive response" means a response, within the advance notice period, initiated by owners or operators of pipelines and underground facilities by reliable means of communication, to the one-call notification system's positive response

registry system. A positive response allows the excavator to verify whether all affected pipeline and underground facility owners or operators have marked their underground facilities pursuant to Section 62-14-5 NMSA 1978 prior to commuting to the excavation site and commencing excavation;

O. "reasonable efforts" means notifying the appropriate one-call notification center or underground facility owner or operator of planned excavation;

P. "underground facility" means any tangible property described in Subsections C, M and Q of this section that is underground, but does not include residential sprinklers or low-voltage lighting; and

Q. "underground utility line" means an underground conduit or cable, including fiber optics, and related facilities for transportation and delivery of electricity, telephonic or telegraphic communications or water, sewer and fire protection lines, with the exception of master meter systems and operators."

## **Chapter 90 Section 2 Laws 2013**

SECTION 2. Section 62-14-5 NMSA 1978 (being Laws 1973, Chapter 252, Section 5, as amended) is amended to read:

### **"62-14-5. MARKING OF FACILITIES.--**

A. A person owning or operating an underground facility shall, upon the request of a person intending to commence an excavation and upon advance notice, locate and mark on the surface the actual horizontal location, within eighteen inches by some means of location, of the underground facilities in or near the area of the excavation so as to enable the person engaged in excavation work to locate the facilities in advance of and during the excavation work.

B. If the owner or operator of the underground facility finds that the owner or operator has no underground facilities in the proposed area of excavation, the owner or operator shall provide a positive response and, at the option of the owner or operator of the underground facility mark the area as "Clear" or "No Underground Facilities" in the appropriate color code as specified in Section 62-14-5.1 NMSA 1978.

C. If the owner or operator fails to correctly mark the underground facility after being given advance notice and such failure to correctly mark the facility results in additional costs to the person doing the excavating, then the owner or operator shall reimburse the person engaging in the excavation for the reasonable costs incurred.

D. An owner of an underground facility shall not move or obliterate markings made pursuant to Chapter 62, Article 14 NMSA 1978 or fabricate markings in an unmarked location for the purpose of concealing or avoiding liability for a violation of or noncompliance with the provisions of Chapter 62, Article 14 NMSA 1978."

## Chapter 90 Section 3 Laws 2013

SECTION 3. Section 62-14-7.1 NMSA 1978 (being Laws 1997, Chapter 30, Section 1, as amended) is amended to read:

### "62-14-7.1. ONE-CALL NOTIFICATION SYSTEM.--

A. An owner or operator of an underground facility subject to Chapter 62, Article 14 NMSA 1978 shall be a member of a one-call notification system operating in the region with the exception of private underground facilities owned by a homeowner and operated and located on residential property. A one-call notification system may be for a region of the state or statewide in scope, unless federal law provides otherwise.

B. Each one-call notification system shall be operated by:

- (1) an owner or operator of pipeline facilities;
- (2) a private contractor;
- (3) a state or local government agency; or
- (4) a person who is otherwise eligible under state law to operate a one-call notification system.

C. If the one-call notification system is operated by owners or operators of pipeline facilities, it shall be established as a nonprofit entity governed by a board of directors that shall establish the operating processes, procedures and technology needed for a one-call notification system. The board shall further establish a procedure or formula to determine the equitable share of each member for the costs of the one-call notification system. The board may include representatives of excavators or other persons deemed eligible to participate in the system who are not owners or operators.

D. Excavators shall give advance notice to the one-call notification system operating in the intended excavation area and provide information established by rule of the commission, except when excavations are by or for a person that:

- (1) owns or leases or owns a mineral leasehold interest in the real property on which the excavation occurs; and
- (2) operates all underground facilities located in the intended excavation area.

E. The one-call notification system shall promptly transmit excavation notice information to owners or operators of pipeline facilities and other underground facilities in the intended excavation area.

F. After receiving advance notice, owners and operators of pipeline facilities and other underground facilities shall locate and mark their facilities in the intended excavation area and shall provide a positive response. The one-call notification center shall make available to the commission appropriate positive response records for investigations of alleged violations of Chapter 62, Article 14 NMSA 1978.

G. The one-call notification system shall provide a toll-free telephone number or another comparable and reliable means of communication to receive advance notice of excavation. Means of communication to distribute excavation notice to owners or operators of pipeline facilities and other underground facilities shall be reliable and capable of coordination with one-call notification systems operating in other regions of the state.

H. Operators of one-call notification systems shall notify the commission of its members and the name and telephone number of the contact person for each member and make available to the commission appropriate records in investigations of alleged violations of Chapter 62, Article 14 NMSA 1978.

I. One-call notification systems and owners and operators of pipeline facilities shall promote public awareness of the availability and operation of one-call notification systems and work with state and local governmental agencies charged with issuing excavation permits to provide information concerning and promoting awareness by excavators of one-call notification systems.

J. The commission may prescribe reasonable maximum rates for the provision of one-call services in New Mexico, provided that if the reasonableness of such rates is contested in the manner provided by commission rule, the burden of proof to show the unreasonableness of such rates shall be upon the person contesting their reasonableness."

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House Bill 494, aa

Approved April 1, 2013

## **LAWS 2013, CHAPTER 91**

AN ACT

RELATING TO ELECTIONS; PROVIDING FOR ELECTRONIC ONLINE UPDATES OF A VOTER'S CERTIFICATE OF REGISTRATION; ALLOWING FOR A DELAYED IMPLEMENTATION OF PROVISIONS OF THIS ACT.

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

## **Chapter 91 Section 1 Laws 2013**

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

"ONLINE VOTER REGISTRATION UPDATES.--

A. In addition to updating a certificate of registration in person or by mail, a voter may in accordance with the provisions of Sections 1-4-15 through 1-4-18 NMSA 1978 update an existing certificate of registration electronically by completing a certificate of registration form on the secretary of state's web site. Upon receipt of an updated certificate of registration, the secretary of state shall transmit the certificate to the county clerk of the county in which the registrant resides, and the county clerk shall print the updated certificate, file it in the county's register of voters and enter it into the statewide voter file.

B. A certificate of registration updated electronically shall be electronically authenticated by the registrant using an electronic signature in conformance with the Electronic Authentication of Documents Act and the Uniform Electronic Transactions Act. A certificate of registration that is electronically authenticated in accordance with the provisions of this subsection shall be deemed to have been subscribed and sworn to by the registrant.

C. The secretary of state shall ensure that the web site used for electronic registration is secure and that the confidentiality of all users and integrity of data submitted are preserved. The secretary of state shall implement the provisions of this section no later than June 30, 2015."

## **Chapter 91 Section 2 Laws 2013**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2014.

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House Bill 497, aa

Approved April 1, 2013

# **LAWS 2013, CHAPTER 92**

AN ACT

RELATING TO TAXATION; EXTENDING THE SUSTAINABLE BUILDING TAX CREDIT FOR THREE YEARS; CHANGING PROVISIONS FOR APPLICATION OF THE CREDIT AGAINST TAX LIABILITY.

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

## Chapter 92 Section 1 Laws 2013

SECTION 1. Section 7-2-18.19 NMSA 1978 (being Laws 2007, Chapter 204, Section 3, as amended) is amended to read:

### "7-2-18.19. SUSTAINABLE BUILDING TAX CREDIT.--

A. The tax credit provided by this section may be referred to as the "sustainable building tax credit". The sustainable building tax credit shall be available for the construction in New Mexico of a sustainable building, the renovation of an existing building in New Mexico into a sustainable building or the permanent installation of manufactured housing, regardless of where the housing is manufactured, that is a sustainable building. The tax credit provided in this section may not be claimed with respect to the same sustainable building for which the sustainable building tax credit provided in the Corporate Income and Franchise Tax Act has been claimed.

B. The purpose of the 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 sustainable building tax credit by the department if the taxpayer submits a document issued pursuant to Subsection J of this section with the taxpayer's income tax return.

D. For taxable years ending on or before December 31, 2016, the 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
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	
		up to 500,000	\$1.40
LEED-CI Silver		First 10,000	\$1.40

		Next 40,000	\$ .70
		Over 50,000	
		up to 500,000	\$ .30
LEED-CI Gold		First 10,000	\$1.90
		Next 40,000	\$ .80
		Over 50,000	
		up to 500,000	\$ .40
CI Platinum	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, 2016, the 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:

m/Level	Qualified	Tax Credit	
		Occupied Square Footage	per Square Foot
LEED-H Silver or Build	First 2,000	\$5.00	
Green NM Silver	Next 1,000	\$2.50	
LEED-H Gold or Build	First 2,000	\$6.85	
Green NM Gold	Next 1,000	\$3.40	
LEED-H Platinum or Build	First 2,000	\$9.00	
NM Emerald	Next 1,000	\$4.45	
EPA ENERGY STAR			



Manufactured Housing

Up to 3,000

\$3.00.

F. A person that is a building owner may apply for 1a certificate of eligibility for the 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 limitation 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 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, 2007, 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. The energy, minerals and natural resources department may issue a certificate of eligibility only if the total amount of 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 one million dollars (\$1,000,000) with respect to sustainable commercial buildings and an aggregate amount of four million dollars (\$4,000,000) with respect to sustainable residential buildings; provided that no more than one million two hundred fifty thousand dollars (\$1,250,000) of the aggregate amount with respect to sustainable residential buildings shall be for manufactured housing. If for any taxable year the energy, minerals and natural resources department determines that the applications for sustainable building tax credits with respect to sustainable residential buildings for that taxable year exceed the aggregate limit set in this section, the energy, minerals and natural resources department may issue certificates of eligibility under the aggregate annual limit for sustainable commercial buildings to owners of sustainable residential buildings that meet the requirements of the energy, minerals and natural resources department and of this section; provided that applications for sustainable building credits for other sustainable commercial buildings total less than the full amount allocated for tax credits for sustainable commercial buildings.

H. 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 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 sustainable building tax credit certify that such a tax credit will not be claimed with respect to that system.

I. To be eligible for the 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.

J. If the requirements of this section have been complied with, the department shall issue to the building owner a document granting a 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.

K. If the total approved amount of all sustainable building tax credits for a taxpayer in a taxable year represented by the documents issued pursuant to Subsection J 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.

L. If the sum of all sustainable building tax credits that can be applied to a taxable year for a taxpayer, calculated according to Paragraph (1) or (2) of Subsection K 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.

M. A taxpayer who otherwise qualifies and claims a 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.

N. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the sustainable building tax credit that would have been allowed on a joint return.

O. The department shall compile an annual report on the 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 2015 and every five years thereafter, 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 the homebuilders association of central New Mexico;

(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, as follows: 1) through 2011, a fifty percent energy reduction will be required based on the national average for that building type as published by the United States department of energy; and beginning January 1, 2012, a sixty percent energy reduction will be required based on the national average for that building type as published by the United States department of energy; and 2) is 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; and 2) has achieved a home energy rating system index of sixty or lower as developed by the residential energy services network; or

(b) manufactured housing that is ENERGY STAR-qualified by the United States environmental protection agency; and

(17) "tribal" means of, belonging to or created by a federally recognized Indian nation, tribe or pueblo."

## **Chapter 92 Section 2 Laws 2013**

SECTION 2. Section 7-2A-21 NMSA 1978 (being Laws 2007, Chapter 204, Section 4, as amended) is amended to read:

"7-2A-21. SUSTAINABLE BUILDING TAX CREDIT.--

A. The tax credit provided by this section may be referred to as the "sustainable building tax credit". The sustainable building tax credit shall be available for

the construction in New Mexico of a sustainable building, the renovation of an existing building in New Mexico into a sustainable building or the permanent installation of manufactured housing, regardless of where the housing is manufactured, that is a sustainable building. The tax credit provided in this section may not be claimed with respect to the same sustainable building for which the sustainable building tax credit provided in the Income Tax Act has been claimed.

B. The purpose of the 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 sustainable building tax credit by the department if the taxpayer submits a document issued pursuant to Subsection J of this section with the taxpayer's corporate income tax return.

D. For taxable years ending on or before

December 31, 2016, the 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:

Rating Level	Qualified	Tax Credit per	
		Occupied	Square Foot
		<u>Square Footage</u>	
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

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	
		up to 500,000	\$1.40
LEED-CI Silver	First 10,000		\$1.40
		Next 40,000	\$ .70
		Over 50,000	
		up to 500,000	\$ .30
LEED-CI Gold	First 10,000		\$1.90
		Next 40,000	\$ .80

		Over 50,000	
		up to 500,000	\$ .40
CI Platinum	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, 2016, the 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:

Level	Qualified	Tax Credit	
		Occupied Square Footage	per Square Foot
LEED-H Silver or Build	First 2,000	\$5.00	
Green NM Silver	Next 1,000	\$2.50	
LEED-H Gold or Build	First 2,000	\$6.85	
Green NM Gold	Next 1,000	\$3.40	
LEED-H Platinum or Build	First 2,000	\$9.00	
NM Emerald	Next 1,000	\$4.45	
EPA ENERGY STAR			
Manufactured Housing		Up to 3,000	\$3.00.

F. A person that is a building owner may apply for a certificate of eligibility for the 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 limitation 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 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, 2007, 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. The energy, minerals and natural resources department may issue a certificate of eligibility only if the total amount of 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 one million dollars (\$1,000,000) with respect to sustainable commercial buildings and an aggregate amount of four million dollars (\$4,000,000) with respect to sustainable residential buildings; provided that no more than one million two hundred fifty thousand dollars (\$1,250,000) of the aggregate amount with respect to sustainable residential buildings shall be for manufactured housing. If for any taxable year the energy, minerals and natural resources department determines that the applications for sustainable building tax credits with respect to sustainable residential buildings for that taxable year exceed the aggregate limit set in this section, the energy, minerals and natural resources department may issue certificates of eligibility under the aggregate annual limit for sustainable commercial buildings to owners of sustainable residential buildings that meet the requirements of the energy, minerals and natural resources department and of this section; provided that applications for sustainable building credits for other sustainable commercial buildings total less than the full amount allocated for tax credits for sustainable commercial buildings.

H. 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 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 sustainable building tax credit certify that such a tax credit will not be claimed with respect to that system.

I. To be eligible for the 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.

J. If the requirements of this section have been complied with, the department shall issue to the building owner a document granting a 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.

K. If the total approved amount of all sustainable building tax credits for a taxpayer in a taxable year represented by the documents issued pursuant to Subsection J 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.

L. If the sum of all sustainable building tax credits that can be applied to a taxable year for a taxpayer, calculated according to Paragraph (1) or (2) of Subsection K 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.

M. A taxpayer that otherwise qualifies and claims a 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.

N. The department shall compile an annual report on the 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 2015 and every five years thereafter, 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.

O. For the purposes of this section:

(1) "build green New Mexico rating system" means the certification standards adopted by the homebuilders association of central New Mexico;

(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, as follows: 1) through 2011, a fifty percent energy reduction will be required based on the national average for that building type as published by the United States department of energy; and beginning January 1, 2012, a sixty percent energy reduction will be required based on the national average for that building type as published by the United States department of energy; and 2) is 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; and 2) has achieved a home energy rating system index of sixty or lower as developed by the residential energy services network; or

(b) manufactured housing that is ENERGY STAR-qualified by the United States environmental protection agency; and

(17) "tribal" means of, belonging to or created by a federally recognized Indian nation, tribe or pueblo."

## **Chapter 92 Section 3 Laws 2013**

SECTION 3. Laws 2007, Chapter 204, Section 21 is amended to read:

"Section 21. APPLICABILITY.--

A. The provisions of Sections 7-2-18.18 and 7-2A-19 NMSA 1978 apply to taxable years beginning on or after January 1, 2008.

B. The provisions of Sections 7-2-18.20 and 7-2A-22 NMSA 1978 apply to taxable years beginning on or after January 1, 2008 and ending on or before December 31, 2012."

## **Chapter 92 Section 4 Laws 2013**

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2014.

Approved April 1, 2013

## **LAWS 2013, CHAPTER 93**

AN ACT

RELATING TO PUBLIC HEALTH; AMENDING THE IMMUNIZATION ACT TO REQUIRE HEALTH CARE PROVIDERS TO REPORT IMMUNIZATION TO THE IMMUNIZATION REGISTRY.

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

### **Chapter 93 Section 1 Laws 2013**

SECTION 1. Section 24-5-8 NMSA 1978 (being Laws 2004, Chapter 45, Section 3, as amended) is amended to read:

"24-5-8. REPORTING.--Physicians, nurses, pharmacists and other health care providers shall report on immunization to the immunization registry unless the patient, or the patient's guardian if the patient is a minor, refuses to allow reporting of this information."

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Senate Bill 58

Approved April 1, 2013

## **LAWS 2013, CHAPTER 94**

AN ACT

RELATING TO TAXATION; INCREASING FOR TEN YEARS THE VOLUME LIMIT FOR MICROBREWERS FOR PURPOSES OF THE LIQUOR EXCISE TAX; INCREASING THE LIQUOR EXCISE TAX PAID BY CERTAIN MICROBREWERS.

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

### **Chapter 94 Section 1 Laws 2013**

SECTION 1. Section 7-17-2 NMSA 1978 (being Laws 1966, Chapter 49, Section 2, as amended) is amended to read:

"7-17-2. DEFINITIONS.--As used in the Liquor Excise Tax Act:

A. "alcoholic beverages" means distilled or rectified spirits, potable alcohol, brandy, whiskey, rum, gin, aromatic bitters or any similar beverage, including blended or fermented beverages, dilutions or mixtures of one or more of the foregoing containing more than one-half of one percent alcohol by volume, but "alcoholic beverages" does not include 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. "cider" means an alcoholic beverage made from the normal alcoholic fermentation of the juice of sound, ripe apples that contains not less than one-half of one percent of alcohol by volume and not more than seven percent of alcohol by volume;

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. "fortified wine" means wine containing more than fourteen percent alcohol by volume when bottled or packaged by the manufacturer, but "fortified wine" does not include:

(1) wine that is sealed or capped by cork closure and aged two years or more;

(2) wine that contains more than fourteen percent alcohol by volume solely as a result of the natural fermentation process and that has not been produced with the addition of wine spirits, brandy or alcohol; or

(3) vermouth and sherry;

F. "microbrewer" means:

(1) for years prior to 2014, a person who produces fewer than five thousand barrels of beer in a year;

(2) for years 2014 through 2023, a person who produces fewer than fifteen thousand barrels of beer in a year; and

(3) for year 2024 and subsequent years, a person who produces fewer than five thousand barrels of beer in a year;

G. "person" includes, to the extent permitted by law, a federal, state or other governmental unit or subdivision or an agency, department, institution or instrumentality thereof;

H. "small winegrower" means a winegrower who produces fewer than nine hundred fifty thousand liters of wine in a year;

I. "spirituous liquor" means alcoholic beverages, except fermented beverages such as wine, beer, cider and ale;

J. "wholesaler" means a person holding a license issued under Section 60-6A-1 NMSA 1978 or a person selling alcoholic beverages that were not purchased from a person holding a license issued under Section 60-6A-1 NMSA 1978;

K. "wine" means an alcoholic beverage other than cider that is 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, and that does not contain more than twenty-one percent alcohol by volume; and

L. "winegrower" means a person licensed pursuant to Section 60-6A-11 NMSA 1978."

## **Chapter 94 Section 2 Laws 2013**

SECTION 2. Section 7-17-5 NMSA 1978 (being Laws 1993, Chapter 65, Section 8, as amended) is amended to read:

### **"7-17-5. IMPOSITION AND RATE OF LIQUOR EXCISE TAX.--**

A. There is imposed on a wholesaler who sells alcoholic beverages on which the tax imposed by this section has not been paid an excise tax, to be referred to as the "liquor excise tax", at the following rates on alcoholic beverages sold:

(1) on spirituous liquors, one dollar sixty cents (\$1.60) per liter;

(2) on beer, except as provided in Paragraph (5) of this subsection, forty-one cents (\$.41) per gallon;

(3) on wine, except as provided in Paragraphs (4) and (6) of this subsection, forty-five cents (\$.45) per liter;

(4) on fortified wine, one dollar fifty cents (\$1.50) per liter;

(5) on beer manufactured or produced by a microbrewer and sold in this state, provided that proof is furnished to the department that the beer was manufactured or produced by a microbrewer, eight cents (\$.08) per gallon on the first ten thousand barrels sold and twenty-eight cents (\$.28) per gallon for all barrels sold over ten thousand barrels but fewer than fifteen thousand barrels;



(6) on wine manufactured or produced by a small winegrower and sold in this state, provided that proof is furnished to the department that the wine was manufactured or produced by a small winegrower, ten cents (\$.10) per liter on the first eighty thousand liters sold and twenty cents (\$.20) per liter on all liters sold over eighty thousand liters but less than nine hundred fifty thousand liters; and

(7) on cider, forty-one cents (\$.41) per gallon.

B. The volume of wine transferred from one winegrower to another winegrower for processing, bottling or storage and subsequent return to the transferor shall be excluded pursuant to Section 7-17-6 NMSA 1978 from the taxable volume of wine of the transferee. Wine transferred from an initial winegrower to a second winegrower remains a tax liability of the transferor, provided that if the wine is transferred to the transferee for the transferee's use or for resale, the transferee then assumes the liability for the tax due pursuant to this section.

C. A transfer of wine from a winegrower to a wholesaler for distribution of the wine transfers the liability for payment of the liquor excise tax to the wholesaler upon the sale of the wine by the wholesaler."

## **Chapter 94 Section 3 Laws 2013**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2014.

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Senate Bill 81, aa

Approved April 1, 2013

## **LAWS 2013, CHAPTER 95**

AN ACT

RELATING TO TAXATION; INCREASING THE VOLUME LIMIT FOR SMALL WINEGROWERS; INCREASING THE LIQUOR EXCISE TAX RATE FOR SMALL WINEGROWERS PRODUCING OVER A CERTAIN AMOUNT OF WINE.

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

## **Chapter 95 Section 1 Laws 2013**

SECTION 1. Section 7-17-2 NMSA 1978 (being Laws 1966, Chapter 49, Section 2, as amended) is amended to read:

"7-17-2. DEFINITIONS.--As used in the Liquor Excise Tax Act:

A. "alcoholic beverages" means distilled or rectified spirits, potable alcohol, brandy, whiskey, rum, gin, aromatic bitters or any similar beverage, including blended or fermented beverages, dilutions or mixtures of one or more of the foregoing containing more than one-half of one percent alcohol by volume, but "alcoholic beverages" does not include 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. "cider" means an alcoholic beverage made from the normal alcoholic fermentation of the juice of sound, ripe apples that contains not less than one-half of one percent of alcohol by volume and not more than seven percent of alcohol by volume;

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. "fortified wine" means wine containing more than fourteen percent alcohol by volume when bottled or packaged by the manufacturer, but "fortified wine" does not include:

(1) wine that is sealed or capped by cork closure and aged two years or more;

(2) wine that contains more than fourteen percent alcohol by volume solely as a result of the natural fermentation process and that has not been produced with the addition of wine spirits, brandy or alcohol; or

(3) vermouth and sherry;

F. "microbrewer" means a person who produces less than five thousand barrels of beer in a year;

G. "person" includes, to the extent permitted by law, a federal, state or other governmental unit or subdivision or an agency, department, institution or instrumentality thereof;

H. "small winegrower" means a winegrower who produces less than one million five hundred thousand liters of wine in a year;

I. "spirituous liquor" means alcoholic beverages, except fermented beverages such as wine, beer, cider and ale;

J. "wholesaler" means a person holding a license issued under Section 60-6A-1 NMSA 1978 or a person selling alcoholic beverages that were not purchased from a person holding a license issued under Section 60-6A-1 NMSA 1978;

K. "wine" means an alcoholic beverage other than cider that is 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, and that does not contain more than twenty-one percent alcohol by volume; and

L. "winegrower" means a person licensed pursuant to Section 60-6A-11 NMSA 1978."

## **Chapter 95 Section 2 Laws 2013**

SECTION 2. Section 7-17-5 NMSA 1978 (being Laws 1993, Chapter 65, Section 8, as amended) is amended to read:

### **"7-17-5. IMPOSITION AND RATE OF LIQUOR EXCISE TAX.--**

A. There is imposed on a wholesaler who sells alcoholic beverages on which the tax imposed by this section has not been paid an excise tax, to be referred to as the "liquor excise tax", at the following rates on alcoholic beverages sold:

(1) on spirituous liquors, one dollar sixty cents (\$1.60) per liter;

(2) on beer, except as provided in Paragraph (5) of this subsection, forty-one cents (\$.41) per gallon;

(3) on wine, except as provided in Paragraphs (4) and (6) of this subsection, forty-five cents (\$.45) per liter;

(4) on fortified wine, one dollar fifty cents (\$1.50) per liter;

(5) on beer manufactured or produced by a microbrewer and sold in this state, provided that proof is furnished to the department that the beer was manufactured or produced by a microbrewer, eight cents (\$.08) per gallon;

(6) on wine manufactured or produced by a small winegrower and sold in this state, provided that proof is furnished to the department that the wine was manufactured or produced by a small winegrower:

(a) ten cents (\$.10) per liter on the first eighty thousand liters sold;

(b) twenty cents (\$.20) per liter on each liter sold over eighty thousand liters but not over nine hundred fifty thousand liters; and

(c) thirty cents (\$.30) per liter on each liter sold over nine hundred fifty thousand liters but not over one million five hundred thousand liters; and

(7) on cider, forty-one cents (\$.41) per gallon.

B. The volume of wine transferred from one winegrower to another winegrower for processing, bottling or storage and subsequent return to the transferor shall be excluded pursuant to Section 7-17-6 NMSA 1978 from the taxable volume of wine of the transferee. Wine transferred from an initial winegrower to a second winegrower remains a tax liability of the transferor, provided that if the wine is transferred to the transferee for the transferee's use or for resale, the transferee then assumes the liability for the tax due pursuant to this section.

C. A transfer of wine from a winegrower to a wholesaler for distribution of the wine transfers the liability for payment of the liquor excise tax to the wholesaler upon the sale of the wine by the wholesaler."

## **Chapter 95 Section 3 Laws 2013**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2014.

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Senate Bill 116, aa

Approved April 1, 2013

## **LAWS 2013, CHAPTER 96**

AN ACT

RELATING TO SUBDIVISIONS; AMENDING THE NEW MEXICO SUBDIVISION ACT TO CLARIFY AN EXCEPTION FROM THE DEFINITION OF "SUBDIVISION".

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

## **Chapter 96 Section 1 Laws 2013**

SECTION 1. Section 47-6-2 NMSA 1978 (being Laws 1973, Chapter 348, Section 2, as amended) is amended to read:

"47-6-2. DEFINITIONS.--As used in the New Mexico Subdivision Act:

A. "board of county commissioners" means the governing board of a county;

B. "common promotional plan" means a plan or scheme of operation, undertaken by a single subdivider or a group of subdividers acting in concert, to offer for sale or lease parcels of land where the land is either contiguous or part of the same area of land or is known, designated or advertised as a common unit or by a common name;

C. "final plat" means a map, chart, survey, plan or replat certified by a licensed, registered land surveyor containing a description of the subdivided land with ties to permanent monuments prepared in a form suitable for filing of record;

D. "immediate family member" means a husband, wife, father, stepfather, mother, stepmother, brother, stepbrother, sister, stepsister, son, stepson, daughter, stepdaughter, grandson, stepgrandson, granddaughter, stepgranddaughter, nephew and niece, whether related by natural birth or adoption;

E. "Indian nation, tribe or pueblo" means any federally recognized Indian nation, tribe or pueblo located wholly or partially in New Mexico;

F. "lease" means to lease or offer to lease land;

G. "parcel" means land capable of being described by location and boundaries and not dedicated for public or common use;

H. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity;

I. "preliminary plat" means a map of a proposed subdivision showing the character and proposed layout of the subdivision and the existing conditions in and around it, and need not be based upon an accurate and detailed survey of the land;

J. "sell" means to sell or offer to sell land;

K. "subdivide" means to divide a surface area of land into a subdivision;

L. "subdivider" means any person who creates or who has created a subdivision individually or as part of a common promotional plan or any person engaged in the sale, lease or other conveyance of subdivided land; however, "subdivider" does not include any duly licensed real estate broker or salesperson acting on another's account;

M. "subdivision" means the division of a surface area of land, including land within a previously approved subdivision, into two or more parcels for the purpose

of sale, lease or other conveyance or for building development, whether immediate or future; but "subdivision" does not include:

(1) the sale, lease or other conveyance of any parcel that is thirty-five acres or larger in size within any twelve-month period; provided that the land has been used primarily and continuously for agricultural purposes, in accordance with Section 7-36-20 NMSA 1978, for the preceding three years;

(2) the sale or lease of apartments, offices, stores or similar space within a building;

(3) the division of land within the boundaries of a municipality;

(4) the division of land in which only gas, oil, mineral or water rights are severed from the surface ownership of the land;

(5) the division of land created by court order where the order creates no more than one parcel per party;

(6) the division of land for grazing or farming activities; provided the land continues to be used for grazing or farming activities;

(7) the division of land resulting only in the alteration of parcel boundaries where parcels are altered for the purpose of increasing or reducing the size of contiguous parcels and where the number of parcels is not increased;

(8) the division of land to create burial plots in a cemetery;

(9) the division of land to create a parcel that is sold or donated as a gift to an immediate family member; however, this exception shall be limited to allow the seller or donor to sell or give no more than one parcel per tract of land per immediate family member;

(10) the division of land created to provide security for mortgages, liens or deeds of trust; provided that the division of land is not the result of a seller-financed transaction;

(11) the sale, lease or other conveyance of land that creates no parcel smaller than one hundred forty acres;

(12) the division of land to create a parcel that is donated to any trust or nonprofit corporation granted an exemption from federal income tax, as described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended; school, college or other institution with a defined curriculum and a student body and faculty that conducts classes on a regular basis; or church or group organized

for the purpose of divine worship, religious teaching or other specifically religious activity; or

(13) the division of a tract of land into two parcels that conform with applicable zoning ordinances; provided that a second or subsequent division of either of the two parcels within five years of the date of the division of the original tract of land shall be subject to the provisions of the New Mexico Subdivision Act; provided further that a survey, and a deed if a parcel is subsequently conveyed, shall be filed with the county clerk indicating that the parcel shall be subject to the provisions of the New Mexico Subdivision Act if the parcel is further divided within five years of the date of the division of the original tract of land;

N. "terrain management" means the control of floods, drainage and erosion and measures required for adapting proposed development to existing soil characteristics and topography;

O. "time of purchase, lease or other conveyance" means the time of signing any document obligating the person signing the document to purchase, lease or otherwise acquire a legal interest in land;

P. "type-one subdivision" means any subdivision containing five hundred or more parcels, any one of which is less than ten acres in size;

Q. "type-two subdivision" means any subdivision containing not fewer than twenty-five but not more than four hundred ninety-nine parcels, any one of which is less than ten acres in size;

R. "type-three subdivision" means any subdivision containing not more than twenty-four parcels, any one of which is less than ten acres in size;

S. "type-four subdivision" means any subdivision containing twenty-five or more parcels, each of which is ten acres or more in size; and

T. "type-five subdivision" means any subdivision containing not more than twenty-four parcels, each of which is ten acres or more in size."

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SFL/Senate Bill 176, aa

Approved April 1, 2013

## **LAWS 2013, CHAPTER 97**

AN ACT

RELATING TO TRUST COMPANIES; INCREASING THE FEE FOR CERTIFICATES;  
INCREASING MINIMUM CAPITAL REQUIREMENTS.

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

### **Chapter 97 Section 1 Laws 2013**

SECTION 1. Section 58-9-1 NMSA 1978 (being Laws 1973, Chapter 191, Section 1) is amended to read:

"58-9-1. SHORT TITLE.--Chapter 58, Article 9 NMSA 1978 may be cited as the "Trust Company Act"."

### **Chapter 97 Section 2 Laws 2013**

SECTION 2. Section 58-9-5 NMSA 1978 (being Laws 1973, Chapter 191, Section 5) is amended to read:

"58-9-5. APPLICATION FOR CERTIFICATE--FEE.--

A. An application for a certificate shall be in writing, in such form as the director prescribes, verified under oath and supported by such information, data and records as the director may require.

B. Each application for a certificate shall be accompanied by an application fee of one thousand dollars (\$1,000), made payable to the financial institutions division of the regulation and licensing department. No portion of the application fee shall be refunded."

### **Chapter 97 Section 3 Laws 2013**

SECTION 3. Section 58-9-6 NMSA 1978 (being Laws 1973, Chapter 191, Section 6, as amended) is amended to read:

"58-9-6. MINIMUM CAPITAL.--A certificate shall not be issued to an applicant having a paid-up capital of less than five hundred thousand dollars (\$500,000). All trust companies that have been issued certificates pursuant to the Trust Company Act as of December 31, 2012 shall meet the increased paid-up capital requirement of five hundred thousand dollars (\$500,000) on or before December 31, 2017. The minimum capital requirement shall be waived for nonprofit corporations."

### **Chapter 97 Section 4 Laws 2013**

SECTION 4. Section 58-9-10 NMSA 1978 (being Laws 1973, Chapter 191, Section 10, as amended) is amended to read:



"58-9-10. IMPAIRMENT OF CAPITAL--UNSAFE CONDITIONS--RECEIVERSHIP.--If it appears to the director that the capital of a trust company is either reduced or impaired below five hundred thousand dollars (\$500,000), except for nonprofit corporations, or the affairs of the company are in an unsound condition, the director shall order the company to make good any deficit or to remedy the unsafe condition of its affairs within sixty days of the date of the order and may restrict and regulate the operation of the trust business until the capital is restored. If the deficiency in capital has not been made good and the unsafe condition remedied within the prescribed time, the director may apply to the district court in the county in which the principal office of the company is located to be appointed receiver for the liquidation or rehabilitation of the company. The expense of the receivership shall be paid out of the assets of the trust company."

## **Chapter 97 Section 5 Laws 2013**

### SECTION 5. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 through 3 of this act is June 14, 2013.

B. The effective date of the provisions of Section 4 of this act is July 1, 2017.

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Senate Bill 180, aa

Approved April 1, 2013

## **LAWS 2013, CHAPTER 98**

### AN ACT

RELATING TO LIQUOR; AMENDING A SECTION OF THE LOCAL DWI GRANT PROGRAM ACT TO PROVIDE FOR DISTRIBUTION OF REVENUES TO THE LOCAL DWI GRANT FUND.

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

## **Chapter 98 Section 1 Laws 2013**

SECTION 1. Section 11-6A-3 NMSA 1978 (being Laws 1993, Chapter 65, Section 3, as amended) is amended to read:

"11-6A-3. LOCAL DWI GRANT PROGRAM--FUND.--

A. The division shall establish a local DWI grant program to make grants to municipalities or counties for:

(1) new, innovative or model programs, services or activities to prevent or reduce the incidence of DWI, alcoholism, alcohol abuse, drug addiction or drug abuse; and

(2) programs, services or activities to prevent or reduce the incidence of domestic abuse related to DWI, alcoholism, alcohol abuse, drug addiction or drug abuse.

B. Grants shall be awarded by the council pursuant to the advice and recommendations of the division.

C. The "local DWI grant fund" is created in the state treasury and shall be administered by the division. Two million five hundred thousand dollars (\$2,500,000) of liquor excise tax revenues distributed to the fund and all other money in the fund, other than money appropriated for distribution pursuant to Subsections D and E of this section and money appropriated for DWI program distributions, are appropriated to the division to make grants to municipalities and counties upon council approval in accordance with the program established under the Local DWI Grant Program Act and to evaluate DWI grantees and the local DWI grant program. Money in the fund may be used for drug courts. An amount equal to the liquor excise tax revenues distributed annually to the fund, less five million six hundred thousand dollars (\$5,600,000), is appropriated to the division to make DWI program distributions to counties upon council approval of programs in accordance with the provisions of the Local DWI Grant Program Act. No more than six hundred thousand dollars (\$600,000) of liquor excise tax revenues distributed to the fund in any fiscal year shall be expended for administration of the grant program. Balances in the fund at the end of any fiscal year shall not revert to the general fund.

D. Two million eight hundred thousand dollars (\$2,800,000) of the liquor excise tax revenues distributed to the local DWI grant fund is appropriated to the division for distribution to the following counties in the following amounts for funding of alcohol detoxification and treatment facilities:

(1) one million seven hundred thousand dollars (\$1,700,000) to class A counties with a population of over three hundred thousand persons according to the 1990 federal decennial census;

(2) three hundred thousand dollars (\$300,000) each to counties reclassified in 2002 as class A counties with a population of more than ninety thousand but less than one hundred thousand persons according to the 1990 federal decennial census;

(3) two hundred thousand dollars (\$200,000) to class B counties with a population of more than thirty thousand but less than forty thousand persons according to the 1990 federal decennial census;

(4) one hundred fifty thousand dollars (\$150,000) to class B counties with a population of more than sixty-two thousand but less than sixty-five thousand persons according to the 1990 federal decennial census; and

(5) one hundred fifty thousand dollars (\$150,000) to class B counties with a population of more than thirteen thousand but less than fifteen thousand persons according to the 1990 federal decennial census.

E. Three hundred thousand dollars (\$300,000) of the liquor excise tax revenues distributed to the local DWI grant fund is appropriated to the division for the interlock device fund.

F. In awarding DWI grants to local communities, the council:

(1) may fund new or existing innovative or model programs, services or activities designed to prevent or reduce the incidence of DWI, alcoholism or alcohol abuse;

(2) may fund existing community-based programs, services or facilities for prevention, screening and treatment of alcoholism and alcohol abuse;

(3) may fund new or existing innovative or model programs, services or activities of any kind designed to prevent or reduce the incidence of domestic abuse related to DWI, alcoholism or alcohol abuse;

(4) may fund existing community-based programs, services or facilities for prevention and treatment of domestic abuse related to DWI, alcoholism or alcohol abuse;

(5) shall give consideration to a broad range of approaches to prevention, education, screening, treatment or alternative sentencing, including programs that combine incarceration, treatment and aftercare, to address the problem of DWI, alcoholism or alcohol abuse; and

(6) shall make grants only to counties or municipalities in counties that have established a DWI planning council and adopted a county DWI plan or are parties to a multicounty DWI plan that has been approved by the council and approved pursuant to Chapter 43, Article 3 NMSA 1978 and only for programs, services or activities consistent with that plan. A DWI plan shall also comply with local DWI grant program rules and guidelines.

G. The council shall use the criteria in Subsection F of this section to approve DWI programs, services or activities for funding through the county DWI program distribution. Sixty-five percent of the DWI grants awarded to local communities shall be used for alcohol-related treatment and detoxification programs."

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Senate Bill 190, aa

Approved April 1, 2013

## **LAWS 2013, CHAPTER 99**

### AN ACT

RELATING TO PROCUREMENT; INCREASING THE DOLLAR AMOUNT LIMIT OF MULTIPLE SOURCE CONTRACTS FOR PROCUREMENT OF ARCHITECTURAL OR ENGINEERING SERVICES.

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

### **Chapter 99 Section 1 Laws 2013**

SECTION 1. Section 13-1-154.1 NMSA 1978 (being Laws 2007, Chapter 312, Section 1) is amended to read:

"13-1-154.1. MULTIPLE SOURCE CONTRACTS--ARCHITECTURAL AND ENGINEERING SERVICES CONTRACTS--INDEFINITE QUANTITY CONSTRUCTION CONTRACTS.--

A. A state agency may procure multiple architectural or engineering services contracts for multiple projects under a single qualifications-based request for proposals; provided that the total amount of multiple contracts and all renewals for a single contractor does not exceed two million dollars (\$2,000,000) over four years and that a single contract, including any renewals, does not exceed five hundred thousand dollars (\$500,000).

B. A state agency may procure multiple indefinite quantity construction contracts pursuant to a price agreement for multiple projects under a single request for proposals, provided that the total amount of a contract and all renewals does not exceed two million dollars (\$2,000,000) over four years and the contract provides that any one purchase order under the contract may not exceed five hundred thousand dollars (\$500,000).

C. A state agency may make procurements in accordance with the provisions of Subsection A or B of this section if:

(1) the advertisement and request for proposals states that multiple contracts may or will be awarded, states the number of contracts that may or will be awarded and describes the services or construction to be performed under each contract;

(2) there is a single selection process for all of the multiple contracts, except that for each contract there may be a separate final list and a separate negotiation of contract terms;

(3) each of the multiple contracts for architectural or engineering services or construction shall have a term not exceeding four years, including all extensions and renewals;

(4) a contract to be awarded pursuant to this section to a firm that is currently performing under a contract issued pursuant to this section will not cause the total amount of all contracts issued pursuant to this section to that firm to exceed two million dollars (\$2,000,000) in any four-year period for architectural, engineering or construction services; and

(5) the procurement is subject to the limitations of Sections 13-1-150 through 13-1-154 NMSA 1978."

## **Chapter 99 Section 2 Laws 2013**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this section is July 1, 2013.

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Senate Bill 266

Approved April 1, 2013

## **LAWS 2013, CHAPTER 100**

AN ACT

RELATING TO INSURANCE; REQUIRING INSURERS TO MAKE GOOD FAITH EFFORTS TO LOCATE BENEFICIARIES AND PROVIDE CLAIM MATERIALS; PROVIDING THAT UNCLAIMED BENEFITS ESCHEAT TO THE STATE; CLARIFYING THAT CERTIFICATES OF PROPERTY OR CASUALTY INSURANCE ARE NOT INSURANCE POLICIES; SPECIFYING TERMS FOR CERTIFICATES OF PROPERTY OR CASUALTY INSURANCE.

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

## Chapter 100 Section 1 Laws 2013

SECTION 1. A new section of Chapter 59A, Article 16 NMSA 1978 is enacted to read:

### "UNCLAIMED LIFE INSURANCE BENEFITS.--

A. As used in this section:

(1) "contract" means an annuity contract but excludes annuity contracts used to fund employment-based retirement plans or programs in which the insurer is not committed by the terms of the annuity contract to pay a death benefit to the beneficiaries of specific plan participants;

(2) "death master file" means the federal social security administration's death master file or another database or service for determining that a person has died and that is at least as comprehensive as the federal social security administration's death master file;

(3) "match" means a search of a death master file that results in a match of the social security number or the name and date of birth of an insured, annuity owner or retained asset account holder; and

(4) "policy" means a policy or certificate of life insurance that provides a death benefit, but excludes policies or certificates of credit life or accidental death insurance, policies or certificates of life insurance used to fund a preneed funeral contract or funeral prearrangement and policies or certificates of life insurance that provide a death benefit pursuant to an employee benefit plan that are:

(a) subject to the federal Employee Retirement Income Security Act of 1974, as amended; or

(b) under a federal employee benefit program.

B. At least twice a year, an insurer shall crosscheck its insureds' in-force life insurance policies and retained-asset accounts against a death master file to identify potential matches. For each potential match, within ninety days, the insurer shall:

(1) make and document a good faith effort to confirm the death of the insured or retained-asset account holder by using other available records and information;

(2) determine whether the applicable policy or contract provides for the payment of a death benefit. If the payment of a death benefit is required, the insurer shall:

(a) make and document a good faith effort to locate the beneficiary or beneficiaries; and

(b) provide to the beneficiary or beneficiaries the appropriate claim forms or instructions for making a claim, including the need to provide an official death certificate if required by the policy or contract; and

(3) in the case of group life insurance, confirm the possible death of an insured; provided that the insurer maintains at least the following information about those covered under a policy or certificate:

(a) social security number, or name and date of birth;

(b) beneficiary designation information;

(c) coverage eligibility;

(d) benefit amount; and

(e) premium payment status.

C. To the extent permitted by law, an insurer may disclose the minimum information about the insured or the beneficiary that is necessary to locate a beneficiary or another person entitled to receive a payment of the claims proceeds to a person whom the insurer reasonably believes could assist the insurer in locating the beneficiary or another person entitled to receive a payment of the claims proceeds. An insurer or its service provider shall not charge an insured, an account holder or a beneficiary for a search or confirmation conducted pursuant to this subsection.

D. The benefits from a life insurance policy or a retained asset account, plus any applicable accrued interest, shall be payable pursuant to the terms of the contract or, if applicable, in accordance with probate law. If the proper recipients of a life insurance policy or a retained asset account cannot be found, the benefits shall escheat to New Mexico as unclaimed property pursuant to the Uniform Unclaimed Property Act (1995). Upon the expiration of the statutory time period for escheat, an insurer shall notify the taxation and revenue department that a life insurance policy beneficiary or retained asset account holder has not submitted a claim with the insurer and the insurer has complied with the provisions of Subsection B of this section and has been unable to contact the retained asset account holder, beneficiary or beneficiaries. Upon notifying the taxation and revenue department, the insurer shall submit the unclaimed life insurance benefits or unclaimed retained asset accounts, plus any applicable accrued interest, to the taxation and revenue department pursuant to the Uniform Unclaimed Property Act (1995).

E. To assist the superintendent in identifying lost policies, by July 1, 2016, an insurer that has never conducted a crosscheck of its insureds' policies and contracts

issued prior to July 1, 2013 against a death master file for the purpose of identifying deceased insureds shall provide to the superintendent a list of all policies and contracts in force and issued in New Mexico.

F. For an insurer that has never conducted a crosscheck of its insureds' policies and contracts against a death master file for the purpose of identifying deceased insureds, the provisions of this section shall apply only to policies and contracts issued and delivered in New Mexico on or after July 1, 2013."

## **Chapter 100 Section 2 Laws 2013**

SECTION 2. A new section of Chapter 59A, Article 18 NMSA 1978 is enacted to read:

"CERTIFICATES OF PROPERTY OR CASUALTY INSURANCE.--

A. As used in this section:

(1) "certificate of insurance" means any document or instrument prepared or issued by an insurer or insurance producer as evidence of property or casualty insurance coverage, but excludes an insurance policy, insurance binder, policy endorsement or automobile insurance identification or information card; and

(2) "insurance producer" means a person required to be licensed pursuant to the laws of New Mexico to sell, solicit or negotiate property or casualty insurance.

B. A person shall not prepare, issue or require the issuance of a certificate of insurance on property, operations or risks located in New Mexico unless an insurer or an agent of an insurer has filed the certificate of insurance form with the superintendent at least sixty days before its proposed effective date. The superintendent shall review any filing made pursuant to this subsection within sixty days of the filing date. The superintendent shall prohibit the use of a certificate of insurance form if the form:

(1) is unfair, misleading or deceptive;

(2) violates public policy; or

(3) violates any law, including any rule promulgated by the superintendent.

C. If the superintendent prohibits a certificate of insurance form during the sixty-day review period, the superintendent shall give the insurer written notice of the disapproval, stating the grounds for disapproval. After the expiration of the sixty-day review period, a filing shall be deemed to meet the requirements of this section to become effective unless prohibited pursuant to this section.



D. An individual insurer shall not be required to file a certificate of insurance form if that form is:

(1) the current edition of a standard certificate of insurance form that is promulgated by the association for cooperative operations research and development, the American association of insurance services or the insurance services office and that is filed with and approved by the superintendent pursuant to Subsection E of this section; or

(2) a certificate of insurance form whose content and wording are specifically provided for by federal law or regulation or a law or rule of New Mexico.

E. The superintendent shall review any filing made pursuant to Paragraph (1) of Subsection D of this section within sixty days of the filing date. A filing made pursuant to Paragraph (1) of Subsection D of this section shall not be used until approved by the superintendent. The superintendent shall approve any form if the superintendent finds that it complies with the Insurance Code. After the expiration of the sixty-day review period, a filing shall be deemed to meet the requirements of this section to become effective unless disapproved pursuant to this subsection.

F. A filing submitted pursuant to this section shall be filed electronically. The superintendent may designate an entity to receive the electronic filings submitted pursuant to this section.

G. A certificate of insurance is not an insurance policy and does not affirmatively or negatively amend, extend or alter the coverage afforded by the policy to which the certificate of insurance refers. A certificate of insurance shall not confer to any person new or additional rights beyond the express provisions of the insurance policy to which it refers.

H. A person shall not:

(1) alter or modify a certificate of insurance form filed with the superintendent; or

(2) prepare, issue or require the issuance of a certificate of insurance that:

(a) contains any false or misleading information concerning the insurance policy to which the certificate of insurance refers; or

(b) purports to affirmatively or negatively alter, amend or extend the coverage provided by the insurance policy to which the certificate of insurance refers.

I. A contract number or description in a certificate of insurance shall not indicate that the insurance policy complies with the insurance or indemnification requirements of a contract. A person shall not certify in a certificate of insurance that the insurance policy to which it refers complies with the insurance or indemnification requirements of a contract.

J. An insurer or insurance producer shall notify a person of the cancellation or nonrenewal of or material change to an insurance policy only if that person has the right to notice pursuant to the terms of the insurance policy or an endorsement to an insurance policy. The insurance policy or endorsement to an insurance policy shall govern the terms and conditions of the notice. A certificate of insurance shall not alter the terms and conditions of the notice.

K. The provisions of this section apply to all certificates of insurance issued in connection with property, operations or risks in New Mexico, regardless of the location of the policyholder, insurer, insurance producer or person requiring the issuance of a certificate of insurance.

L. A certificate of insurance or any other document or correspondence prepared, issued or required in violation of this section shall be void."

## **Chapter 100 Section 3 Laws 2013**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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Senate Bill 312, aa

Approved April 1, 2013

# **LAWS 2013, CHAPTER 101**

AN ACT

RELATING TO IGNITION INTERLOCK; ALLOWING THE ISSUANCE OF AN IGNITION INTERLOCK LICENSE TO A PERSON CONVICTED OF HOMICIDE BY VEHICLE OR GREAT BODILY HARM BY VEHICLE WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS AFTER COMPLETION OF THE SENTENCE FOR THAT CRIME, INCLUDING PROBATION AND PAROLE; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2007.

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

## Chapter 101 Section 1 Laws 2013

SECTION 1. Section 66-5-35 NMSA 1978 (being Laws 1978, Chapter 35, Section 257, as amended) is amended to read:

"66-5-35. LIMITED DRIVING PRIVILEGE UPON SUSPENSION OR REVOCATION.--

A. Upon suspension or revocation of a person's driving privilege or driver's license following conviction or adjudication as a delinquent under any law, ordinance or rule relating to motor vehicles, the person may apply to the department for a driver's license, provisional license or instruction permit to drive, limited to use allowing the person to engage in gainful employment, to attend school or to attend a court-ordered treatment program, except that the person shall not be eligible to apply:

(1) for a limited commercial driver's license or an ignition interlock license in lieu of a revoked or suspended commercial driver's license;

(2) for a limited license when the person's driver's license was revoked pursuant to the provisions of the Implied Consent Act, except as provided in the Ignition Interlock Licensing Act;

(3) for a limited license when the person's driver's license was revoked pursuant to the provisions of Section 66-8-102 NMSA 1978, except as provided in the Ignition Interlock Licensing Act;

(4) for a limited license when the person's driver's license is denied pursuant to the provisions of Subsection D of Section 66-5-5 NMSA 1978, except as provided in the Ignition Interlock Licensing Act; or

(5) for a limited license when the person's driver's license was revoked pursuant to a conviction for committing homicide by vehicle, great bodily harm by vehicle, or homicide by vehicle or great bodily harm by vehicle while under the influence of intoxicating liquor or drugs, as provided in Section 66-8-101 NMSA 1978, except as provided in the Ignition Interlock Licensing Act.

B. Upon receipt of a fully completed application that complies with statutes and rules for a limited license or an ignition interlock license and payment of the fee specified in this subsection, the department shall issue a limited license, ignition interlock license or permit to the applicant showing the limitations specified in the approved application. For each limited license, ignition interlock license or permit to drive, the applicant shall pay to the department a fee of forty-five dollars (\$45.00), which shall be transferred to the department of transportation. All money collected under this subsection shall be used for DWI prevention and education programs for elementary and secondary school students. The department of transportation shall coordinate with the department of health to ensure that there is no program duplication. The limited

license or permit to drive may be suspended as provided in Section 66-5-30 NMSA 1978."

## **Chapter 101 Section 2 Laws 2013**

SECTION 2. Section 66-5-502 NMSA 1978 (being Laws 2003, Chapter 239, Section 2, as amended by Laws 2007, Chapter 316, Section 2 and by Laws 2007, Chapter 317, Section 3 and also by Laws 2007, Chapter 319, Section 48) is amended to read:

"66-5-502. DEFINITIONS.--As used in the Ignition Interlock Licensing Act:

A. "denied" means the division has refused to issue an instruction permit, driver's license or provisional license pursuant to the provisions of Subsection D or E of Section 66-5-5 NMSA 1978;

B. "ignition interlock device" means a device, approved by the traffic safety bureau, that prevents the operation of a motor vehicle by an intoxicated or impaired person;

C. "ignition interlock license" means a driver's license issued to a person by the division that allows that person to operate a motor vehicle with an ignition interlock device after that person's driving privilege or driver's license has been revoked or denied. The division shall clearly mark an ignition interlock license to distinguish it from other driver's licenses; and

D. "revoked" means the division, pursuant to the provisions of Section 66-5-29 or 66-8-111 NMSA 1978, has terminated a person's driving privilege or driver's license for:

(1) driving while under the influence of intoxicating liquor or drugs;

or

(2) a conviction of homicide by vehicle or great bodily harm by vehicle while under the influence of intoxicating liquor or drugs."

## **Chapter 101 Section 3 Laws 2013**

SECTION 3. Section 66-5-503 NMSA 1978 (being Laws 2003, Chapter 239, Section 3, as amended) is amended to read:

"66-5-503. IGNITION INTERLOCK LICENSE--REQUIREMENTS.--

A. A person whose driving privilege or driver's license has been revoked or denied or who has not met the ignition interlock license requirement as a condition of

reinstatement pursuant to Section 66-5-33.1 NMSA 1978 may apply for an ignition interlock license from the division.

B. An applicant for an ignition interlock license shall:

(1) provide proof of installation of the ignition interlock device by a traffic safety bureau-approved ignition interlock installer on any vehicle the applicant drives; and

(2) sign an affidavit acknowledging that:

(a) operation by the applicant of any vehicle that is not equipped with an ignition interlock device is subject to penalties for driving with a revoked license;

(b) tampering or interfering with the proper and intended operation of an ignition interlock device may subject the applicant to penalties for driving with a license that was revoked for driving under the influence of intoxicating liquor or drugs or a violation of the Implied Consent Act; and

(c) the applicant shall maintain the ignition interlock device and keep up-to-date records in the motor vehicle showing required service and calibrations and be able to provide the records upon request.

C. A person who has been convicted of homicide by vehicle or great bodily harm by vehicle while under the influence of intoxicating liquor or drugs, as provided in Section 66-8-101 NMSA 1978, shall not be issued an ignition interlock license unless the person has completed serving the sentence for that crime, including any period of probation and parole."

## **Chapter 101 Section 4 Laws 2013**

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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Senate Bill 442

Approved April 1, 2013

## **LAWS 2013, CHAPTER 102**

AN ACT

RELATING TO HORSE RACING; CREATING THE RACEHORSE TESTING FUND; PROVIDING A NATIONAL STANDARD FOR RACEHORSE TESTING; DEDICATING A PORTION OF THE DAILY CAPITAL OUTLAY TAX TO TEST RACEHORSES; MAKING AN APPROPRIATION.

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

## **Chapter 102 Section 1 Laws 2013**

SECTION 1. A new section of the Horse Racing Act is enacted to read:

"RACEHORSE TESTING FUND--CREATED--PURPOSE.--The "racehorse testing fund" is created in the state treasury. The purpose of the fund is to ensure the testing of racehorses at a laboratory that meets or exceeds the current national laboratory standards for the testing of drugs or other foreign substances not naturally occurring in a horse, as established by the association of racing commissioners international, incorporated. The fund consists of one-half of the daily capital outlay tax appropriated and transferred pursuant to Paragraph (4) of Subsection A of Section 60-1A-20 NMSA 1978 and appropriations, gifts, grants and donations made to the fund. Income from investment of the fund shall be credited to the fund. The commission shall administer the racehorse testing fund, and money in the fund is appropriated to the commission for the handling and testing of blood serum plasma, urine or other appropriate test samples taken from racehorses pursuant to Section 60-1A-14 NMSA 1978. Any unexpended or unencumbered balance remaining in the racehorse testing fund at the end of a fiscal year in excess of six hundred thousand dollars (\$600,000) shall revert to the general fund. Expenditures from the fund shall be made on warrant of the secretary of finance and administration pursuant to vouchers signed by the executive director of the commission."

## **Chapter 102 Section 2 Laws 2013**

SECTION 2. Section 60-1A-14 NMSA 1978 (being Laws 2007, Chapter 39, Section 14) is amended to read:

"60-1A-14. TESTING SPECIMENS.--

A. The commission shall adopt rules applying to the handling of pre- and post-race, out-of-competition and necropsy testing of both blood serum plasma and urine as well as other appropriate samples identified by the commission to be taken from racehorses.

B. Each specimen taken from a racehorse shall be divided into two or more equal samples, and:

(1) one sample shall be tested by the commission or its designated laboratory in order to detect the presence of unauthorized drugs, chemicals, stimulants,

depressants or other foreign substances as defined by the association of racing commissioners international, incorporated, classification guidelines as class 1 or class 2, penalty class A drugs; and

(2) the second sample shall be forwarded by the commission to the scientific laboratory division of the department of health.

C. After an inconclusive or positive test result on the sample tested by the commission or its designated laboratory and upon a written request from the president, executive director or manager of the New Mexico horsemen's association on forms designated by the commission, the scientific laboratory division shall transmit the corresponding second sample to the New Mexico horsemen's association.

D. The scientific laboratory division shall keep all samples in a controlled environment for a period of at least three months.

E. The commission shall contract with an independent laboratory to maintain a quality assurance program. The designated laboratory of the commission shall meet or exceed the current national laboratory standards for the testing of drugs or other foreign substances in a horse, as established by the association of racing commissioners international, incorporated."

## **Chapter 102 Section 3 Laws 2013**

SECTION 3. Section 60-1A-20 NMSA 1978 (being Laws 2007, Chapter 39, Section 20, as amended) is amended to read:

"60-1A-20. DAILY CAPITAL OUTLAY TAX--CAPITAL OUTLAY OFFSET--STATE FAIR COMMISSION DISTRIBUTION--DAILY LICENSE FEES.--

A. A "daily capital outlay tax" of two and three-sixteenths percent is imposed on the gross amount wagered each day at a racetrack where horse racing is conducted on the premises of a racetrack licensee and also on the gross amount wagered each day when a racetrack licensee is engaged in simulcasting pursuant to the Horse Racing Act. After deducting the amount of offset allowed pursuant to this section, any remaining daily capital outlay tax shall be paid by the commission to the taxation and revenue department from the retainage of a racetrack licensee from on-site wagers made on the licensed premises of the racetrack licensee for deposit in the general fund. Of the daily capital outlay tax imposed pursuant to this subsection:

(1) for a class A racetrack licensee, not more than one-half of the daily capital outlay tax imposed on the first two hundred fifty thousand dollars (\$250,000) of the daily handle may be offset by the amount that the class A racetrack licensee expends for capital improvements or for long-term financing of capital improvements at the racetrack licensee's existing facility;

(2) for a class B racetrack licensee, not more than one-half of the daily capital outlay tax imposed on the first two hundred fifty thousand dollars (\$250,000) of the daily handle may be offset:

(a) in an amount not to exceed one-half of the offset allowed, the amount expended by the class B racetrack licensee for capital improvements; and

(b) in an amount not to exceed one-half of the offset allowed, the amount expended by the class B racetrack licensee for advertising, marketing and promoting horse racing in the state;

(3) through December 31, 2014, for both class A and class B racetrack licensees, an amount equal to one-half of the daily capital outlay tax is appropriated and transferred to the state fair commission for expenditure on capital improvements at the state fairgrounds and for expenditure on debt service on negotiable bonds issued for the state fairgrounds' capital improvements; and

(4) on and after January 1, 2015, for both class A and class B racetrack licensees, an amount equal to one-half of the daily capital outlay tax is appropriated and transferred to the racehorse testing fund.

B. An additional daily license fee of five hundred dollars (\$500) shall be paid to the commission by the racetrack licensee for each day of live racing on the premises of the racetrack licensee.

C. Accurate records shall be kept by the racetrack licensee to show gross amounts wagered, retainage, breakage and amounts received from interstate common pools and distributions from gross amounts wagered, retainage, breakage and amounts received from interstate common pools, as well as other information the commission may require. Records shall be open to inspection and shall be audited by the commission, its authorized representatives or an independent auditor selected by the commission. The commission may prescribe the method in which records shall be maintained. A racetrack licensee shall keep records that are accurate, legible and easy to understand.

D. Notwithstanding any other provision of law, a political subdivision of the state shall not impose an occupational tax on a horse racetrack owned or operated by a racetrack licensee. A political subdivision of the state shall not impose an excise tax on a horse racetrack owned or operated by a racetrack licensee. Local option gross receipts taxes authorized by the state may be imposed to the extent authorized and imposed by a subdivision of the state on a horse racetrack owned or operated by a racetrack licensee."



Approved April 2, 2013

## **LAWS 2013, CHAPTER 103**

### **AN ACT**

RELATING TO HORSE RACING; INCREASING CIVIL PENALTIES FOR VIOLATIONS OF THE HORSE RACING ACT; PROVIDING FOR THE REPORT OF VIOLATIONS TO THE DISTRICT ATTORNEY; ADDING A CONDITION TO THE QUALIFICATIONS FOR A LICENSE; PROVIDING A NATIONALLY RECOGNIZED CLASSIFICATION OF PROHIBITED SUBSTANCES; PROVIDING AN INDEPENDENT STANDARD FOR DRUG TESTING.

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

### **Chapter 103 Section 1 Laws 2013**

SECTION 1. Section 60-1A-5 NMSA 1978 (being Laws 2007, Chapter 39, Section 5) is amended to read:

"60-1A-5. COMMISSION RULES--ALL LICENSES--SUSPENSION, REVOCATION OR DENIAL OF LICENSES--PENALTIES.--

A. The commission shall adopt rules to implement the Horse Racing Act and to ensure that horse racing in New Mexico is conducted with fairness and that the participants and patrons are protected against illegal practices.

B. Every license issued by the commission shall require the licensee to comply with the rules adopted by the commission. A racetrack licensee shall post printed copies of the rules in conspicuous places on the racing grounds and shall maintain them during the period when live horse races are being conducted.

C. The commission may suspend, revoke or deny renewal of a license of a person who violates the provisions of the Horse Racing Act or rules adopted pursuant to that act. The commission shall provide a licensee facing suspension, revocation or denial of renewal of a license reasonable notice and an opportunity for a hearing. The suspension, revocation or denial of renewal of a license shall not relieve the licensee from prosecution for the violations or from the payment of fines and penalties assessed the licensee by the commission.

D. The commission may impose civil penalty fines upon a licensee for a violation of the provisions of the Horse Racing Act or rules adopted by the commission. The fines shall not exceed one hundred thousand dollars (\$100,000) or one hundred percent of a purse related to the violation, whichever is greater, for each violation.

E. Fines shall be paid into the current school fund.

F. When a penalty is imposed pursuant to this section for administering a performance-altering substance as provided in Subsection A of Section 60-1A-28 NMSA 1978, the commission shall direct its executive director to report the violation to the district attorney for the county in which the violation occurred and to the horse racing licensing authority in any other jurisdiction in which the licensee being penalized is also licensed."

## **Chapter 103 Section 2 Laws 2013**

SECTION 2. Section 60-1A-11 NMSA 1978 (being Laws 2007, Chapter 39, Section 11) is amended to read:

"60-1A-11. GRANTING A LICENSE--STANDARDS.--

A. A license shall not be issued or renewed unless the applicant has satisfied the commission that the applicant:

(1) is of good moral character, honesty and integrity;

(2) does not currently have a license suspended by a horse racing licensing authority in another jurisdiction;

(3) does not have prior activities, criminal record, reputation, habits or associations that:

(a) pose a threat to the public interest;

(b) pose a threat to the effective regulation and control of horse racing; or

(c) create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of horse racing, the business of operating a horse racetrack licensed pursuant to the Horse Racing Act or the financial activities incidental to operating a horse racetrack;

(4) is qualified to be licensed consistent with the Horse Racing Act;

(5) has sufficient business probity, competence and experience in horse racing as determined by the commission;

(6) has proposed financing that is sufficient for the nature of the license and from a suitable source that meets the criteria set forth in this subsection; and

(7) is sufficiently capitalized pursuant to standards set by the commission to conduct the business covered by the license.

B. The commission shall establish by rule additional qualifications for a licensee as it deems in the public interest.

C. A person issued or applying for an occupational license who has positive test results for a controlled substance or who has been convicted of a violation of a federal or state controlled substance law shall be denied a license or shall be subject to revocation of an existing license unless sufficient evidence of rehabilitation is presented to the commission.

D. If the commission finds that an applicant for an occupational license or an occupational licensee has been convicted of any of the provisions of Subsection E of this section, the applicant shall be denied the occupational license or the occupational licensee shall have the occupational license revoked. An occupational license shall not be issued by the commission to an applicant or occupational licensee for a period of five years from the date of denial or revocation pursuant to this subsection.

E. An occupational license may be denied or revoked if the applicant or occupational licensee, for the purpose of stimulating or depressing a racehorse or affecting its speed or stamina during a race or workout, is found to have:

(1) administered, attempted to administer or conspired to administer to a racehorse, internally, externally or by injection, a drug, chemical, stimulant or depressant, or other performance-altering substance as defined by the association of racing commissioners international, incorporated, or a successor organization or, if none, by another nationally recognized organization that has published substantially similar guidelines that are generally accepted in the horse racing industry as determined by the commission, unless the applicant or occupational licensee has been specifically permitted to do so by the commission or a steward; or

(2) attempted to use, used or conspired with others to use an electrical or mechanical device, implement or instrument, except a commission-approved riding crop, unless the applicant or occupational licensee has been specifically permitted by the commission or a steward to use the device, implement or instrument.

F. The burden of proving the qualifications of an applicant or licensee to be issued or have a license renewed shall be on the applicant or licensee."

### **Chapter 103 Section 3 Laws 2013**

SECTION 3. Section 60-1A-14 NMSA 1978 (being Laws 2007, Chapter 39, Section 14) is amended to read:

"60-1A-14. TESTING SPECIMENS.--

A. The commission shall adopt rules applying to the handling and testing of blood serum plasma, urine or other appropriate test samples identified by the commission to be taken from racehorses.

B. Each specimen taken from a racehorse shall be divided into two or more equal samples, and:

(1) one sample shall be tested by the commission or its designated laboratory in order to detect the presence of unauthorized drugs, chemicals, stimulants, depressants or other performance-altering substance as defined by the association of racing commissioners international, incorporated, or a successor organization or, if none, by another nationally recognized organization that has published substantially similar guidelines that are generally accepted in the horse racing industry as determined by the commission; and

(2) the second sample shall be forwarded by the commission to the scientific laboratory division of the department of health.

C. After a positive test result on the sample tested by the commission or its designated laboratory and upon a written request from the president, executive director or manager of the New Mexico horsemen's association on forms designated by the commission, the scientific laboratory division shall transmit the corresponding second sample to the New Mexico horsemen's association.

D. The scientific laboratory division shall keep all samples in a controlled environment for a period of at least three months.

E. The commission shall contract with an independent laboratory to maintain a quality assurance program. The laboratory shall meet or exceed the current national laboratory standards for the testing of drugs or other foreign substances in a horse, as established by the association of racing commissioners international, incorporated, or of a successor organization or, if none, of another nationally recognized organization that has published substantially similar guidelines that are generally accepted in the horse racing industry."

## **Chapter 103 Section 4 Laws 2013**

SECTION 4. Section 60-1A-28 NMSA 1978 (being Laws 2007, Chapter 39, Section 28) is amended to read:

"60-1A-28. AFFECTING SPEED OR STAMINA OF A RACE HORSE--  
PENALTIES.--

A. A person administering, attempting to administer or conspiring with others to administer to a racehorse a drug, chemical, stimulant or depressant or other performance-altering substance defined as a class 1 or class 2 penalty class A drug by

the association of racing commissioners international, incorporated, or a successor organization or, if none, by another nationally recognized organization that has published substantially similar guidelines that are generally accepted in the horse racing industry as determined by the commission whether internally, externally or by injection for the purpose of stimulating or depressing the racehorse or affecting the speed or stamina of the racehorse during a horse race or workout is guilty of a fourth degree felony and upon conviction shall be sentenced pursuant to Section 31-18-15 NMSA 1978.

B. A person who uses, attempts to use or conspires with others to use during a horse race or workout an electrically or mechanically prohibited device, implement or instrument, other than a commission-approved riding crop, is guilty of a fourth degree felony and upon conviction shall be sentenced pursuant to Section 31-18-15 NMSA 1978.

C. A person who sponges the nostrils or trachea of a racehorse or who uses anything to injure a racehorse for the purpose of stimulating or depressing the racehorse or affecting the speed or stamina of the racehorse during a horse race or workout is guilty of a fourth degree felony and upon conviction shall be sentenced pursuant to Section 31-18-15 NMSA 1978.

D. It is prima facie evidence of intent to commit any of the crimes set forth:

(1) in Subsection A of this section for a person to be found within the racing grounds of a racetrack licensee, including the stands, stables, sheds or other areas where racehorses are kept, who possesses with the intent to use, sell, give away or otherwise transfer to another person a drug, chemical, stimulant or depressant or other performance-altering substance defined as a class 1 or class 2 penalty class A drug by the association of racing commissioners international, incorporated, or a successor organization or, if none, by another nationally recognized organization that has published substantially similar guidelines that are generally accepted in the horse racing industry as determined by the commission, to stimulate or depress a racehorse or to affect the speed or stamina of a racehorse;

(2) in Subsection B of this section for a person to be found within the racing grounds of a racetrack licensee, including the stands, stables, sheds or other areas where racehorses are kept, who possesses with the intent to use, sell, give away or otherwise transfer to another person an electrically or mechanically prohibited device, implement or instrument, other than a commission-approved riding crop; and

(3) in Subsection C of this section for a person to be found within the racing grounds of a racetrack licensee, including the stands, stables, sheds or other areas where racehorses are kept, who possesses with the intent to use, sell, give away or otherwise transfer to another person paraphernalia or substances used to sponge the nostrils or trachea of a racehorse or that may be used to injure a racehorse for the

purpose of stimulating or depressing the racehorse or affecting its speed or stamina during a horse race or workout."

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SJC/Senate Bill 444, aa

Approved April 2, 2013

## **LAWS 2013, CHAPTER 104**

AN ACT

RELATING TO CRIMINAL PROCEDURE; AMENDING A SECTION OF CHAPTER 31 NMSA 1978 TO RAISE COSTS TO DEFENDANTS FOR THEIR PROBATION.

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

### **Chapter 104 Section 1 Laws 2013**

SECTION 1. Section 31-20-5.1 NMSA 1978 (being Laws 2000, Chapter 49, Section 1) is amended to read:

"31-20-5.1. MISDEMEANOR COMPLIANCE PROGRAMS--COUNTIES MAY ESTABLISH--FEES.--

A. A county may create a "misdemeanor compliance program" to monitor defendants' compliance with the conditions of probation imposed by a district or magistrate court. The program shall be limited to participation by persons who have been convicted of a misdemeanor criminal offense specified in the Criminal Code, convicted of driving while under the influence of intoxicating liquor or drugs or convicted of driving while the person's driver's license is suspended or revoked pursuant to the Motor Vehicle Code. A county's program shall comply with guidelines established by the administrative office of the courts.

B. As a condition of probation, the district or magistrate court may require the defendant to pay a fee of not less than fifteen dollars (\$15.00) nor more than fifty dollars (\$50.00) per month to the county for a public probation program for the term of the defendant's probation. Money collected by the county pursuant to this subsection shall be used only to operate the misdemeanor compliance program."

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Senate Bill 20, aa

Approved April 2, 2013

# LAWS 2013, CHAPTER 105

## AN ACT

RELATING TO HEALTH CARE COVERAGE; ENACTING SECTIONS OF THE HEALTH CARE PURCHASING ACT, THE NEW MEXICO INSURANCE CODE, THE HEALTH MAINTENANCE ORGANIZATION LAW AND THE NONPROFIT HEALTH CARE PLAN LAW TO REQUIRE THAT PROVISION OF COVERED BENEFITS BE ALLOWED THROUGH TELEMEDICINE SERVICES; PROVIDING FOR REVIEW AND APPEAL RIGHTS FOR DENIALS OF TELEMEDICINE COVERAGE.

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

### Chapter 105 Section 1 Laws 2013

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

"COVERAGE FOR TELEMEDICINE SERVICES.--

A. Group health coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act shall allow covered benefits to be provided through telemedicine services. Coverage for health care services provided through telemedicine shall be determined in a manner consistent with coverage for health care services provided through in-person consultation.

B. The provisions of this section shall not be construed to require coverage of an otherwise noncovered benefit.

C. A determination by a group health plan that health care services delivered through the use of telemedicine are not covered under the plan shall be subject to review and appeal pursuant to the Patient Protection Act.

D. The provisions of this section shall not apply in the event that federal law requires the state to make payments on behalf of enrollees to cover the costs of implementing this section.

E. Nothing in this section shall require a health care provider to be physically present with a patient at the originating site unless the consulting telemedicine provider deems it necessary.

F. Telemedicine used to provide clinical services shall be encrypted and shall conform to state and federal privacy laws.

G. The provisions of this section shall not apply to group health coverage intended to supplement major medical group-type coverage, such as medicare

supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or any other limited-benefit health insurance policy.

H. As used in this section:

(1) "consulting telemedicine provider" means a health care provider that delivers telemedicine services from a location remote from an originating site;

(2) "health care provider" means a duly licensed hospital or other licensed facility, physician or other health care professional authorized to furnish health care services within the scope of the professional's license;

(3) "in real time" means occurring simultaneously, instantaneously or within seconds of an event so that there is little or no noticeable delay between two or more events;

(4) "originating site" means a place at which a patient is physically located and receiving health care services via telemedicine;

(5) "store-and-forward technology" means electronic information, imaging and communication, including interactive audio, video and data communications, that is transferred or recorded or otherwise stored for asynchronous use; and

(6) "telemedicine" means the use of interactive simultaneous audio and video or store-and-forward technology using information and telecommunications technologies by a health care provider to deliver health care services at a site other than the site where the patient is located, including the use of electronic media for consultation relating to the health care diagnosis or treatment of the patient in real time or through the use of store-and-forward technology."

## **Chapter 105 Section 2 Laws 2013**

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

"COVERAGE FOR TELEMEDICINE SERVICES.--

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 allow covered benefits to be provided through telemedicine services. Coverage for health care services provided through telemedicine shall be determined in a manner consistent with coverage for health care services provided through in-person consultation.



B. The provisions of this section shall not be construed to require coverage of an otherwise noncovered benefit.

C. A determination by an insurer that health care services delivered through the use of telemedicine are not covered under the plan shall be subject to review and appeal pursuant to the Patient Protection Act.

D. The provisions of this section shall not apply in the event that federal law requires the state to make payments on behalf of enrollees to cover the costs of implementing this section.

E. Nothing in this section shall require a health care provider to be physically present with a patient at the originating site unless the consulting telemedicine provider deems it necessary.

F. Telemedicine used to provide clinical services shall be encrypted and shall conform to state and federal privacy laws.

G. The provisions of this section shall not apply to an individual policy, plan or contract intended to supplement major medical group-type coverage, such as medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or any other limited-benefit health insurance policy.

H. As used in this section:

(1) "consulting telemedicine provider" means a health care provider that delivers telemedicine services from a location remote from an originating site;

(2) "health care provider" means a duly licensed hospital or other licensed facility, physician or other health care professional authorized to furnish health care services within the scope of the professional's license;

(3) "in real time" means occurring simultaneously, instantaneously or within seconds of an event so that there is little or no noticeable delay between two or more events;

(4) "originating site" means a place at which a patient is physically located and receiving health care services via telemedicine;

(5) "store-and-forward technology" means electronic information, imaging and communication, including interactive audio, video and data communication, that is transferred or recorded or otherwise stored for asynchronous use; and

(6) "telemedicine" means the use of interactive simultaneous audio and video or store-and-forward technology using information and telecommunications technologies by a health care provider to deliver health care services at a site other than

the site where the patient is located, including the use of electronic media for consultation relating to the health care diagnosis or treatment of the patient in real time or through the use of store-and-forward technology."

## **Chapter 105 Section 3 Laws 2013**

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

### **"COVERAGE FOR TELEMEDICINE SERVICES.--**

A. A blanket or group health insurance policy or contract that is delivered, issued for delivery or renewed in this state shall allow covered benefits to be provided through telemedicine services. Coverage for health care services provided through telemedicine shall be determined in a manner consistent with coverage for health care services provided through in-person consultation.

B. The provisions of this section shall not be construed to require coverage of an otherwise noncovered benefit.

C. A determination by an insurer that health care services delivered through the use of telemedicine are not covered under the plan shall be subject to review and appeal pursuant to the Patient Protection Act.

D. The provisions of this section shall not apply in the event that federal law requires the state to make payments on behalf of enrollees to cover the costs of implementing this section.

E. Nothing in this section shall require a health care provider to be physically present with a patient at the originating site unless the consulting telemedicine provider deems it necessary.

F. Telemedicine used to provide clinical services shall be encrypted and shall conform to state and federal privacy laws.

G. The provisions of this section shall not apply to a group or blanket policy, plan or contract intended to supplement major medical group-type coverage, such as medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or any other limited-benefit health insurance policy.

H. As used in this section:

(1) "consulting telemedicine provider" means a health care provider that delivers telemedicine services from a location remote from an originating site;

(2) "health care provider" means a duly licensed hospital or other licensed facility, physician or other health care professional authorized to furnish health care services within the scope of the professional's license;

(3) "in real time" means occurring simultaneously, instantaneously or within seconds of an event so that there is little or no noticeable delay between two or more events;

(4) "originating site" means a place at which a patient is physically located and receiving health care services via telemedicine;

(5) "store-and-forward technology" means electronic information, imaging and communication, including interactive audio, video and data communication, that is transferred or recorded or otherwise stored for asynchronous use; and

(6) "telemedicine" means the use of interactive simultaneous audio and video or store-and-forward technology using information and telecommunications technologies by a health care provider to deliver health care services at a site other than the site where the patient is located, including the use of electronic media for consultation relating to the health care diagnosis or treatment of the patient in real time or through the use of store-and-forward technology."

## **Chapter 105 Section 4 Laws 2013**

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

### **"COVERAGE FOR TELEMEDICINE SERVICES.--**

A. An individual or group health maintenance organization contract that is delivered, issued for delivery or renewed in this state shall allow covered benefits to be provided through telemedicine services. Coverage for health care services provided through telemedicine shall be determined in a manner consistent with coverage for health care services provided through in-person consultation.

B. The provisions of this section shall not be construed to require coverage of an otherwise noncovered benefit.

C. A determination by a health maintenance organization that health care services delivered through the use of telemedicine are not covered under the plan shall be subject to review and appeal pursuant to the Patient Protection Act.

D. The provisions of this section shall not apply in the event that federal law requires the state to make payments on behalf of enrollees to cover the costs of implementing this section.

E. Nothing in this section shall require a health care provider to be physically present with a patient at the originating site unless the consulting telemedicine provider deems it necessary.

F. Telemedicine used to provide clinical services shall be encrypted and shall conform to state and federal privacy laws.

G. The provisions of this section shall not apply to an individual or group health maintenance organization contract intended to supplement major medical group-type coverage, such as medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or any other limited-benefit health insurance policy.

H. As used in this section:

(1) "consulting telemedicine provider" means a health care provider that delivers telemedicine services from a location remote from an originating site;

(2) "in real time" means occurring simultaneously, instantaneously or within seconds of an event so that there is little or no noticeable delay between two or more events;

(3) "originating site" means a place at which a patient is physically located and receiving health care services via telemedicine;

(4) "store-and-forward technology" means electronic information, imaging and communication, including interactive audio, video and data communication, that is transferred or recorded or otherwise stored for asynchronous use; and

(5) "telemedicine" means the use of interactive simultaneous audio and video or store-and-forward technology using information and telecommunications technologies by a health care provider to deliver health care services within that provider's scope of practice at a site other than the site where the patient is located, including the use of electronic media for consultation relating to the health care diagnosis or treatment of the patient in real time or through the use of store-and-forward technology."

## **Chapter 105 Section 5 Laws 2013**

SECTION 5. A new section of Chapter 59A, Article 47 NMSA 1978 is enacted to read:

"COVERAGE FOR TELEMEDICINE SERVICES.--

A. An individual or group health insurance policy, health care plan or certificate of health insurance delivered or issued for delivery in this state shall allow

covered benefits to be provided through telemedicine services. Coverage for health care services provided through telemedicine shall be determined in a manner consistent with coverage for health care services provided through in-person consultation.

B. The provisions of this section shall not be construed to require coverage of an otherwise noncovered benefit.

C. A determination by a nonprofit health plan that health care services delivered through the use of telemedicine are not covered under the plan shall be subject to review and appeal pursuant to the Patient Protection Act.

D. The provisions of this section shall not apply in the event that federal law requires the state to make payments on behalf of enrollees to cover the costs of implementing this section.

E. Nothing in this section shall require a health care provider to be physically present with a patient at the originating site unless the consulting telemedicine provider deems it necessary.

F. Telemedicine used to provide clinical services shall be encrypted and shall conform to state and federal privacy laws.

G. The provisions of this section shall not apply to an individual or group health care plan intended to supplement major medical group-type coverage, such as medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or any other limited-benefit health insurance policy.

H. As used in this section:

(1) "consulting telemedicine provider" means a health care provider that delivers telemedicine services from a location remote from an originating site;

(2) "health care provider" means a duly licensed hospital or other licensed facility, physician or other health care professional authorized to furnish health care services within the scope of the professional's license;

(3) "in real time" means occurring simultaneously, instantaneously or within seconds of an event so that there is little or no noticeable delay between two or more events;

(4) "originating site" means a place at which a patient is physically located and receiving health care services via telemedicine;

(5) "store-and-forward technology" means electronic information, imaging and communication, including interactive audio, video and data communication, that is transferred or recorded or otherwise stored for asynchronous use; and

(6) "telemedicine" means the use of interactive simultaneous audio and video or store-and-forward technology using information and telecommunications technologies by a health care provider to deliver health care services at a site other than the site where the patient is located, including the use of electronic media for consultation relating to the health care diagnosis or treatment of the patient in real time or through the use of store-and-forward technology."

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SJC/Senate Bill 69, aa

Approved April 2, 2013

## **LAWS 2013, CHAPTER 106**

### AN ACT

RELATING TO THE NEW MEXICO FINANCE AUTHORITY; EXTENDING FOR THREE YEARS THE REQUIREMENT OF REPORTING ECONOMIC DEVELOPMENT REVOLVING FUND PROJECT AND FUND STATUS; EXTENDING THE SUSPENSION FOR THREE YEARS OF SPECIFIC PRIOR AUTHORIZATION OF PROJECTS FOR ECONOMIC DEVELOPMENT REVOLVING FUND FUNDING.

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

### **Chapter 106 Section 1 Laws 2013**

SECTION 1. Section 6-25-6 NMSA 1978 (being Laws 2003, Chapter 349, Section 6, as amended) is amended to read:

"6-25-6. NEW MEXICO FINANCE AUTHORITY--ADDITIONAL POWERS AND DUTIES.--

A. To implement a program to assist eligible entities in financing projects, the authority has the powers specified in this section.

B. State projects receiving financing assistance with money in the fund shall first be approved by law. To protect public money in the fund or other public resources, rules of the authority relating to state projects shall include provisions to ensure achievement of the economic development goals of the state project and shall describe the means of recovering public money or other public resources if an eligible entity defaults on its obligations to the authority.

C. Standard projects shall be approved by the authority pursuant to rules approved by the New Mexico finance authority oversight committee.

D. The authority may:

(1) issue project revenue bonds on behalf of an eligible entity, payable from the revenues of a project and other revenues authorized as security for the bonds, to finance a project on behalf of an eligible entity;

(2) make loans from the fund for projects to eligible entities that establish one or more dedicated sources of revenue to repay the loan from the authority;

(3) enter into loan participation agreements from the fund for projects, whether in the form of an interest rate buy-down, the purchase of loans or portions of loans originated and underwritten by third-party lenders or other similar arrangements;

(4) provide loan guarantees from the fund for projects;

(5) make, execute and enforce all contracts necessary, convenient or desirable for purposes of the authority or pertaining to project revenue bonds, economic development revolving fund bonds, loans, loan participations or loan guarantees and the Statewide Economic Development Finance Act and pay the reasonable value of services rendered to the authority pursuant to the contracts;

(6) purchase and hold loans and loan participations in the fund at prices and in a manner determined by the authority;

(7) sell loans and loan participations acquired or held by the authority in the fund at prices and in a manner determined by the authority;

(8) prescribe the form of application or procedure required of an eligible entity to apply for financing assistance;

(9) fix the terms and conditions of the financing assistance, including the priority of lien and type of collateral or other security, and enter into agreements with eligible entities with respect to financing assistance;

(10) fix, revise from time to time, charge and collect fees and other charges in connection with the issuance of bonds; the making, purchase, participation in or guarantee of loans; and the review of proposed financing assistance to an eligible entity, whether or not the financing assistance is provided;

(11) employ architects, engineers, accountants and attorneys; construction and financial experts; and such other advisors, consultants and agents as may be necessary in its judgment, and fix and pay their compensation;

(12) to the extent allowed under its contracts with the holders of bonds of the authority, consent to modification of the rate of interest, time and payment of installments of principal or interest, security or any other term of financing assistance;

(13) consider the ability of the eligible entity to secure financing for a project from other sources and the costs of that financing;

(14) acquire fee simple, leasehold, mortgagor's or mortgagee's interests in real or personal property and sell, mortgage, convey, lease or assign that property for authority purposes; and

(15) in the event of default by an eligible entity, enforce its rights by suit, mandamus and all other remedies available under law.

E. The authority shall adopt rules subject to approval of the New Mexico finance authority oversight committee to:

(1) establish procedures for applying for financing assistance;

(2) establish credit qualifications for eligible entities and establish terms and conditions for financing assistance;

(3) establish economic development goals for projects in consultation with the department;

(4) establish methods for determining quantifiable benefits;

(5) provide safeguards to protect public money and other public resources provided for a state project;

(6) establish procedures by which the authority requests approval by law for state projects receiving financing assistance with money in the fund; and

(7) establish fees to pay the costs of evaluating, originating and administering financing assistance.

F. The authority shall coordinate with the department to provide staffing and other assistance to the department in carrying out the department's responsibilities and activities pursuant to the Statewide Economic Development Finance Act.

G. The authority shall report to the New Mexico finance authority oversight committee twice each year regarding the total expenditures from the economic development revolving fund for the previous fiscal year, the purposes for which expenditures were made, an analysis of the progress of the projects funded and proposals for legislative action."



## Chapter 106 Section 2 Laws 2013

SECTION 2. That version of Section 6-25-6 NMSA 1978 (being Laws 2011, Chapter 150, Section 2) that is to become effective on July 1, 2016 is amended to read:

"6-25-6. NEW MEXICO FINANCE AUTHORITY--ADDITIONAL POWERS AND DUTIES.--

A. To implement a program to assist eligible entities in financing projects, the authority has the powers specified in this section.

B. Projects receiving financing assistance with money in the fund shall first be approved by law. To protect public money in the fund or other public resources, rules of the authority relating to state projects shall include provisions to ensure achievement of the economic development goals of the state project and shall describe the means of recovering public money or other public resources if an eligible entity defaults on its obligations to the authority.

C. Standard projects shall be approved by the authority pursuant to rules approved by the New Mexico finance authority oversight committee.

D. The authority may:

(1) issue project revenue bonds on behalf of an eligible entity, payable from the revenues of a project and other revenues authorized as security for the bonds, to finance a project on behalf of an eligible entity;

(2) make loans from the fund for projects to eligible entities that establish one or more dedicated sources of revenue to repay the loan from the authority;

(3) enter into loan participation agreements from the fund for projects, whether in the form of an interest rate buy-down, the purchase of loans or portions of loans originated and underwritten by third-party lenders or other similar arrangements;

(4) provide loan guarantees from the fund for projects;

(5) make, execute and enforce all contracts necessary, convenient or desirable for purposes of the authority or pertaining to project revenue bonds, economic development revolving fund bonds, loans, loan participations or loan guarantees and the Statewide Economic Development Finance Act and pay the reasonable value of services rendered to the authority pursuant to the contracts;

(6) purchase and hold loans and loan participations in the fund at prices and in a manner determined by the authority;

(7) sell loans and loan participations acquired or held by the authority in the fund at prices and in a manner determined by the authority;

(8) prescribe the form of application or procedure required of an eligible entity to apply for financing assistance;

(9) fix the terms and conditions of the financing assistance, including the priority of lien and type of collateral or other security, and enter into agreements with eligible entities with respect to financing assistance;

(10) fix, revise from time to time, charge and collect fees and other charges in connection with the issuance of bonds; the making, purchase, participation in or guarantee of loans; and the review of proposed financing assistance to an eligible entity, whether or not the financing assistance is provided;

(11) employ architects, engineers, accountants and attorneys; construction and financial experts; and such other advisors, consultants and agents as may be necessary in its judgment, and fix and pay their compensation;

(12) to the extent allowed under its contracts with the holders of bonds of the authority, consent to modification of the rate of interest, time and payment of installments of principal or interest, security or any other term of financing assistance;

(13) consider the ability of the eligible entity to secure financing for a project from other sources and the costs of that financing;

(14) acquire fee simple, leasehold, mortgagor's or mortgagee's interests in real or personal property and sell, mortgage, convey, lease or assign that property for authority purposes; and

(15) in the event of default by an eligible entity, enforce its rights by suit, mandamus and all other remedies available under law.

E. The authority shall adopt rules subject to approval of the New Mexico finance authority oversight committee to:

(1) establish procedures for applying for financing assistance;

(2) establish credit qualifications for eligible entities and establish terms and conditions for financing assistance;

(3) establish economic development goals for projects in consultation with the department;

(4) establish methods for determining quantifiable benefits;

(5) provide safeguards to protect public money and other public resources provided for a state project;

(6) establish procedures by which the authority requests approval by law for projects receiving financing assistance with money in the fund; and

(7) establish fees to pay the costs of evaluating, originating and administering financing assistance.

F. The authority shall coordinate with the department to provide staffing and other assistance to the department in carrying out the department's responsibilities and activities pursuant to the Statewide Economic Development Finance Act.

G. The authority shall report to the New Mexico finance authority oversight committee twice each year regarding the total expenditures from the economic development revolving fund for the previous fiscal year, the purposes for which expenditures were made, an analysis of the progress of the projects funded and proposals for legislative action."

### **Chapter 106 Section 3 Laws 2013**

SECTION 3. Laws 2011, Chapter 150, Section 3 is amended to read:

"SECTION 3. EFFECTIVE DATE.--

A. The effective date of the provisions of Section 1 of this act is July 1, 2011.

B. The effective date of the provisions of Section 2 of this act is July 1, 2016."

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Senate Bill 118, aa

Approved April 2, 2013

## **LAWS 2013, CHAPTER 107**

AN ACT

RELATING TO STATE GOVERNMENT; ENACTING A SECTION OF THE OFFICE OF GUARDIANSHIP ACT TO CREATE AN OFFICE OF GUARDIANSHIP FUND IN THE STATE TREASURY; MAKING AN APPROPRIATION.

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

## **Chapter 107 Section 1 Laws 2013**

SECTION 1. A new section of the Office of Guardianship Act is enacted to read:

"OFFICE OF GUARDIANSHIP FUND--CREATION--APPROPRIATION.--

A. The "office of guardianship fund" is created in the state treasury. All gifts, donations, bequests and interest income of the developmental disabilities planning council's office of guardianship shall be deposited by the executive director of the developmental disabilities planning council into the fund. The developmental disabilities planning council shall administer the fund, and money in the fund is appropriated to the office of guardianship to further the purposes of the Office of Guardianship Act. Income from investment of the fund shall be credited to the fund. Money in the fund shall be disbursed on warrants signed by the secretary of finance and administration pursuant to vouchers signed by the executive director of the developmental disabilities planning council or the executive director's authorized representative.

B. Money in the office of guardianship fund shall not revert or be transferred to any other state fund at the end of any fiscal year and shall not be expended for any purpose except as provided in this section."

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Senate Bill 152, aa

Approved April 2, 2013

## **LAWS 2013, CHAPTER 108**

AN ACT

RELATING TO PUBLIC SCHOOLS; PROHIBITING THE USE OF STATE EQUALIZATION GUARANTEE DISTRIBUTIONS FOR OUTREACH ACTIVITIES AND ROOM AND BOARD EXPENSES FOR STUDENTS AT THE NEW MEXICO SCHOOL FOR THE ARTS.

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

## **Chapter 108 Section 1 Laws 2013**

SECTION 1. Section 22-15F-1 NMSA 1978 (being Laws 2008, Chapter 15, Section 1) is amended to read:

"22-15F-1. SHORT TITLE.--Chapter 22, Article 15F

NMSA 1978 may be cited as the "New Mexico School for the Arts Act".

## **Chapter 108 Section 2 Laws 2013**

SECTION 2. Section 22-15F-8 NMSA 1978 (being Laws 2008, Chapter 15, Section 8) is amended to read:

"22-15F-8. ROOM AND BOARD COSTS--OUTREACH ACTIVITIES--USE OF STATE EQUALIZATION GUARANTEE DISTRIBUTIONS PROHIBITED.--The school, either through a foundation or other private or public funding sources, shall obtain funding to ensure that the school has adequate revenue to pay for all expenses associated with outreach activities provided for in Section 22-15F-6 NMSA 1978 and for room and board costs for those students who are not able to pay the full cost of room and board as provided in Section 22-15F-7 NMSA 1978. The school shall account separately for the costs of outreach activities and room and board and for the revenue received from private or public sources to pay those costs. The school shall not use money received from the state equalization guarantee distribution for these purposes. Failure of the school to secure adequate funding for these purposes shall be grounds for denial or revocation of a charter."

## **Chapter 108 Section 3 Laws 2013**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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Senate Bill 164

Approved April 2, 2013

## **LAWS 2013, CHAPTER 109**

AN ACT

RELATING TO TAXATION; DEFINING "BIODIESEL"; CLARIFYING THE DEFINITION OF "SPECIAL FUEL" TO INCLUDE BLENDED BIODIESEL; PROVIDING A DEDUCTION FOR RECEIPT OF BIODIESEL FUEL TO RACK OPERATORS FOR BLENDING AND RESALE; REQUIRING REPORTING OF A DEDUCTION FROM SPECIAL FUEL RECEIVED IN NEW MEXICO THAT IS BIODIESEL; DECLARING AN EMERGENCY.

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

## **Chapter 109 Section 1 Laws 2013**

SECTION 1. Section 7-16A-2 NMSA 1978 (being Laws 1992, Chapter 51, Section 2, as amended) is amended to read:

"7-16A-2. DEFINITIONS.--As used in the Special Fuels Supplier Tax Act:

A. "biodiesel" means a renewable, biodegradable, mono alkyl ester combustible liquid fuel that is derived from agricultural plant oils or animal fats and that meets the American society for testing and materials specifications for biodiesel fuel, B100 or B99 blend stock for distillate fuels;

B. "blended biodiesel" means a diesel engine fuel that contains at least two percent biodiesel;

C. "bulk storage" means the storage of special fuels in any tank or receptacle, other than a supply tank, for the purpose of sale by a dealer or for use by a user or for any other purpose;

D. "bulk storage user" means a user who operates, owns or maintains bulk storage in this state from which the user places special fuel into the supply tanks of motor vehicles owned or operated by that user;

E. "dealer" means any person who sells and delivers special fuel to a user;

F. "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;

G. "government-licensed vehicle" means a motor vehicle lawfully displaying a registration plate, as defined in the Motor Vehicle Code issued by:

(1) the United States or any state, identifying the motor vehicle as belonging to the United States or any of its agencies or instrumentalities;

(2) the state of New Mexico, identifying the vehicle as belonging to the state of New Mexico or any of its political subdivisions, agencies or instrumentalities;  
or

(3) any state, identifying the motor vehicle as belonging to an Indian nation, tribe or pueblo or an agency or instrumentality thereof;

H. "gross vehicle weight" means the weight of a motor vehicle or combination motor vehicle without load, plus the weight of any load on the vehicle;

I. "highway" means every road, highway, thoroughfare, street or way, including toll roads, generally open to the use of the public as a matter of right for the

purpose of motor vehicle travel and notwithstanding that the same may be temporarily closed for the purpose of construction, reconstruction, maintenance or repair;

J. "motor vehicle" means any self-propelled vehicle or device that is either subject to registration pursuant to Section 66-3-1 NMSA 1978 or is used or may be used on the public highways in whole or in part for the purpose of transporting persons or property and includes any connected trailer or semitrailer;

K. "person" means an individual or any other entity, including, to the extent permitted by law, any federal, state or other government or any department, agency, instrumentality or political subdivision of any federal, state or other government;

L. "rack operator" means the operator of a refinery in this state, any person who blends special fuel in this state or the owner of special fuel stored at a pipeline terminal in this state;

M. "registrant" means any person who has registered a motor vehicle pursuant to the laws of this state or of another state;

N. "retailer" means a person who sells special fuel generally in quantities of less than two hundred fifty gallons and delivers the special fuel into the supply tanks of motor vehicles;

O. "sale" means any delivery, exchange, gift or other disposition;

P. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

Q. "special fuel" means any diesel-engine fuel, biodiesel, blended biodiesel or kerosene used for the generation of power to propel a motor vehicle, except for gasoline, liquefied petroleum gas, compressed or liquefied natural gas and products specially prepared and sold for use in aircraft propelled by turbo-prop or jet engines;

R. "special fuel user" means any user who is a registrant, owner or operator of a motor vehicle using special fuel and having a gross vehicle weight in excess of twenty-six thousand pounds;

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

T. "supplier" means any person, but not including a rack operator or the United States or any of its agencies except to the extent now or hereafter permitted by the constitution of the United States and laws thereof, who receives special fuel;

U. "supply tank" means any tank or other receptacle in which or by which fuel may be carried and supplied to the fuel-furnishing device or apparatus of the propulsion mechanism of a motor vehicle when the tank or receptacle either contains special fuel or special fuel is delivered into it;

V. "tax" means the special fuel excise tax imposed pursuant to the Special Fuels Supplier Tax Act, and, with respect to a special fuel user, "tax" includes any special fuel tax paid to another jurisdiction pursuant to a cooperative agreement to which the state is a party pursuant to Section 9-11-12 NMSA 1978;

W. "user" means any person other than the United States government or any of its agencies or instrumentalities; the state of New Mexico or any of its political subdivisions, agencies or instrumentalities; or an Indian nation, tribe or pueblo or any agency or instrumentality of an Indian nation, tribe or pueblo, who uses special fuel to propel a motor vehicle on the highways; and

X. "wholesaler" means a person who is not a supplier and who sells special fuel in quantities of two hundred fifty gallons or more and does not deliver special fuel into the supply tanks of motor vehicles."

## **Chapter 109 Section 2 Laws 2013**

SECTION 2. Section 7-16A-10 NMSA 1978 (being Laws 1992, Chapter 51, Section 10, as amended) is amended to read:

"7-16A-10. DEDUCTIONS--SPECIAL FUEL EXCISE TAX--SPECIAL FUEL SUPPLIERS.--In computing the tax due, the following amounts of special fuel may be deducted from the total amount of special fuel received in New Mexico during the tax period, provided that satisfactory proof thereof is furnished to the department:

A. special fuel received in New Mexico, but exported from this state by a rack operator, special fuel supplier or dealer, other than in the fuel supply tank of a motor vehicle or sold for export by a rack operator or distributor; provided that, in either case:

(1) the person exporting the special fuel is registered in or licensed by the destination state to pay that state's special fuel or equivalent fuel tax;

(2) proof is submitted that the destination state's special fuel or equivalent fuel tax has been paid or is not due with respect to the special fuel; or

(3) the destination state's special fuel or equivalent fuel tax is paid to New Mexico in accordance with the terms of an agreement entered into pursuant to Section 9-11-12 NMSA 1978 with the destination state;



B. special fuel sold to the United States or any agency or instrumentality thereof for the exclusive use of the United States or any agency or instrumentality thereof. Special fuel sold to the United States includes special fuel delivered into the supply tank of a government-licensed vehicle;

C. special fuel sold to the state of New Mexico or any political subdivision, agency or instrumentality thereof for the exclusive use of the state of New Mexico or any political subdivision, agency or instrumentality thereof. Special fuel sold to the state of New Mexico includes special fuel delivered into the supply tank of a government-licensed vehicle;

D. special fuel sold to an Indian nation, tribe or pueblo or any agency or instrumentality thereof for the exclusive use of the Indian nation, tribe or pueblo or any agency or instrumentality thereof. Special fuel sold to an Indian nation, tribe or pueblo includes special fuel delivered into the supply tank of a government-licensed vehicle;

E. special fuel dyed in accordance with federal regulations;

F. special fuel that is number 2 diesel fuel sold for the generation of power to propel a vehicle authorized by contract with the public education department as a school bus; provided that the fuel has a distillation temperature of five hundred degrees Fahrenheit at a ten percent recovery point and six hundred forty degrees Fahrenheit at a ninety percent recovery point;

G. special fuel received in New Mexico on which New Mexico special fuel excise tax was paid by the out-of-state terminal at which the special fuel was loaded, provided that documentation that the special fuel was to be imported into New Mexico was provided to the terminal operator by the person receiving the fuel; and

H. special fuel received in New Mexico that:

(1) prior to July 1, 2014, consists of at least ninety-nine percent vegetable oil or animal fat; provided that the use is restricted to an auxiliary fuel system that is subject to a certificate of conformity pursuant to the federal Clean Air Act; or

(2) is biodiesel received or manufactured and delivered to a rack operator that is within the state for blending or resale."

### **Chapter 109 Section 3 Laws 2013**

SECTION 3. A new section of Chapter 7, Article 16A NMSA 1978 is enacted to read:

"REPORTING REQUIREMENTS--SPECIAL FUEL DEDUCTION--BIODIESEL.--

A. A taxpayer that deducts an amount of special fuel that is biodiesel from the total amount of special fuel received in New Mexico pursuant to Paragraph (2) of Subsection H of Section 7-16A-10 NMSA 1978 shall report the deducted amount separately with the taxpayer's return in a manner prescribed by the department.

B. The department shall calculate the aggregate amount, in dollars, of the difference between the amount of special fuel excise tax that would have been collected in a fiscal year if not for the deduction allowed pursuant to Paragraph (2) of Subsection H of Section 7-16A-10 NMSA 1978 and the amount of special fuel excise tax actually collected. The department shall compile an annual report that includes the aggregate amount, the number of taxpayers that deducted an amount of special fuel pursuant to Paragraph (2) of Subsection H of Section 7-16A-10 NMSA 1978 and any other information necessary to evaluate the deduction. Beginning in 2017 and every five years thereafter, 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 costs and benefits of the deduction to the state."

### **Chapter 109 Section 4 Laws 2013**

SECTION 4. REPEAL.--That version of Section 7-16A-10 NMSA 1978 (being Laws 2009, Chapter 99, Section 3) that is to become effective July 1, 2014 is repealed.

### **Chapter 109 Section 5 Laws 2013**

SECTION 5. APPLICABILITY.--The provisions of this act apply to special fuel received on or after:

A. May 1, 2013, provided that prior to May 1, 2013, the provisions of this act are enacted into law; or

B. July 1, 2013.

### **Chapter 109 Section 6 Laws 2013**

SECTION 6. EFFECTIVE DATE.--The effective date of the provisions of this act is:

A. May 1, 2013, provided that prior to May 1, 2013, the provisions of this act are enacted into law; or

B. July 1, 2013.

### **Chapter 109 Section 7 Laws 2013**

SECTION 7. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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Senate Bill 160, aa, w/ec

Approved April 2, 2013

## **LAWS 2013, CHAPTER 110**

AN ACT

RELATING TO PROFESSIONAL LICENSES; AMENDING THE

SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY AND HEARING AID DISPENSING PRACTICES ACT TO ADD A SCOPE OF PRACTICE FOR CLINICAL FELLOWS, INCREASE BOARD MEMBERSHIP, CONFORM STATE LICENSURE TO NATIONAL STANDARDS, CHANGE RENEWAL TERMS AND INCREASE LICENSE FEES; PROVIDING FOR BILINGUAL-MULTICULTURAL LICENSURE ENDORSEMENT.

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

### **Chapter 110 Section 1 Laws 2013**

SECTION 1. Section 61-14B-2 NMSA 1978 (being Laws 1996, Chapter 57, Section 2, as amended) is amended to read:

"61-14B-2. DEFINITIONS.--As used in the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act:

A. "apprentice" means a person working toward full licensure in speech-language pathology who meets the requirements for licensure as an apprentice in speech and language pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

B. "appropriate supervisor" means a person licensed pursuant to the provisions of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act who has a minimum of two years' experience as a speech-language pathologist after the clinical fellowship year;

C. "auditory trainer" means a custom-fitted FM amplifying instrument other than a hearing aid designed to enhance signal-to-noise ratios;

D. "audiologist" means a person who engages in the practice of audiology, who may or may not dispense hearing aids and who meets the qualifications set forth in the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

E. "board" means the speech-language pathology, audiology and hearing aid dispensing practices board;

F. "business location" means a permanent physical business location in New Mexico where records can be examined and process served;

G. "clinical fellow" means a person who has completed all academic course work and practicum requirements for a master's degree or the equivalent in speech-language pathology and engages in the practice of speech-language pathology as set forth in the provisions of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

H. "clinical fellowship year" or "CFY" means the time following the completion of all academic course work and practicum requirements for a master's degree in speech-language pathology and during which a clinical fellow is working toward a certificate of clinical competence from a nationally recognized speech-language or hearing association or the equivalent;

I. "department" means the regulation and licensing department;

J. "hearing aid" means a wearable instrument or device designed or offered for the purpose of aiding or compensating for impaired human hearing and any parts, attachments or accessories, including earmolds but excluding batteries and cords;

K. "hearing aid dispenser" means a person other than an audiologist or an otolaryngologist who is licensed to sell, fit and service hearing aids pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act and maintains or occupies a permanent physical business location in New Mexico where records can be examined and process can be served;

L. "otolaryngologist" means a licensed physician who has completed a recognized residency in otolaryngology and is certified by the American board of otolaryngology;

M. "paraprofessional" means a person who provides adjunct speech-pathology or audiology services under the direct supervision of a licensed speech-language pathologist or audiologist;

N. "practice of audiology" means the application of principles, methods and procedures of measurement, testing, appraisal, prognostication, aural rehabilitation, aural habilitation, consultation, hearing aid selection and fitting, counseling, instruction

and research related to hearing and disorders of hearing for the purpose of nonmedical diagnosis, prevention, identification, amelioration or the modification of communicative disorders involving speech, language auditory function or other aberrant behavior related to hearing disorders;

O. "practice of hearing aid dispensing" means the behavioral measurement of human hearing for the purpose of the selection and fitting of hearing aids or other rehabilitative devices to ameliorate the dysfunction of hearing sensitivity; this may include otoscopic inspection of the ear, fabrication of ear impressions and earmolds, instruction, consultation and counseling on the use and care of these instruments, medical referral when appropriate and the analysis of function and servicing of these instruments involving their modification or adjustment;

P. "practice of speech-language pathology" means the rendering or offering to render to individuals, groups, organizations or the public any service in speech or language pathology involving the nonmedical application of principles, methods and procedures for the measurement, testing, diagnosis, prognostication, counseling and instruction related to the development and disorders of communications, speech, fluency, voice, verbal and written language, auditory comprehension, cognition, dysphagia, oral pharyngeal or laryngeal sensorimotor competencies and treatment of persons requiring use of an augmentative communication device for the purpose of nonmedical diagnosing, preventing, treating and ameliorating such disorders and conditions in individuals and groups of individuals;

Q. "screening" means a pass-fail procedure to identify individuals who may require further assessment in the areas of speech-language pathology, audiology or hearing aid dispensing;

R. "speech-language pathologist" means a person who engages in the practice of speech-language pathology and who meets the qualifications set forth in the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

S. "sponsor" means a licensed hearing aid dispenser, audiologist or otolaryngologist who has an endorsement to dispense hearing aids and:

(1) is employed in the same business location where the trainee is being trained; and

(2) has been actively engaged in the dispensing of hearing aids during three of the past five years;

T. "student" means a person who is a full- or part-time student enrolled in an accredited college or university program in speech-language pathology, audiology or communicative disorders;

U. "supervisor" means a speech-language pathologist or audiologist licensed pursuant to the provisions of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act who provides supervision in the area of speech-language pathology or audiology; and

V. "trainee" means a person working toward full licensure as a hearing aid dispenser under the direct supervision of a sponsor."

## **Chapter 110 Section 2 Laws 2013**

SECTION 2. A new section of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act is enacted to read:

### **"SCOPE OF PRACTICE--CLINICAL FELLOW OF SPEECH-LANGUAGE PATHOLOGY.--**

A. The scope of practice for a clinical fellow of speech-language pathology under supervision by an appropriate supervisor shall include:

(1) rendering or offering to render professional services, including diagnosis, prevention, identification, evaluation, consultation, habilitation, rehabilitation, instruction, counseling, prognostication, training and research, to individuals or groups of individuals who have or are suspected of having disorders of communication, including speech comprehension; voice fluency; language in all its expressive and receptive forms, including oral expression, reading, writing and comprehension; oral pharyngeal function; oral motor function; dysphagia; functional maintenance therapy; or cognitive-communicative processes; and

(2) determining the need for personal augmentative and alternative communication systems, computer access systems or assistive technology systems; recommending such systems; and providing setup modification, training, troubleshooting and follow-up in the utilization of such systems.

B. The scope of practice for a clinical fellow of speech-language pathology under supervision by an appropriate supervisor may include:

(1) conducting pure-tone air conduction hearing screening or tympanometry screening, limited to a pass or fail determination, for the purpose of performing a speech and language evaluation or for the initial identification of individuals with other disorders of communication; and

(2) aural rehabilitation that is defined as services and procedures for facilitation of adequate receptive and expressive communication in individuals with hearing impairment."

## **Chapter 110 Section 3 Laws 2013**

SECTION 3. Section 61-14B-5 NMSA 1978 (being Laws 1996, Chapter 57, Section 5, as amended) is amended to read:

"61-14B-5. SCOPE OF PRACTICE--AUDIOLOGISTS.--The scope of practice for audiologists shall include:

A. the rendering or offering to render professional services, including nonmedical diagnosis, prevention, identification, evaluation, consultation, counseling, habilitation, rehabilitation and instruction on and prognostication of individuals having or suspected of having disorders of hearing, balance or central auditory processing;

B. identification and evaluation of auditory function through the performance and interpretation of appropriate behavioral or electrophysiological tests for this purpose;

C. making ear impressions for use with auditory trainers or for non-amplified devices such as swim molds or ear protectors;

D. cerumen management;

E. evaluation and management of tinnitus;

F. the scope of practice for hearing aid dispensers;

G. consultation regarding noise control or environmental noise evaluation;

H. hearing conservation;

I. calibration of equipment used in hearing testing and environmental evaluation;

J. fitting and management of auditory trainers, including their general service, adjustment and analysis of function, as well as instruction, orientation and counseling in the use and care of these instruments;

K. speech or language screening for the purposes of audiological evaluation or initial identification for referral of individuals with disorders of communication other than hearing;

L. supervision of students, clinical fellows and paraprofessionals; and

M. sponsorship of hearing aid dispenser trainees."

**Chapter 110 Section 4 Laws 2013**

SECTION 4. Section 61-14B-7 NMSA 1978 (being Laws 1996, Chapter 57, Section 7) is amended to read:

"61-14B-7. LICENSE REQUIRED.--

A. Unless licensed to practice speech-language pathology, audiology or hearing aid dispensing under the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act, no person shall:

(1) practice as a speech-language pathologist, audiologist or hearing aid dispenser;

(2) use the title or make any representation as being a licensed speech-language pathologist, audiologist or hearing aid dispenser or use any other title, abbreviation, letters, figures, signs or devices that indicate the person is licensed to practice as a speech-language pathologist, audiologist or hearing aid dispenser; or

(3) advertise, hold out to the public or represent in any manner that one is authorized to practice speech-language pathology, audiology or hearing aid dispensing.

B. No person shall make any representation as being a speech-language pathologist or hold out to the public by any means or by any service or function perform, directly or indirectly, or by using the terms "speech pathology", "speech pathologist", "speech therapy", "speech therapist", "speech correction", "speech correctionist", "speech clinic", "speech clinician", "language pathology", "language pathologist", "voice therapy", "voice therapist", "voice pathology", "voice pathologist", "logopedics", "logopedist", "communicology", "communicologist", "aphasiology", "aphasiologist", "phoniatriest" or "swallowing therapist" unless licensed as such under the provisions of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act.

C. No person shall make any representation as being an audiologist or hold out to the public by any means, or by any service or function perform directly or indirectly, or by using the terms "audiology", "audiologist", "audiometry", "audiometrist", "audiological", "audiometrics", "hearing therapy", "hearing therapist", "hearing clinic", "hearing clinician", "hearing center", "hearing aid audiologist" or "audioprosthologist" unless licensed as such under the provisions of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act.

D. No person shall make any representation as being a hearing aid dispenser or use the terms "hearing aid dealer", "hearing aid fitter", "hearing aid sales", "hearing aid center" or "hearing aid service center" unless licensed as such under the provisions of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act."

**Chapter 110 Section 5 Laws 2013**



SECTION 5. Section 61-14B-8 NMSA 1978 (being Laws 1996, Chapter 57, Section 8) is amended to read:

"61-14B-8. EXEMPTIONS.--

A. Nothing in the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act shall be construed to prevent qualified members of other recognized professions that are licensed, certified or registered under New Mexico law or regulation from rendering services within the scope of their licenses, certificates or registrations, provided that they do not represent themselves as holding licenses in speech-language pathology, audiology or hearing aid dispensing.

B. A person not meeting the requirements for licensure as a speech-language pathologist or audiologist under the provisions of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act may practice as a speech pathologist or audiologist until July 1, 1997 if:

(1) the person is employed as a speech pathologist or audiologist on a waiver license issued by the public education department prior to the effective date of that act; and

(2) the person is actively seeking the educational requirements for licensure under that act.

C. Nothing in the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act prevents qualified members of other recognized professional groups, such as licensed physicians, dentists or teachers of the deaf, from doing appropriate work in the area of communication disorders consistent with the standards and ethics of their respective professions.

D. Nothing in the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act restricts the activities and services of a speech-language pathology or audiology graduate student at an accredited or approved college or university or an approved clinical training facility; provided that these activities and services constitute part of the student's supervised course of study and that the student is designated as a speech-language pathology or audiology graduate student or other title clearly indicating the training status appropriate to the student's level of training."

## **Chapter 110 Section 6 Laws 2013**

SECTION 6. Section 61-14B-9 NMSA 1978 (being Laws 1996, Chapter 57, Section 9) is amended to read:

"61-14B-9. BOARD CREATED.--

A. There is created the "speech-language pathology, audiology and hearing aid dispensing practices board" that shall be administratively attached to the department.

B. The board shall consist of eleven members who have been New Mexico residents for at least five years prior to their appointment. Among the membership, three members shall be licensed speech-language pathologists, two members shall be licensed audiologists, two members shall be licensed hearing aid dispensers, one member shall be a licensed otolaryngologist and three members shall represent the public and have no interest, direct or indirect, in the profession regulated.

C. A licensed member of the board shall not hold any elected or appointed office in any related professional organization."

### **Chapter 110 Section 7 Laws 2013**

SECTION 7. Section 61-14B-10 NMSA 1978 (being Laws 1996, Chapter 57, Section 10) is amended to read:

"61-14B-10. TERMS--REIMBURSEMENT--MEETINGS.--

A. Members of the board shall be appointed by the governor for staggered terms of three years. Each member shall hold office until the member's successor is appointed. Vacancies shall be filled for the unexpired term in the same manner as original appointments.

B. A majority of the board members serving constitutes a quorum of the board. The board shall meet at least once a year and at such other times as it deems necessary.

C. The board shall elect a chair and other officers as deemed necessary to administer its duties.

D. No board member shall serve more than two full consecutive terms, and a member failing to attend three meetings after proper notice shall automatically be recommended for removal as a board member unless excused for reasons set forth in board regulations.

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. No member of the board shall be liable in a civil action for any act performed in good faith in the performance of the member's duties."

### **Chapter 110 Section 8 Laws 2013**

SECTION 8. Section 61-14B-12.1 NMSA 1978 (being Laws 2005, Chapter 250, Section 3) is amended to read:

"61-14B-12.1. REQUIREMENTS FOR LICENSURE--AUDIOLOGIST.--

A. A license to practice as an audiologist shall be issued to any person who:

(1) files a completed application, accompanied by the required fees and documentation;

(2) certifies that the applicant is not guilty of any of the activities listed in Section 61-14B-21 NMSA 1978;

(3) submits satisfactory evidence that the applicant:

(a) holds a doctor of audiology degree or an equivalent degree regardless of degree name and meets the academic requirements for certification by a nationally recognized hearing association, as determined by the board by rule; and

(b) has passed a nationally recognized standard examination in audiology, if required by rule;

(4) provides official documentation from a nationally recognized hearing association, as determined by the board by rule, as evidence that the applicant meets the clinical experience and examination requirements of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act; and

(5) maintains or occupies a business location, hospital, clinical medical practice or other facility in which hearing aids are regularly dispensed.

B. A license to practice as an audiologist shall be issued to a person who:

(1) files a completed application, accompanied by the required fees and documentation;

(2) certifies that the applicant is not guilty of any of the activities listed in Section 61-14B-21 NMSA 1978; and

(3) submits satisfactory evidence that the applicant:

(a) holds a master's degree in audiology or communication disorders or an equivalent degree in audiology or communication disorders or an equivalent degree awarded prior to January 1, 2007; meets the academic requirements for certification by a nationally recognized hearing association; and has earned a

certificate of clinical competence from a nationally recognized hearing association in the area in which the applicant is seeking licensure; or

(b) has completed the current academic, practicum and employment experience requirements for a certificate of competence in audiology from a nationally recognized hearing association and has passed a nationally recognized standard examination in audiology; and

(c) provides evidence satisfactory to the board of at least six months' experience in the dispensing of hearing aids through practical examination or other methods as determined by the board in either a graduate training program or in a work or training experience; and

(d) maintains or occupies a business location, hospital, clinical medical practice or other facility in which hearing aids are regularly dispensed."

## **Chapter 110 Section 9 Laws 2013**

SECTION 9. Section 61-14B-14 NMSA 1978 (being Laws 1996, Chapter 57, Section 14, as amended) is amended to read:

"61-14B-14. REQUIREMENTS FOR LICENSURE BY EXAMINATION--  
HEARING AID DISPENSER.--

A. A license to practice as a hearing aid dispenser shall be issued to a person who files a completed application, passes the examination approved by the board, pays the required fees, provides required documentation and submits satisfactory evidence that the person:

(1) is an audiologist or an otolaryngologist; or

(2) is a person other than an audiologist or an otolaryngologist applying for a license pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

(3) has reached the age of majority and has at least a high school education or the equivalent;

(4) has worked for no less than seven months under a training permit; and

(5) certifies that the person is not guilty of any of the activities listed in Section 61-14B-21 NMSA 1978.

B. The examination for hearing aid dispenser shall be conducted by the board quarterly unless there are no applicants for examination.

C. The board:

(1) shall provide procedures to ensure that examinations for licensure are offered as needed;

(2) shall establish rules regarding the examination application deadline and other rules relating to the taking and retaking of licensure examinations;

(3) shall determine a passing grade for the examination; and

(4) may accept an applicant's examination scores used for national certification or other examination approved by the board."

### **Chapter 110 Section 10 Laws 2013**

SECTION 10. Section 61-14B-15 NMSA 1978 (being Laws 1996, Chapter 57, Section 15) is amended to read:

"61-14B-15. REQUIREMENTS FOR LICENSURE--CLINICAL FELLOW OF SPEECH-LANGUAGE PATHOLOGY.--A license to practice as a clinical fellow of speech-language pathology shall be issued to a person who files a completed application, pays the required fees, provides documentation and submits satisfactory evidence that the person:

A. has met all academic course work and practicum requirements for a master's degree in speech-language pathology, speech pathology or communication disorders for certification by a nationally recognized speech-language or hearing association;

B. certifies that the person has received no reprimands of unprofessional conduct or incompetency;

C. applies for licensure under Section 61-14B-12 NMSA 1978 after completing the clinical fellowship year; and

D. has an appropriate supervisor, as defined in Section 61-14B-2 NMSA 1978."

### **Chapter 110 Section 11 Laws 2013**

SECTION 11. Section 61-14B-15.1 NMSA 1978 (being Laws 1999, Chapter 128, Section 8, as amended) is amended to read:

"61-14B-15.1. REQUIREMENTS FOR LICENSURE--APPRENTICE IN SPEECH AND LANGUAGE.--A license to practice as an apprentice in speech and language shall be issued by the board to a person who files a completed application accompanied by

the required fees and documentation and provides satisfactory evidence that the applicant:

A. is working toward full licensure pursuant to the provisions of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

B. has a baccalaureate degree in speech-language pathology or communicative disorders or an equivalent degree or a baccalaureate degree in another field with thirty semester hours of credit in speech-language pathology or communicative disorder;

C. is enrolled in and successfully completes graduate classes in speech-language pathology, communicative disorders or a related field at a minimum rate of nine semester hours per year and is accepted into a master's level program in speech-language pathology or communicative disorders within two years of initial licensing;

D. maintains a minimum of a 3.0 grade point average in the master's degree course and other work;

E. is supervised by an appropriate supervisor, as defined in Section 61-14B-2 NMSA 1978; and

F. has arranged for appropriate supervision to meet the supervision requirement defined by rule."

## **Chapter 110 Section 12 Laws 2013**

SECTION 12. Section 61-14B-17 NMSA 1978 (being Laws 1996, Chapter 57, Section 17, as amended) is amended to read:

"61-14B-17. HEARING AID DISPENSING TEMPORARY TRAINEE PERMITS--ISSUANCE.--

A. A person who does not meet the requirements for licensure without examination as an audiologist or otolaryngologist as set forth in Section 61-14B-13 NMSA 1978 or as a hearing aid dispenser as set forth in Section 61-14B-14 NMSA 1978 may apply for a temporary trainee permit. A temporary trainee permit shall be issued to a person who:

(1) has reached the age of majority and has a high school education or the equivalent;

(2) has identified a sponsor;

(3) pays an application fee as determined by the board;

(4) has not failed the licensing examination twice within a five-year period; and

(5) certifies that the person is not guilty of any of the activities listed in Section 61-14B-21 NMSA 1978.

B. A temporary trainee permit shall:

(1) be valid for one year from the date of its issuance and is nonrenewable for a period of one year following its expiration; and

(2) allow the person to complete a training period.

C. A person issued a temporary trainee permit may be eligible for licensure as a hearing aid dispenser upon:

(1) the completion of a minimum of three hundred twenty hours of training, to be completed within a three-month period under the direct supervision of the sponsor;

(2) the completion of five continuous months of full-time dispensing work, during which time all sales are approved by the sponsor prior to delivery; and

(3) the sponsor approving all fittings, adjustments, modifications or repairs to hearing aids and earmolds.

D. An audiologist or otolaryngologist issued a temporary trainee permit may be eligible for licensure without examination as a hearing aid dispenser upon the sponsor providing direct supervision for a minimum of three months of all fittings, adjustments, modifications or repairs to hearing aids and earmolds."

## **Chapter 110 Section 13 Laws 2013**

SECTION 13. Section 61-14B-18 NMSA 1978 (being Laws 1996, Chapter 57, Section 18) is amended to read:

"61-14B-18. SCOPE OF HEARING AID DISPENSING EXAMINATION.--In preparing the hearing aid dispensing examination, the board shall use tests that demonstrate:

A. knowledge in the fitting and sale of hearing aids, including basic physics of sound, anatomy and physiology of the ear and the function of hearing aids; and

B. proficient use of techniques for the fitting of hearing aids, including:

- (1) pure-tone audiometry, including air conduction and bone conduction testing;
- (2) live voice or recorded voice speech audiometry, including speech reception threshold and speech recognition score tests;
- (3) masking when indicated;
- (4) recording and evaluation of audiograms and speech audiometry for determining proper selection, fitting and adjustment of hearing aids;
- (5) taking earmold impressions; and
- (6) analyzing hearing aid function, modification and general service."

## **Chapter 110 Section 14 Laws 2013**

SECTION 14. Section 61-14B-19 NMSA 1978 (being Laws 1996, Chapter 57, Section 19) is amended to read:

### "61-14B-19. LICENSE RENEWAL.--

A. Each licensee shall renew the licensee's license biennially by submitting a renewal application as provided for in the board's regulations. The board may require proof of continuing education as a requirement for renewal. The board may establish a method to provide for staggered biennial terms. The board may authorize license renewal for one year to establish the renewal cycle.

B. A sixty-day grace period shall be allowed to each licensee after each licensing period. A license may be renewed during the grace period upon payment of a renewal fee and a late fee as prescribed by the board.

C. Any license not renewed by the end of the grace period will be considered expired and the licensee shall not be eligible to practice within the state until the license is renewed. The board shall develop rules regarding requirements for renewal of an expired license and may require the licensee to reapply as a new applicant.

D. Clinical fellow licenses may be renewed annually for no more than three years; provided the clinical fellow has submitted evidence of passing a recognized standard national examination in speech-language pathology prior to or within the clinical fellow's second year of the CFY. The CFY license shall not be renewed for a second year without evidence of passing a recognized standard national examination in speech-language pathology.



E. An apprentice in speech-language pathology shall renew the apprentice's license annually; provided that the apprentice is accepted into a master's-level program in speech-language pathology or communicative disorders within two years of initial licensing.

F. The board may issue rules providing for inactive status of licenses."

## **Chapter 110 Section 15 Laws 2013**

SECTION 15. Section 61-14B-20 NMSA 1978 (being Laws 1996, Chapter 57, Section 20, as amended) is amended to read:

"61-14B-20. FEES.--The board shall establish a schedule of reasonable fees for applications, licenses, renewal of licenses, exams, penalties and administrative fees. The license and license renewal fees shall not exceed:

A. one hundred dollars (\$100) for clinical fellows and apprentices in speech and language;

B. two hundred dollars (\$200) for audiologists or speech-language pathologists;

C. six hundred dollars (\$600) for hearing aid dispensers;

D. four hundred dollars (\$400) for examinations;

E. one hundred dollars (\$100) for late renewal fees;

F. four hundred dollars (\$400) for hearing aid dispensing endorsement;

G. five hundred dollars (\$500) for a hearing aid dispenser trainee license, which fee includes examination, both written and practical;

H. one hundred dollars (\$100) for bilingual-multicultural endorsement; and

I. reasonable administrative fees."

## **Chapter 110 Section 16 Laws 2013**

SECTION 16. A new section of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act is enacted to read:

"REQUIREMENTS FOR BILINGUAL-MULTICULTURAL ENDORSEMENT.--A bilingual-multicultural endorsement shall be issued to any person who:

A. files a completed application, accompanied by the required fees and documentation; certifies that the applicant is not guilty of any of the activities listed in Section 61-14B-21 NMSA 1978; and submits satisfactory evidence that the applicant:

- (1) is eligible for and in the process of obtaining a license;
- (2) has completed the required education as determined by rule;
- (3) has met experience requirements approved by the board; and
- (4) has demonstrated proficiency in the specified language as determined by the board;

B. files a completed application accompanied by the required fees and documentation; certifies that the applicant is not guilty of any of the activities listed in Section 61-14B-21 NMSA; and submits satisfactory evidence that the applicant:

- (1) has an active license in good standing in the state of New Mexico as a speech-language pathologist;
- (2) has a current bilingual endorsement from the public education department;
- (3) has a minimum of five years practicing with clients who utilize a language other than English; and
- (4) has demonstrated proficiency in the specified language as determined by the board; or

C. files a completed application, accompanied by the required fees and documentation; certifies that the applicant is not guilty of any of the activities listed in Section 61-14B-21 NMSA; and submits satisfactory evidence that the applicant:

- (1) has an active license in good standing in another state or country as a speech-language pathologist;
- (2) has a minimum of five years practicing with clients who utilize a language other than English; and
- (3) has demonstrated proficiency in the specified language as determined by the board."

Approved April 2, 2013

## **LAWS 2013, CHAPTER 111**

AN ACT

RELATING TO PROFESSIONAL LICENSURE; AMENDING A SECTION OF THE REAL ESTATE APPRAISERS ACT TO PROVIDE FOR REAL ESTATE BROKER OPINIONS.

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

### **Chapter 111 Section 1 Laws 2013**

SECTION 1. Section 61-30-10 NMSA 1978 (being Laws 1990, Chapter 75, Section 10, as amended) is amended to read:

"61-30-10. REGISTRATION, LICENSE OR CERTIFICATION REQUIRED--EXCEPTIONS.--

A. It is unlawful for any person in this state to engage or attempt to engage in the business of developing or communicating real estate appraisals or appraisal reports without first registering as an apprentice or obtaining a license or certificate from the board under the provisions of the Real Estate Appraisers Act.

B. No person, unless certified by the board as a state certified real estate appraiser under a general certification or residential certification, shall:

(1) assume or use any title, designation or abbreviation likely to create the impression of a state certified real estate appraiser;

(2) use the term "state certified" to describe or refer to any appraisal or evaluation of real estate prepared by the person;

(3) assume or use any title, designation or abbreviation likely to create the impression of certification as a state certified real estate appraiser firm, partnership, corporation or group; or

(4) assume or use any title, designation or abbreviation likely to create the impression of certification under a general certificate or describe or refer to any appraisal or evaluation of nonresidential real estate by the term "state certified" if the preparer's certification is limited to residential real estate.

C. A state apprentice real estate appraiser who is registered but does not hold a license or certificate is authorized to prepare appraisals of all types of real estate or real property; provided that such appraisals are not described or referred to as being

prepared by a "state certified real estate appraiser" holding a residential or general certificate or by a "state licensed real estate appraiser"; and provided, further, that such person does not assume or use any title, designation or abbreviation likely to create the impression of certification as a state certified real estate appraiser or licensure as a state licensed real estate appraiser.

D. A holder of a license or residential certificate is authorized to prepare appraisals of nonresidential real estate; provided that such appraisals are not described or referred to as "state certified by a general certified appraiser"; and provided, further, that the holder of the certificate does not assume or use any title, designation or abbreviation likely to create the impression of general certification.

E. To perform in federally related transactions, as referenced in the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989, a real estate appraiser shall, at a minimum, meet the requirements for licensing as currently defined.

F. The requirement of registration, licensing or certification shall not apply to a qualifying or associate broker as defined under the provisions of Chapter 61, Article 29 NMSA 1978 who gives an opinion of the price of real estate for the purpose of marketing, selling, purchasing, leasing or exchanging such real estate or any interest therein or for the purposes of providing a financial institution with a collateral assessment of any real estate in which the financial institution has an existing or potential security interest. The opinion of the price shall not be referred to or construed as an appraisal or appraisal report and shall not be used as the primary basis to determine the value of real estate for the purpose of loan origination.

G. The requirement of registration, licensing or certification shall not apply to real estate appraisers of the property tax division of the taxation and revenue department, to a county assessor or to the county assessor's employees, who as part of their duties are required to engage in real estate appraisal activity as a county assessor or on behalf of the county assessor and no additional compensation fee or other consideration is expected or charged for such appraisal activity, other than such compensation as is provided by law.

H. The prohibition of Subsection A of this section does not apply to persons whose real estate appraisal activities are limited to the appraisal of interests in minerals, including oil, natural gas, liquid hydrocarbons or carbon dioxide, and property held or used in connection with mineral property, if that person is authorized in the person's state of residence to practice and is actually engaged in the practice of the profession of engineering or geology.

I. The process of analyzing, without altering, an appraisal report that is part of a request for mortgage credit is considered a specialized service as defined in Subsection M of Section 61-30-3 NMSA 1978 and is exempt from the requirements of registration, licensing or certification."

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Senate Bill 205, aa

Approved April 2, 2013

## **LAWS 2013, CHAPTER 112**

### **AN ACT**

RELATING TO AGRICULTURE; AMENDING AND ENACTING SECTIONS OF THE NEW MEXICO FERTILIZER ACT; CHANGING DEFINED TERMS; ADDING DEFINITIONS; PROVIDING PENALTIES FOR ALTERING FERTILIZERS TO BE PAID TO CONSUMERS; LIMITING ADULTERATION OF FERTILIZERS; PROVIDING FOR COOPERATION WITH OTHER GOVERNMENTAL ENTITIES.

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

### **Chapter 112 Section 1 Laws 2013**

SECTION 1. Section 76-11-1 NMSA 1978 (being Laws 1963, Chapter 184, Section 1, as amended) is amended to read:

"76-11-1. SHORT TITLE.--Chapter 76, Article 11 NMSA 1978 may be cited as the "New Mexico Fertilizer Act"."

### **Chapter 112 Section 2 Laws 2013**

SECTION 2. Section 76-11-3 NMSA 1978 (being Laws 1963, Chapter 184, Section 3, as amended) is amended to read:

"76-11-3. DEFINITIONS.--As used in the New Mexico Fertilizer Act:

- A. "board" means the board of regents of New Mexico state university;
- B. "department" means the New Mexico department of agriculture;
- C. "fertilizer" means any substance that contains one or more recognized plant nutrients and that is used for its plant nutrient content and is designed for use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manures, marl limes, limestone, wood ashes, gypsum and other products exempt by rule of the board;
- D. "fertilizer material" means a fertilizer that either:

(1) contains important quantities of no more than one of the primary plant nutrients: nitrogen (N), phosphate (P<sub>2</sub>O<sub>5</sub>) and potash (K<sub>2</sub>O);

(2) has eighty-five percent of its plant nutrient content present in the form of a single chemical compound; or

(3) is derived from a plant or animal residue or byproduct or a natural material deposit that has been processed in such a way that its content of plant nutrients has not been materially changed except by purification and concentration;

E. "specialty fertilizer" means a fertilizer distributed primarily for nonfarm use such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses and nurseries and may include fertilizers used for research or experimental purposes;

F. "bulk fertilizers" means fertilizers distributed in a nonpackaged form;

G. "brand" means a term, design or trademark under which one or more fertilizers or soil conditioners are distributed in New Mexico;

H. "guaranteed analysis" means the minimum percentage of plant nutrients claimed in the order and form as prescribed by the board;

I. "grade" means the percentages of total nitrogen, available phosphorus or phosphate and soluble potassium or soluble potash stated in whole numbers in the same terms, order and percentages as in the guaranteed analysis; provided, however, that fertilizer materials, bone meal, manures and similar raw materials may be guaranteed in fractional units;

J. "official sample" means any sample of fertilizer or soil conditioner taken by the department unless designated otherwise;

K. "ton" means a net weight of two thousand pounds avoirdupois;

L. "percent" or "percentage" means the percentage by weight;

M. "person" includes individual, partnership, association, firm and corporation;

N. "distributor" means a person that imports, consigns, manufactures, produces, compounds, mixes or blends fertilizer or soil conditioner or that offers for sale, sells, barter or otherwise supplies fertilizer or soil conditioner in the state;

O. "registrant" means the person that registers a fertilizer or soil conditioner under the provisions of the New Mexico Fertilizer Act;

P. "label" means the display of all written, printed or graphic matter upon the immediate container or statement accompanying a fertilizer or soil conditioner;

Q. "labeling" means all written, printed or graphic matter upon or accompanying a fertilizer or soil conditioner;

R. "soil conditioner" means a substance or mixture of substances intended for sale, offered for sale or sold for manurial, soil enriching or soil corrective purposes or intended to be used for promoting or stimulating the growth of plants, increasing the productivity of plants, improving the quality of crops or producing a chemical or physical change in the soil, except fertilizer as defined in this section, unmanipulated animal and vegetable manures and other products exempted by rules of the board;

S. "blender" means a person or system engaged in the business of blending fertilizer, including both mobile and fixed equipment used in blending;

T. "blending" means the physical mixing or combining of fertilizer materials and filler materials as provided in Paragraphs (1) through (3) of this subsection, including mixing through the simultaneous or sequential application of any of the combinations provided in this subsection, to produce a uniform mixture:

(1) one or more fertilizer materials and one or more filler materials;

(2) two or more fertilizer materials; or

(3) two or more fertilizer materials and filler materials;

U. "custom blend" means a fertilizer blended according to specifications provided to a blender in a soil test nutrient recommendation or to meet the specific consumer's request prior to blending;

V. "deficiency" means the amount of nutrient found by analysis to be less than the guaranteed amount, which may result from a lack of nutrient ingredients or from lack of uniformity;

W. "investigational allowance" means an allowance for variations inherent in the taking, preparation and analysis of an official sample of fertilizer; and

X. "primary nutrient" means total nitrogen, available phosphate and soluble potash."

## **Chapter 112 Section 3 Laws 2013**

SECTION 3. Section 76-11-4 NMSA 1978 (being Laws 1963, Chapter 184, Section 4, as amended) is amended to read:

"76-11-4. REGISTRATION.--

A. Each brand and grade of fertilizer and each soil conditioner product shall be registered before being distributed in the state. The application for registration shall be submitted to the department on a form furnished by the department and shall be accompanied by a fee of five dollars (\$5.00) per brand or grade, except that those brands or grades sold in packages of five pounds or less shall be registered at a fee of fifteen dollars (\$15.00) each. Upon approval by the department, a copy of the registration shall be furnished to the applicant. All registrations expire on December 31 of each year.

B. A distributor shall not be required to register a brand of fertilizer or soil conditioner that is already registered under the New Mexico Fertilizer Act by another person.

C. A distributor shall not be required to register a fertilizer formulated according to specifications that are furnished by a consumer prior to mixing but shall be required to label the fertilizer as provided in Subsection C of Section 76-11-5 NMSA 1978."

### **Chapter 112 Section 4 Laws 2013**

SECTION 4. Section 76-11-5 NMSA 1978 (being Laws 1963, Chapter 184, Section 5, as amended) is amended to read:

"76-11-5. LABELING.--

A. A fertilizer distributed in this state in containers shall have placed on or affixed to the container a label setting forth in clearly legible and conspicuous form the following information:

- (1) the net weight or other measure prescribed as satisfactory to the board;
- (2) brand and grade;
- (3) guaranteed analysis;
- (4) name and address of the registrant; and
- (5) directions for use for fertilizer distributed to a consumer.

B. If a fertilizer is distributed in bulk, a written or printed statement of the information required by Subsection A of this section shall accompany delivery and be supplied to the purchaser at time of delivery.



C. A fertilizer formulated according to specifications that are furnished by a consumer prior to mixing shall be labeled to show the net weight, guaranteed analysis and the name and address of the distributor.

D. Each brand of soil conditioner distributed in the state shall be accompanied by a legible label bearing the following information:

- board;
- (1) net weight or other measure prescribed as satisfactory by the board;
  - (2) the brand name under which the soil conditioner is distributed;
  - (3) an accurate statement of composition and purpose; and
  - (4) the name and address of the registrant."

## **Chapter 112 Section 5 Laws 2013**

SECTION 5. Section 76-11-6 NMSA 1978 (being Laws 1963, Chapter 184, Section 6, as amended) is amended to read:

"76-11-6. INSPECTION FEES.--

A. There shall be paid to the department for all fertilizer and soil conditioner distributed in the state an inspection fee set by the board at a rate not to exceed thirty-five cents (\$.35) a ton; provided that sales to manufacturers or exchanges between them are exempted. Fees so collected shall be used for the payment of the costs of inspection, sampling and analysis and other expenses necessary for the administration of the New Mexico Fertilizer Act.

B. On individual packages of fertilizer or soil conditioner containing five pounds or less, there shall be paid in lieu of the annual registration fee of five dollars (\$5.00) per brand and grade of fertilizer and each soil conditioner product and the required inspection fee an annual registration fee and inspection fee of fifteen dollars (\$15.00). Where a person sells fertilizer or soil conditioner in packages of five pounds or less and in packages over five pounds, the annual registration and inspection fee of fifteen dollars (\$15.00) applies only to that portion sold in packages of five pounds or less, and that portion sold in packages over five pounds is subject to the inspection fee.

C. A person who distributes a fertilizer or soil conditioner in the state shall file with the department on forms furnished by the department a quarterly statement for the periods ending March 31, June 30, September 30 and December 31 setting forth the number of net tons of each fertilizer or soil conditioner distributed in the state during the quarter. The report is due on or before the last day of the month following the close of each quarter. The inspection fee shall be paid at the time of filing of the statement. If the tonnage report is not filed and the payment of inspection fee is not made within thirty

days after the end of the quarter, a collection fee amounting to ten percent, but not less than ten dollars (\$10.00), of the amount shall be assessed against the registrant, and the amount of fees due constitutes a debt and becomes the basis of a judgment against the registrant.

D. When more than one person is involved in the distribution of fertilizer or soil conditioner, the first person who has the fertilizer or soil conditioner registered and who distributes to a nonregistrant dealer or consumer is responsible for reporting the tonnage and paying the inspection fee unless the report and payment have been previously made by a prior distributor."

## **Chapter 112 Section 6 Laws 2013**

SECTION 6. Section 76-11-7 NMSA 1978 (being Laws 1963, Chapter 184, Section 7, as amended) is amended to read:

### **"76-11-7. INSPECTION--SAMPLING--ANALYSIS.--**

A. The department shall sample, inspect, make analyses of and test fertilizers and soil conditioners distributed within the state at a time and place and to the extent necessary to determine whether the fertilizer or soil conditioner is in compliance with the New Mexico Fertilizer Act. The department may enter upon public or private premises or carriers during the regular business hours in order to have access to fertilizer or soil conditioners and may examine records relating to the distribution of fertilizer and soil conditioners subject to the provisions of the New Mexico Fertilizer Act and the rules adopted pursuant to that act.

B. The methods of analysis and sampling shall be those adopted by the department from sources such as the association of official agricultural chemists. In cases not covered by such methods, or in cases where methods in which improved applicability has been demonstrated are available, the department may adopt such appropriate methods from other sources.

C. The department, in determining for administrative purposes whether a fertilizer is deficient in plant food, shall be guided solely by the official sample, as defined by Section 76-11-3 NMSA 1978, obtained and analyzed as provided for in Subsection B of this section.

D. Upon request, the department shall furnish to the registrant a portion of any sample found subject to penalty or other legal action. Official samples establishing a penalty for nutrient deficiency shall be retained for a minimum of ninety days from issuance of a deficiency report."

## **Chapter 112 Section 7 Laws 2013**

SECTION 7. Section 76-11-8 NMSA 1978 (being Laws 1963, Chapter 184, Section 8, as amended) is amended to read:

"76-11-8. PLANT FOOD DEFICIENCY.--

A. If the analysis shows that a fertilizer falls short of the guaranteed analysis in any one ingredient, penalty shall be assessed in accordance with the following:

(1) total nitrogen: a penalty of three times the value of the deficiency, if the deficiency is in excess of 0.20 of one percent on goods that are guaranteed two percent; 0.25 of one percent on goods that are guaranteed three percent; 0.35 of one percent on goods that are guaranteed four percent; 0.40 of one percent on goods that are guaranteed five percent up to and including eight percent; 0.50 of one percent on goods guaranteed above eight percent up to and including thirty percent; and 0.75 of one percent on goods guaranteed over thirty percent;

(2) available phosphoric acid or available phosphorus: a penalty of three times the value of the deficiency, if the deficiency exceeds 0.40 of one percent of available phosphate on goods that are guaranteed up to and including ten percent; 0.50 of one percent of available phosphate on goods that are guaranteed above ten percent up to and including twenty-five percent; and 0.75 of one percent of available phosphate on goods guaranteed over twenty-five percent. If guarantees are for available phosphorus, the deficiencies shall be calculated for the appropriate percentage of elemental phosphorus;

(3) soluble potash or soluble potassium: a penalty of three times the value of the deficiency, if the deficiency is in excess of 0.20 of one percent of soluble potash on goods that are guaranteed two percent; 0.30 of one percent of soluble potash on goods that are guaranteed three percent; 0.40 of one percent of soluble potash on goods guaranteed four percent; 0.50 of one percent of soluble potash on goods guaranteed above four percent up to and including eight percent; 0.60 of one percent of soluble potash on goods guaranteed above eight percent up to and including twenty percent; and 1.00 of one percent of soluble potash on goods guaranteed over twenty percent. If guarantees are for soluble potassium, the deficiencies shall be calculated for the appropriate percentage of elemental potassium; and

(4) deficiencies in any other constituent shall be evaluated by the department and penalties therefor prescribed by the board.

B. Nothing contained in this section shall prevent a person from appealing to a court of competent jurisdiction praying for judgment as to the justification of the penalties.

C. All penalties assessed under this section shall be paid to the consumer of the lot of fertilizer represented by the sample analyzed within three months after the

date of notice from the department to the registrant. Receipts taken for penalty payments shall be promptly forwarded to the department. If the consumer cannot be found, the amount of the penalty shall be paid to the current school fund. If upon satisfactory evidence a person is shown to have altered the content of a fertilizer shipped to the person by a registrant or to have mixed or commingled fertilizer from two or more suppliers so that the result of either alteration changes the analysis of the fertilizer as originally guaranteed, that person shall be responsible for obtaining a registration and shall be held liable for all penalty payments and be subject to other provisions of the New Mexico Fertilizer Act, including seizure, condemnation and stop sale; provided that this provision does not apply to a consumer who mixes or otherwise alters fertilizer for use on property owned or leased by the consumer."

### **Chapter 112 Section 8 Laws 2013**

SECTION 8. Section 76-11-9 NMSA 1978 (being Laws 1963, Chapter 184, Section 9, as amended) is amended to read:

"76-11-9. COMMERCIAL VALUE.--For the purpose of determining the commercial values to be applied under the provisions of Section 76-11-8 NMSA 1978, the department shall determine and publish annually the values per pound of nitrogen, available phosphate and soluble potash in fertilizers in the state. If guarantees are provided, the values shall be per pound of nitrogen, phosphorus and potassium. The values determined and published shall be used in determining and assessing penalties."

### **Chapter 112 Section 9 Laws 2013**

SECTION 9. Section 76-11-10 NMSA 1978 (being Laws 1975, Chapter 181, Section 10) is amended to read:

"76-11-10. MISBRANDING.--A person shall not distribute misbranded fertilizer or soil conditioner. A fertilizer or soil conditioner is misbranded if:

- A. its labeling is false or misleading in any particular;
- B. it is distributed under the name of another fertilizer or soil conditioner product;
- C. it is not labeled as required in Section 76-11-5 NMSA 1978 and in accordance with rules prescribed under the New Mexico Fertilizer Act; or
- D. it purports to be or is represented as a fertilizer or soil conditioner or is represented as containing a plant nutrient, fertilizer or soil conditioner unless such plant nutrient, fertilizer or soil conditioner conforms to the definition of identity, if any, prescribed by rule of the board; in adopting such rules, the board shall give due regard to commonly accepted definitions and official fertilizer terms such as those issued by the association of American plant food control officials."

## **Chapter 112 Section 10 Laws 2013**

SECTION 10. Section 76-11-11 NMSA 1978 (being Laws 1963, Chapter 184, Section 11, as amended) is amended to read:

"76-11-11. TONNAGE REPORTS.--The person transacting, distributing or selling fertilizer or soil conditioner to a nonregistrant shall mail the department a report showing the county of the consignee, the amounts in tons of each grade of fertilizer and each soil conditioner product and the form in which the fertilizer or soil conditioner was distributed such as bags, liquid, bulk or other forms. This information shall be reported by one of the following methods:

A. submitting a summary report approved by the department on or before the fifteenth day of each month covering shipments made during the preceding month; or

B. submitting a copy of the invoice within five business days after shipment. Information furnished to the department under this section shall not be disclosed in such a way as to divulge the operation of any person."

## **Chapter 112 Section 11 Laws 2013**

SECTION 11. Section 76-11-12 NMSA 1978 (being Laws 1963, Chapter 184, Section 12, as amended) is amended to read:

"76-11-12. PUBLICATIONS.--The board shall publish at least annually and in a form it deems proper:

A. information concerning the distribution of fertilizers and soil conditioners; and

B. results of analysis based on official samples of fertilizers and soil conditioners distributed within the state as compared with the analysis guaranteed in the registration and the label."

## **Chapter 112 Section 12 Laws 2013**

SECTION 12. Section 76-11-13 NMSA 1978 (being Laws 1963, Chapter 184, Section 13, as amended) is amended to read:

"76-11-13. RULES.--For the enforcement of the New Mexico Fertilizer Act, the board may prescribe and, after public hearing following due public notice, adopt the rules relating to the distribution of fertilizers and soil conditioners that it may find necessary to carry into effect the full intent and meaning of the New Mexico Fertilizer Act. Under this section, the board may promulgate rules for the storing, hauling and

handling of anhydrous ammonia and other gaseous or liquid fertilizers, and they shall have the same effect as law."

### **Chapter 112 Section 13 Laws 2013**

SECTION 13. Section 76-11-14 NMSA 1978 (being Laws 1963, Chapter 184, Section 14, as amended) is amended to read:

"76-11-14. SHORT WEIGHT.--If a fertilizer or soil conditioner in the possession of the consumer is found by the department to be short in weight or other measure prescribed by the board, the registrant of the fertilizer or soil conditioner shall, within thirty days after official notice from the department, pay to the consumer a penalty equal to four times the value of the actual shortage."

### **Chapter 112 Section 14 Laws 2013**

SECTION 14. Section 76-11-15 NMSA 1978 (being Laws 1963, Chapter 184, Section 15, as amended) is amended to read:

"76-11-15. CANCELLATION OF REGISTRATIONS.--The department may cancel the registration of any brand of fertilizer or soil conditioner or refuse to register any brand of fertilizer or soil conditioner upon satisfactory evidence that the registrant has used fraudulent or deceptive practices in the evasions or attempted evasions of the provisions of the New Mexico Fertilizer Act or any rules promulgated under that act; provided that no registration shall be revoked or refused until the registrant is given an opportunity to appear for a hearing by the department."

### **Chapter 112 Section 15 Laws 2013**

SECTION 15. Section 76-11-16 NMSA 1978 (being Laws 1963, Chapter 184, Section 16, as amended) is amended to read:

"76-11-16. STOP SALE ORDERS.--The department may issue and enforce a written or printed "stop sale, use or removal" order to the owner or custodian of any lot of fertilizer or soil conditioner and to be held at a designated place when the department finds the fertilizer or soil conditioner is being offered or exposed for sale in violation of any of the provisions of the New Mexico Fertilizer Act until the law has been complied with and the fertilizer or soil conditioner is released in writing by the department or the violation has been otherwise legally disposed of by written authority. The department shall release the fertilizer or soil conditioner so withdrawn when the requirements of the provisions of the New Mexico Fertilizer Act have been complied with and all costs and expenses incurred in connection with the withdrawal have been paid."

### **Chapter 112 Section 16 Laws 2013**

SECTION 16. Section 76-11-17 NMSA 1978 (being Laws 1963, Chapter 184, Section 17, as amended) is amended to read:

"76-11-17. SEIZURE--CONDEMNATION--SALE.--

A. Any lot of fertilizer or soil conditioner not in compliance with the provisions of the New Mexico Fertilizer Act is subject to seizure on complaint of the department to a court of competent jurisdiction in the area in which the fertilizer or soil conditioner is located.

B. In the event the court finds the fertilizer or soil conditioner to be in violation of the New Mexico Fertilizer Act and orders the condemnation of the fertilizer or soil conditioner, it shall be disposed of in any manner consistent with the quality of the fertilizer or soil conditioner and the laws of the state.

C. In no instance shall the disposition of the fertilizer or soil conditioner be ordered by the court without first giving the claimant an opportunity to apply to the court for release of the fertilizer or soil conditioner or for permission to process or relabel the fertilizer or soil conditioner to bring it into compliance with the New Mexico Fertilizer Act."

## **Chapter 112 Section 17 Laws 2013**

SECTION 17. Section 76-11-18 NMSA 1978 (being Laws 1963, Chapter 184, Section 18, as amended) is amended to read:

"76-11-18. VIOLATIONS.--

A. If it appears from the examination of a fertilizer or soil conditioner that any of the provisions of the New Mexico Fertilizer Act or the rules issued pursuant to that act have been violated, the department shall cause notice of the violations to be given to the registrant, distributor or possessor from whom the sample was taken; a person notified shall be given opportunity to be heard under the rules prescribed by the board. If it appears after the hearing, either in the presence or the absence of the person notified, that any of the provisions of the New Mexico Fertilizer Act or rules issued pursuant to that act have been violated, the department may certify the facts to the proper district attorney.

B. A person convicted of violating any provision of the New Mexico Fertilizer Act or the rules issued pursuant to that act is guilty of a misdemeanor.

C. Nothing in the New Mexico Fertilizer Act shall require the department or its representative to report for prosecution or for the institution of seizure proceedings as a result of minor violations of the New Mexico Fertilizer Act when it believes that the public interests will be best served by a suitable notice of warning in writing.

D. The department may apply for and the court may grant a temporary or permanent injunction restraining a person from violating or continuing to violate any of the provisions of the New Mexico Fertilizer Act or any rule promulgated pursuant to that act, notwithstanding the existence of other remedies at law. The injunction shall be issued without bond."

### **Chapter 112 Section 18 Laws 2013**

SECTION 18. Section 76-11-19 NMSA 1978 (being Laws 1963, Chapter 184, Section 19, as amended) is amended to read:

"76-11-19. EXCHANGES BETWEEN MANUFACTURERS.--Nothing in the New Mexico Fertilizer Act shall be construed to restrict or avoid sales or exchanges of fertilizers or soil conditioners to each other by importers, manufacturers or manipulators that mix those materials for sale or as preventing the free and unrestricted shipments of fertilizer or soil conditioners to manufacturers or manipulators that have registered their brands as required by the provisions of the New Mexico Fertilizer Act."

### **Chapter 112 Section 19 Laws 2013**

SECTION 19. A new section of the New Mexico Fertilizer Act is enacted to read:

"ADULTERATION.--No person shall distribute an adulterated fertilizer product. A fertilizer shall be deemed to be adulterated if:

A. it contains any deleterious or harmful substance in sufficient amount to render it injurious to beneficial plant life, animals, humans, aquatic life, soil or water when applied in accordance with directions for use on the label or if adequate warning statements or directions for use that may be necessary to protect beneficial plant life, animals, humans, aquatic life, soil or water are not shown on the label;

B. its composition falls below or differs from that which it is purported to possess by its labeling; or

C. it contains unwanted crop seed or weed seed."

### **Chapter 112 Section 20 Laws 2013**

SECTION 20. A new section of the New Mexico Fertilizer Act is enacted to read:

"COOPERATION WITH OTHER AGENCIES.--The department may cooperate with and enter into agreements with other state agencies, other states and agencies of the federal government to carry out the provisions of the New Mexico Fertilizer Act."

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Senate Bill 268, aa

Approved April 2, 2013

## **LAWS 2013, CHAPTER 113**

AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; ALLOWING HOME SCHOOLED STUDENTS TO ENROLL IN CLASSES AT PUBLIC SCHOOLS; PROVIDING FOR THE CALCULATION AND DISTRIBUTION OF PROGRAM UNITS.

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

### **Chapter 113 Section 1 Laws 2013**

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

"HOME SCHOOLED STUDENT PROGRAM UNITS.--Notwithstanding the provision in Section 22-8-2 NMSA 1978 defining a qualified student as one who is regularly enrolled in one-half or more of the minimum course requirements approved by the department for public school students, home schooled students may take one or more classes at public schools and, if so, shall generate program units as provided in this section. The home schooled student program unit for a school district is determined by multiplying the number of home schooled students who are enrolled in one or more classes by the cost differential factor 0.25 per class per student up to the enrollment required for the student to meet the definition of "qualified student". The home schooled student program units shall be paid to the school district in which they are generated. A home schooled student is eligible to enroll in a public school in the attendance zone in which the student resides or in another public school outside the attendance zone as provided in Section 22-1-4 NMSA 1978. The school district shall verify each home schooled student's academic and other eligibility to enroll in the class."

### **Chapter 113 Section 2 Laws 2013**

SECTION 2. APPLICABILITY.--This act applies to the 2014-2015 school year and subsequent school years.

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Senate Bill 302, aa

Approved April 2, 2013

## **LAWS 2013, CHAPTER 114**

## AN ACT

RELATING TO HEALTH CARE; REQUIRING CONTRACTS FOR ASSISTED LIVING FACILITIES TO CONTAIN A REFUND POLICY UPON TERMINATION OF A CONTRACT DUE TO THE DEATH OF THE RESIDENT; PROVIDING FOR STORAGE OF A RESIDENT'S BELONGINGS; DECLARING AN EMERGENCY.

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

### **Chapter 114 Section 1 Laws 2013**

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

"ASSISTED LIVING FACILITIES CONTRACTS--LIMIT ON CHARGES AFTER RESIDENT DEATH.--

A. The contract for each resident of an assisted living facility shall include a refund policy to be implemented at the time of a resident's death. The refund policy shall provide that the resident's estate or responsible party is entitled to a prorated refund based on the calculated daily rate for any unused portion of payment beyond the termination date after all charges have been paid to the licensee. For the purpose of this section, the termination date shall be the date the unit is vacated by the resident due to the resident's death and cleared of all personal belongings.

B. If a resident's belongings are not removed within one week of the resident's death and the amount of belongings does not preclude renting the unit, the facility may clear the unit and charge the resident's estate for moving and storing the items at a rate equal to the actual cost to the facility, not to exceed ten percent of the regular rate for the unit; provided that the responsible party for the resident is given notice at least one week before the resident's belongings are removed. If the resident's belongings are not claimed within forty-five days after notification, the facility may dispose of them.

C. For the purposes of this section, "assisted living facility" means a facility required to be licensed as an assisted living facility for adults by the department of health."

### **Chapter 114 Section 2 Laws 2013**

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

Approved April 2, 2013

## **LAWS 2013, CHAPTER 115**

### **AN ACT**

RELATING TO GOVERNMENT SERVICES; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978 TO MERGE THE BUILDING SERVICES DIVISION INTO THE FACILITIES MANAGEMENT DIVISION OF THE GENERAL SERVICES DEPARTMENT; CHANGING THE NAME OF THE PROPERTY CONTROL DIVISION OF THE GENERAL SERVICES DEPARTMENT TO THE FACILITIES MANAGEMENT DIVISION.

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

### **Chapter 115 Section 1 Laws 2013**

SECTION 1. Section 6-21-6.14 NMSA 1978 (being Laws 2009, Chapter 145, Section 2) is amended to read:

"6-21-6.14. LEASE PURCHASE REVENUE BONDS--LEASE PURCHASE AGREEMENTS.--

A. If specifically authorized by law, the authority may issue and sell lease purchase revenue bonds in compliance with the New Mexico Finance Authority Act and enter into a lease purchase agreement pursuant to the provisions of this section.

B. Lease purchase revenue bonds may be issued at times and on terms established by the authority and shall be paid exclusively from a debt service fund created pursuant to this section. The net proceeds from the sale of lease purchase revenue bonds are appropriated to the authority for the purpose of acquiring by construction or purchase the buildings, land or infrastructure specified in the authorizing law; provided that, if authorized by law, the net proceeds may also be used for debt service payments due before sufficient lease payments have been deposited into the applicable debt service fund.

C. All lease purchase revenue bonds issued by the authority shall be obligations of the authority payable solely from the separate debt service fund created for those bonds. The bonds shall not create an obligation, debt or liability of the state, and no breach of any pledge, obligation or agreement of the authority shall impose a pecuniary liability or charge upon the general credit or taxing power of the state or any political subdivision of the state.

D. The authority may purchase lease purchase revenue bonds with money in the public project revolving fund pursuant to the provisions of Section 6-21-6 NMSA 1978.

E. A debt service fund shall be created in the authority for each authorized issuance of lease purchase revenue bonds. Each fund shall consist of transfers to the fund, legislative appropriations, lease payments made by the facilities management division of the general services department or other lessee pursuant to the authorized lease purchase agreement and money earned from investment of the fund. Balances remaining in a fund at the end of a fiscal year shall not revert. Money in each fund is appropriated to the authority for:

(1) the payment of principal, interest, premiums and expenses on the specific lease purchase revenue bonds that are issued pursuant to the bond authorization; and

(2) if authorized by law, required maintenance and repairs of the building, land or infrastructure if the authority determines that money in the fund is sufficient to meet the requirements of Paragraph (1) of this subsection plus any required reserve.

F. Upon the certification of the authority that all debt service on a specific issuance of lease purchase revenue bonds has been paid in full, any remaining balance of the debt service fund created for those bonds shall be transferred to the general fund.

G. The authority may enter into an agreement with the facilities management division of the general services department or other agency specified by law for the lease purchase of the building acquired with the lease purchase revenue bond proceeds. The agreement shall provide the lessee with an option to purchase for a price that is reduced according to the lease payments made and shall also provide that:

(1) there is no legal obligation for the state to continue the lease from year to year or to purchase the building;

(2) the lease shall be terminated if sufficient appropriations are not available to meet the current lease payments;

(3) if authorized by the legislature, the lease payments include a maintenance component that may escalate annually and, over the length of the agreement, approximate the amount that will be needed for the maintenance and repair of the building; and

(4) if the lessee is the facilities management division of the general services department or an agency under the jurisdiction of the facilities management division, the title to the building shall be issued in the name of the facilities management division if the building is purchased.

H. The provisions of this section apply to state buildings specifically authorized by law to be acquired pursuant to this section through lease purchase agreements with the authority. Nothing in this section limits or otherwise affects the

power that the authority has under other laws to incur debt, acquire and dispose of property or enter into agreements."

## **Chapter 115 Section 2 Laws 2013**

SECTION 2. Section 6-21C-4 NMSA 1978 (being Laws 2001, Chapter 199, Section 4, as amended) is amended to read:

"6-21C-4. NEW MEXICO FINANCE AUTHORITY SHALL ISSUE BUILDING BONDS--APPROPRIATION OF PROCEEDS.--

A. The New Mexico finance authority is authorized to issue and sell revenue bonds, known as "state office building tax revenue bonds", payable solely from the state building bonding fund, in compliance with the State Building Bonding Act for the purpose of acquiring state office buildings and related facilities and other critical state facilities within the master planning jurisdiction of the capitol buildings planning commission when the acquisition has been reviewed by the capitol buildings planning commission and has been authorized by legislative act and the director of the facilities management division of the general services department has certified the need for the issuance of the bonds; provided that the total amount of state office building tax revenue bonds outstanding at any one time shall not exceed one hundred fifteen million dollars (\$115,000,000).

B. The net proceeds from the building bonds are appropriated to the facilities management division of the general services department for the purpose of acquiring state office buildings and related facilities and other critical state facilities within the master planning jurisdiction of the capitol buildings planning commission, the acquisition of which shall be consistent with the State Building Bonding Act and the authorizing legislation."

## **Chapter 115 Section 3 Laws 2013**

SECTION 3. Section 6-21C-5 NMSA 1978 (being Laws 2001, Chapter 199, Section 5, as amended) is amended to read:

"6-21C-5. STATE BUILDING BONDING FUND CREATED--MONEY IN THE FUND PLEDGED.--

A. The "state building bonding fund" is created as a special fund within the New Mexico finance authority. The fund shall be administered by the New Mexico finance authority as a special account. The fund shall consist of money appropriated and transferred to the fund and gross receipts tax revenues distributed to the fund by law. Earnings of the fund shall be credited to the fund. Balances in the fund at the end of any fiscal year shall remain in the fund, except as provided in this section.

B. Money in the state building bonding fund is pledged for the payment of principal and interest on all building bonds issued pursuant to the State Building Bonding Act. Money in the fund is appropriated:

(1) to the New Mexico finance authority for the purpose of paying debt service, including redemption premiums, on the building bonds and the expenses incurred in the issuance, payment and administration of the bonds; and

(2) if specifically authorized in the law authorizing the acquisition of a building, to the facilities management division of the general services department for expenditures for required maintenance and repairs of that building but only if the authority determines that money in the fund is sufficient to meet the requirements of Paragraph (1) of this subsection.

C. On the last day of January and July of each year, the New Mexico finance authority shall estimate the amount needed to make debt service and other payments during the next twelve months from the state building bonding fund on the building bonds issued pursuant to the State Building Bonding Act plus the amount that may be needed for any required reserves and, if specifically authorized in the law authorizing the acquisition of a building, the amount that may be needed for required maintenance and repairs of that building. The New Mexico finance authority shall transfer to the general fund any balance in the state building bonding fund above the estimated amounts.

D. Any balance remaining in the state building bonding fund shall be transferred to the general fund upon certification by the New Mexico finance authority that:

(1) the director of the facilities management division of the general services department and the New Mexico finance authority have agreed that the building bonds issued pursuant to the State Building Bonding Act have been retired, that no additional obligations of the state building bonding fund exist and that no additional expenditures from the fund are necessary; or

(2) a court of jurisdiction has ruled that the building bonds have been retired, that no additional obligations of the state building bonding fund exist and that no additional expenditures from the fund are necessary.

E. The building bonds issued pursuant to the State Building Bonding Act shall be payable solely from the state building bonding fund or, with the approval of the bondholders, such other special funds as may be provided by law and do not create an obligation or indebtedness of the state within the meaning of any constitutional provision. No breach of any contractual obligation incurred pursuant to that act shall impose a pecuniary liability or a charge upon the general credit or taxing power of the state, and the bonds are not general obligations for which the state's full faith and credit is pledged.

F. The state does hereby pledge that the state building bonding fund shall be used only for the purposes specified in this section and pledged first to pay the debt service on the building bonds issued pursuant to the State Building Bonding Act. The state further pledges that any law authorizing the distribution of taxes or other revenues to the state building bonding fund or authorizing expenditures from the fund shall not be amended or repealed or otherwise modified so as to impair the bonds to which the state building bonding fund is dedicated as provided in this section."

## **Chapter 115 Section 4 Laws 2013**

SECTION 4. Section 6-21C-8 NMSA 1978 (being Laws 2001, Chapter 199, Section 8, as amended) is amended to read:

### **"6-21C-8. PROCEDURE FOR SALE OF BUILDING BONDS.--**

A. Building bonds shall be sold by the New Mexico finance authority at such times and in such manner as the authority may elect, consistent with the need of the facilities management division of the general services department, either at private sale for a negotiated price or to the highest bidder at public sale for cash at not less than par and accrued interest.

B. In connection with any public sale of building bonds, the New Mexico finance authority shall publish a notice of the time and place of sale in a newspaper of general circulation in the state and also in a recognized financial journal outside the state. Such publication shall be made once each week for two consecutive weeks prior to the date fixed for such sale, the last publication to be two business days prior to the date of sale. Such notice shall specify the amount, denomination, maturity and description of the bonds to be offered for sale and the place, day and hour at which sealed bids therefor shall be received. All bids, except that of the state, shall be accompanied by a deposit of two percent of the principal amount of the bonds. Deposits of unsuccessful bidders shall be returned upon rejection of the bid. At the time and place specified in such notice, the New Mexico finance authority shall open the bids in public and shall award the bonds, or any part thereof, to the bidder or bidders offering the best price. The New Mexico finance authority may reject any or all bids and readvertise.

C. The New Mexico finance authority may sell a building bond issue, or any part thereof, to the state or to one or more investment bankers or institutional investors at private sale."

## **Chapter 115 Section 5 Laws 2013**

SECTION 5. Section 6-21D-3 NMSA 1978 (being Laws 2005, Chapter 176, Section 3, as amended) is amended to read:

"6-21D-3. BUILDING ASSESSMENTS FOR ENERGY EFFICIENCY MEASURES.--

A. Upon the request of a state agency or a school district, the department may perform an energy efficiency assessment of a state or school district building to identify the energy efficiency measures that can be installed and operated at a total price that is less than the energy cost savings realized. In addition, the assessment shall include a schedule for funding and installing the energy efficiency measures that will realize significant energy cost savings in the shortest time frame. The department shall develop the assessment of:

(1) state buildings, in conjunction with the facilities management division of the general services department, the staff architect of the division, the capitol buildings planning commission and other state agencies with control and management over buildings; and

(2) school district buildings, in conjunction with the public education department, the public school capital outlay council and the public school facilities authority.

B. State agencies and school districts shall cooperate with the department in the assessment performed pursuant to Subsection A of this section."

## **Chapter 115 Section 6 Laws 2013**

SECTION 6. Section 9-7-6.5 NMSA 1978 (being Laws 2005, Chapter 317, Section 1, as amended by Laws 2008, Chapter 4, Section 1 and by Laws 2008, Chapter 70, Section 1) is amended to read:

### **"9-7-6.5. AGREEMENTS FOR A REPLACEMENT FACILITY FOR FORT BAYARD MEDICAL CENTER.--**

A. Notwithstanding any other provision of state law or rule, the secretary may do one or more of the following:

(1) enter into an agreement, including an agreement with an independent contractor, to operate Fort Bayard medical center or a replacement for Fort Bayard medical center in Grant county;

(2) acquire by purchase, lease, construction, lease purchase or other financing arrangement a facility to be located in Grant county to replace Fort Bayard medical center, provided that, if the acquisition results in the transfer of the title to the facility, the title to the facility shall be in the name of the facilities management division of the general services department; or



(3) enter into an agreement with Grant county under which the department may construct or cause to be constructed the facility that will replace the Fort Bayard medical center.

B. The provisions of the Procurement Code shall not apply to the procurement, by either the department or Grant county or both, of tangible personal property, services or construction deemed necessary by the department to effectuate the provisions of this section. However, agreements related to the acquisition of the facility to replace Fort Bayard medical center shall be subject to the provisions of state law regulating the acquisition and disposal of real property by governmental entities.

C. An operating agreement entered into pursuant to this section shall include provisions for the continued employment of all current and future Fort Bayard medical center employees, excluding management employees of the contractor, as state employees, entitled and subject to all the rights and responsibilities of state employees. Under the terms of the agreement and the overall direction of the department, the independent contractor shall provide management and supervision to state employees at Fort Bayard medical center, including the provision of work assignments, evaluations and promotional and disciplinary actions.

D. Pursuant to Section 15-3-35 NMSA 1978, the legislature ratifies and approves a lease-purchase agreement, in a form approved by the state board of finance, between the department, as lessee-purchaser and Grant county, as lessor-seller, for the facility that will replace the Fort Bayard medical center, provided that, upon transfer of title, title to the facility shall be in the name of the facilities management division of the general services department."

## **Chapter 115 Section 7 Laws 2013**

SECTION 7. Section 9-17-3 NMSA 1978 (being Laws 1983, Chapter 301, Section 3, as amended) is amended to read:

"9-17-3. GENERAL SERVICES DEPARTMENT--CREATION--TRANSFER AND MERGER OF DIVISION FUNCTIONS--MERGER AND CREATION OF DIVISIONS.--

A. The "general services department" is created. The department shall consist of those divisions created by law or executive order, as modified by executive order pursuant to Subsection C of this section, including:

- (1) the administrative services division;
- (2) the facilities management division;
- (3) the purchasing division;
- (4) the risk management division; and

(5) the transportation services division.

B. The secretary of general services is empowered to organize the department and the divisions specified in Subsection A of this section and may transfer or merge functions between divisions in the interest of efficiency and economy.

C. The governor is empowered to merge divisions of the department or to create additional divisions by executive order in the interest of efficiency or economy."

## **Chapter 115 Section 8 Laws 2013**

SECTION 8. Section 9-27-19 NMSA 1978 (being Laws 1975, Chapter 214, Section 4, as amended) is amended to read:

"9-27-19. TRANSFER OF PROPERTY--CUSTODY AND CONTROL.--The radio equipment purchased in accordance with Laws 1972, Chapter 74 by the facilities management division of the general services department is transferred to the department of information technology. The department has the custody and control of the transferred radio equipment."

## **Chapter 115 Section 9 Laws 2013**

SECTION 9. Section 12-6-10 NMSA 1978 (being Laws 1969, Chapter 68, Section 10, as amended) is amended to read:

"12-6-10. ANNUAL INVENTORY.--

A. The governing authority of each agency shall, at the end of each fiscal year, conduct a physical inventory of movable chattels and equipment costing more than five thousand dollars (\$5,000) and under the control of the governing authority. This inventory shall include all movable chattels and equipment procured through the capital program fund under Section 15-3B-16 NMSA 1978, which are assigned to the agency designated by the director of the facilities management division of the general services department as the user agency. The inventory shall list the chattels and equipment and the date and cost of acquisition. No agency shall be required to list any item costing five thousand dollars (\$5,000) or less. Upon completion, the inventory shall be certified by the governing authority as to correctness. Each agency shall maintain one copy in its files. At the time of the annual audit, the state auditor shall ascertain the correctness of the inventory by generally accepted auditing procedures.

B. The official or governing authority of each agency is chargeable on the official's or authority's official bond for the chattels and equipment shown in the inventory.

C. The general services department shall establish standards, including a uniform classification system of inventory items, and promulgate rules concerning the

system of inventory accounting for chattels and equipment required to be inventoried, and the governing authority of each agency shall install the system. A museum collection list or catalogue record and a library accession record or shelf list shall constitute the inventories of museum collections and library collections maintained by state agencies and local public bodies.

D. No surety upon the official bond of any officer or employee of any agency shall be released from liability until a complete accounting has been had. All official bonds shall provide coverage of, or be written in a manner to include, inventories."

## **Chapter 115 Section 10 Laws 2013**

SECTION 10. Section 13-1-121 NMSA 1978 (being Laws 1984, Chapter 65, Section 94, as amended) is amended to read:

"13-1-121. COMPETITIVE SEALED QUALIFICATIONS-BASED PROPOSALS--ARCHITECTS--ENGINEERS--LANDSCAPE ARCHITECTS--SURVEYORS--SELECTION COMMITTEE--STATE PUBLIC WORKS PROJECTS.--

A. The "architect, engineer, landscape architect and surveyor selection committee" is created. The committee, which shall serve as the selection committee for state public works projects, except for highway projects of the department of transportation, is composed of four members as follows:

(1) one member of the agency for which the project is being designed;

(2) the director of the facilities management division of the general services department, who shall be chair;

(3) one member designated by the joint practice committee; and

(4) one member designated by the secretary.

B. The staff architect or the staff architect's designee of the facilities management division shall serve as staff to the architect, engineer, landscape architect and surveyor selection committee.

C. The members of the architect, engineer, landscape architect and surveyor selection committee shall be reimbursed by the facilities management division for per diem and mileage in accordance with the provisions of the Per Diem and Mileage Act.

D. The department of transportation shall create a selection committee by rule, after notice and hearing, that shall serve as the selection committee for highway projects of the department."

## **Chapter 115 Section 11 Laws 2013**

SECTION 11. Section 13-4A-3 NMSA 1978 (being Laws 1986, Chapter 11, Section 3, as amended) is amended to read:

"13-4A-3. DEFINITIONS.--As used in the Art in Public Places Act:

A. "agency" means all state departments and agencies, boards, councils, institutions, commissions and quasi-public corporations, including all state educational institutions enumerated in Article 12, Section 11 of the constitution of New Mexico, and all statutorily created post-secondary educational institutions;

B. "architect" means the person or firm designing the project for the contracting agency to which the one percent provision pursuant to Section 13-4A-4 NMSA 1978 applies;

C. "contracting agency" means the agency having the control, management and power to enter into contracts for new construction or renovation of any public building;

D. "division" means the arts division of the cultural affairs department;

E. "public buildings" means those buildings under the control and management of the facilities management division of the general services department, the department of game and fish, the energy, minerals and natural resources department, the department of transportation, the state fair commission, the supreme court, the commissioner of public lands, the cultural affairs department, the governing boards of the state educational institutions and statutorily created post-secondary educational institutions, the public education department and the legislature or all buildings constructed with funds appropriated by the legislature. For the purposes of the Art in Public Places Act, "public buildings" does not include such auxiliary buildings as maintenance plants, correctional facilities, warehouses or temporary structures; and

F. "work of art" means any work of visual art, including but not limited to a drawing, painting, mural, fresco, sculpture, mosaic or photograph; a work of calligraphy; a work of graphic art, including an etching, lithograph, offset print, silk screen or a work of graphic art of like nature; works in clay, textile, fiber, wood, metal, plastic, glass and like materials; or mixed media, including a collage or assemblage or any combination of the foregoing art media that is chosen to be included in or immediately adjoining the public building under consideration. Under special circumstances, the term may include environmental landscaping if approved by the division."

## **Chapter 115 Section 12 Laws 2013**

SECTION 12. Section 15-3-5 NMSA 1978 (being Laws 1957, Chapter 92, Section 2, as amended) is amended to read:

"15-3-5. PENITENTIARY PROPERTY TRANSFERRED.--The remaining property on Cordova road held in the name of the New Mexico state penitentiary, including the former site of the New Mexico state penitentiary, is hereby transferred to the facilities management division of the general services department. The land shall be held in the name of the state of New Mexico."

## **Chapter 115 Section 13 Laws 2013**

SECTION 13. Section 15-3-6 NMSA 1978 (being Laws 1959, Chapter 174, Section 2, as amended) is amended to read:

"15-3-6. LEASE OF FORMER PENITENTIARY LAND.--The facilities management division of the general services department may execute on behalf of the state of New Mexico as lessor, from time to time, agreements of lease of all or any part of the real property on Cordova road in Santa Fe, New Mexico formerly held in the name of the penitentiary of New Mexico and now administered by the division to such persons on such terms and conditions and for such consideration as the division determines in the exercise of its discretion to be advantageous to the state of New Mexico; but no such agreement of lease shall provide for a term of more than five years from the date thereof unless first approved by the state board of finance."

## **Chapter 115 Section 14 Laws 2013**

SECTION 14. Section 15-3-6.1 NMSA 1978 (being Laws 2001, Chapter 195, Section 1) is amended to read:

"15-3-6.1. STATE PENITENTIARY--LEASE FOR MOTION PICTURES.--The corrections department, the facilities management division of the general services department and the New Mexico film division of the economic development department shall enter into a joint powers agreement to make the old state penitentiary at Santa Fe available for use by the motion picture industry. The property and structures that fall within the existing security perimeter fence at the old state penitentiary at Santa Fe and any building not used by the corrections department that is within three hundred yards of the outside of the security perimeter fence of the old state penitentiary at Santa Fe shall be made available for lease at reasonable market rates to the motion picture industry for economic development."

## **Chapter 115 Section 15 Laws 2013**

SECTION 15. Section 15-3-35 NMSA 1978 (being Laws 2007, Chapter 184, Section 1) is amended to read:

"15-3-35. LEASE-PURCHASE AGREEMENTS--APPROVAL OF LEGISLATURE.--

A. A financing agreement under which a state agency is to occupy a building or other real property and that contains an option to purchase for a price that is reduced according to the lease payments made is subject to the following criteria:

(1) the agreement shall not become effective until it has been ratified and approved by the legislature; and

(2) if the state agency is subject to the jurisdiction of the facilities management division of the general services department pursuant to the Property Control Act, the agreement shall provide that, if the real property is purchased, title to the real property shall be issued in the name of the facilities management division.

B. Legislative ratification and approval of an agreement pursuant to Subsection A of this section shall not create a legal obligation for the state agency to continue the lease from year to year or to purchase the real property.

C. As used in this section, "state agency" means the state or any of its branches, agencies, departments, boards, instrumentalities or institutions, but "state agency" does not include state educational institutions or state-chartered charter schools."

### **Chapter 115 Section 16 Laws 2013**

SECTION 16. Section 15-3B-2 NMSA 1978 (being Laws 1972, Chapter 74, Section 2, as amended) is amended to read:

"15-3B-2. DEFINITIONS.--As used in the Property Control Act:

A. "capital outlay project" means the acquisition, improvement, alteration or reconstruction of assets of a long-term character that are intended to continue to be held or used, including land, buildings, machinery, furniture and equipment. A "capital outlay project" includes all proposed expenditures related to the entire undertaking;

B. "department" means the general services department;

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

D. "division" means the facilities management division of the department;

E. "jurisdiction" means all state buildings and land except those under the control and management of the state armory board, the border authority, the cultural affairs department, the state fair commission, the department of game and fish, the department of transportation, the commissioner of public lands, the state parks division of the energy, minerals and natural resources department, the state institutions of higher learning, regional education cooperatives, the New Mexico school for the deaf, the New Mexico school for the blind and visually impaired, the judicial branch, the legislative branch, property acquired by the economic development department pursuant to the Statewide Economic Development Finance Act and property acquired by the public school facilities authority pursuant to the Public School Capital Outlay Act; and

F. "secretary" means the secretary of general services."

### **Chapter 115 Section 17 Laws 2013**

SECTION 17. Section 15-3B-3 NMSA 1978 (being Laws 1968, Chapter 43, Section 1, as amended) is amended to read:

"15-3B-3. FACILITIES MANAGEMENT DIVISION--CREATION--DIRECTOR.--  
The "facilities management division" is created within the department. The director shall be appointed by the secretary with the governor's consent."

### **Chapter 115 Section 18 Laws 2013**

SECTION 18. Section 15-3B-7.1 NMSA 1978 (being Laws 2001, Chapter 196, Section 1) is amended to read:

"15-3B-7.1. STATE BUILDINGS--USE IN MOTION PICTURES.--The facilities management division of the general services department shall provide for the free access to state buildings by the motion picture industry."

### **Chapter 115 Section 19 Laws 2013**

SECTION 19. Section 15-3B-21 NMSA 1978 (being Laws 2009, Chapter 145, Section 1) is amended to read:

"15-3B-21. HEALTH AND HUMAN SERVICES OFFICE BUILDING.--

A. Subject to the provisions of this section, the facilities management division of the general services department, after consulting with the human services department and the children, youth and families department and on behalf of those departments, shall:

(1) enter into agreements necessary for the land acquisition, if necessary, and the planning, designing, constructing, equipping and furnishing of a new

health and human services office building in the county or municipality of Santa Fe that will serve as the first phase of the health and human services office complex and be occupied by the human services department and the children, youth and families department, provided that, in entering into the agreements, the division shall consider state and private land acquisition options, including potential trades of land; and

(2) enter into a lease purchase agreement with the owner of the building for the leasing of the building by the facilities management division with an option to purchase for a price that is reduced according to the payments made pursuant to the agreement; provided that the lease purchase agreement shall:

(a) specify the principal, interest and maintenance component of each payment made, provided further that: 1) the initial principal shall not exceed eighty million dollars (\$80,000,000); and 2) the net effective interest rate shall not exceed the maximum permitted by the Public Securities Act;

(b) provide that there is no legal obligation for the facilities management division to continue the lease from year to year or to purchase the building;

(c) provide that the lease shall be terminated if sufficient appropriations are not available to meet the current lease payments;

(d) provide that the lease payments include a maintenance component that shall escalate annually and, over the length of the agreement, approximate the amount that will be needed for the maintenance and repair of the building; and

(e) provide that if the building is purchased, title to the building shall be issued in the name of the facilities management division.

B. The facilities management division shall enter into such financing arrangements as are necessary to construct, occupy and acquire the building by the most cost-effective method and, if the division determines that the issuance of lease purchase revenue bonds by the New Mexico finance authority pursuant to Section 6-21-6.14 NMSA 1978 is the most cost-effective financing arrangement, the New Mexico finance authority is authorized to:

(1) issue bonds, in an amount not to exceed eighty million dollars (\$80,000,000), pursuant to that section;

(2) include a maintenance component as part of the lease payments received; and



(3) use a portion of the net proceeds from the sale of the bonds for debt service payments that are due before sufficient lease payments have been deposited into the debt service fund.

C. No contract or financing arrangement entered into pursuant to Subsection A or B of this section shall be effective until approved by the attorney general for legal sufficiency.

D. Neither a request for proposals shall be issued pursuant to Subsection A or B of this section nor a contract entered into pursuant to those subsections without prior review by the capitol buildings planning commission to ensure that:

(1) the request for proposals or the contract is the most cost-effective method for acquiring the building; and

(2) the building and its proposed use are within the scope of the commission's master plan.

E. The facilities management division shall enter into subleases with the human services department and the children, youth and families department for the lease of office space within the building, provided that the payments made under the subleases shall equal the payments due by the facilities management division under the lease purchase agreement. The facilities management division may also sublease available space within the building to any state agency if:

(1) the space subject to an existing sublease has been reduced by agreement between the facilities management division and the existing sublessee;

(2) the previous sublease for the available space has been terminated due to the failure of the sublessee to obtain appropriations or otherwise receive the money necessary for making the lease payments; or

(3) the previous sublessee of the available space has been relocated by an act of the legislature.

F. Notwithstanding any provision restricting budget adjustments, upon the certification by the director of the facilities management division that the building is completed and suitable for occupancy, the secretary of finance and administration may transfer between and among the categories and programs of the current operating budget of each agency that will occupy the building any unexpended or unencumbered appropriation for lease payments or building maintenance. The transferred appropriations shall be expended by the facilities management division for lease payments due pursuant to the lease purchase agreement.

G. During the term of the lease purchase agreement, each sublessee shall include, in its annual budget request, the amount due under its sublease during the next

fiscal year, and the sublessee and the facilities management division shall use their best efforts to secure the appropriation."

## **Chapter 115 Section 20 Laws 2013**

SECTION 20. Section 15-10-1 NMSA 1978 (being Laws 1997, Chapter 178, Section 5, as amended) is amended to read:

"15-10-1. CAPITOL BUILDINGS PLANNING COMMISSION CREATED.--

A. The "capitol buildings planning commission" is created. The commission shall be composed of four members of the legislature, two from each house, appointed by the New Mexico legislative council, the secretary of general services or the secretary's designee, the state treasurer or the state treasurer's designee, the secretary of transportation or the secretary's designee, the secretary of cultural affairs or the secretary's designee, the secretary of finance and administration or the secretary's designee, the commissioner of public lands or the commissioner's designee and the chair of the supreme court building commission or the chair's designee.

B. The commission shall:

(1) study and plan for the long-range facilities needs of state government in the greater metropolitan areas of Las Cruces, Santa Fe and Albuquerque and, after developing an initial master plan for the state facilities in those areas, conduct a review of state properties throughout the state for the development of an overall master plan;

(2) review proposed lease-purchase agreements pursuant to Section 15-10-2 NMSA 1978;

(3) work with the general services department and other state agencies in developing recommendations for addressing deferred maintenance on state facilities and disposal strategies for aging facilities no longer able to serve their mission; and

(4) utilizing life cycle costing, work with the general services department in developing recommendations regarding whether the state should lease, lease-purchase or purchase needed additional facilities.

C. The legislative council service shall provide staff for the commission in coordination with the staff architect and other staff of the facilities management division of the general services department.

D. The commission shall meet regularly and shall report annually to the legislature on an annual update of the master plan for the long-range facilities needs of

state government in the greater metropolitan areas of Las Cruces, Santa Fe and Albuquerque and throughout the state."

## **Chapter 115 Section 21 Laws 2013**

SECTION 21. Section 19-12-12 NMSA 1978 (being Laws 1959, Chapter 25, Section 14, as amended) is amended to read:

"19-12-12. CONTRACT FOR MAINTENANCE.--The commissioner of public lands is authorized to contract with the facilities management division of the general services department on a cost basis for the maintenance of the lands and buildings acquired under the provisions of the Land Office Building Act."

## **Chapter 115 Section 22 Laws 2013**

SECTION 22. Section 22-2B-3 NMSA 1978 (being Laws 1993, Chapter 232, Section 3, as amended) is amended to read:

"22-2B-3. REGIONAL EDUCATION COOPERATIVES AUTHORIZED.--

A. The department may authorize the existence and operation of "regional education cooperatives". Upon authorization by the department, local school boards may join with other local school boards or other state-supported educational institutions to form cooperatives to provide education-related services. Cooperatives shall be deemed individual state agencies administratively attached to the department; provided that:

(1) pursuant to the rules of the department, cooperatives may own, and have control and management over, buildings and land independent of the director of the facilities management division of the general services department;

(2) cooperatives shall not submit budgets to the department of finance and administration but shall submit them to the department. The department shall, by rule, determine the provisions of the Public School Finance Act relating to budgets and expenditures that are applicable to cooperatives; and

(3) pursuant to the rules of the department, the secretary may, after considering the factors specified in Section 22-8-38 NMSA 1978, designate a cooperative council as a board of finance with which all funds appropriated or distributed to it shall be deposited. If such a designation is not made or if such a designation is suspended by the secretary, the money appropriated or to be distributed to a cooperative shall be deposited with the state treasurer. Unexpended or unencumbered balances in the account of a cooperative shall not revert.

B. The department shall, by rule, establish minimum criteria for the establishment and operation of cooperatives. The department shall also establish

procedures for oversight of cooperatives to ensure compliance with department rule. Cooperatives shall be exempt from the provisions of the Personnel Act.

C. With council approval, a cooperative may provide revenue-generating education-related services to nonmembers, so long as those services do not detract from the cooperative's ability to fulfill its responsibilities to its members.

D. With council approval, a cooperative may apply for and receive public and private grants as well as gifts, donations, bequests and devises and use them to further the purposes and goals of the cooperative.

E. Each cooperative shall cooperate with the department as required by federal-state plans or department rules in the effectuation and administration of its educational programs. Each cooperative shall submit reports to the department at such times and in such form as required by department rule. Reports shall include an evaluation of the effectiveness of the technical assistance and other services provided to members of the cooperative and any nonmember public and private entities to which the cooperative provided educational services. The reports and evaluations submitted pursuant to this subsection shall be made available upon request to the legislative education study committee and the legislative finance committee."

## **Chapter 115 Section 23 Laws 2013**

SECTION 23. Section 33-1-17 NMSA 1978 (being Laws 1985, Chapter 149, Section 1, as amended) is amended to read:

"33-1-17. PRIVATE CONTRACT.--

A. The corrections department may contract for the operation of any adult female facility or for housing adult female inmates in a private facility with a person or entity in the business of providing correctional or jail services to government entities.

B. The corrections department may contract with a person or entity in the business of providing correctional or jail services to government entities for:

(1) a correctional facility in Guadalupe county of not less than five hundred fifty and not more than two thousand two hundred beds;

(2) a correctional facility in Lea, Chaves or Santa Fe county of not less than one thousand two hundred and not more than two thousand two hundred beds;

(3) design and construction of a support services building, a laundry and an infirmary at the penitentiary of New Mexico in Santa Fe; or

(4) construction of a public facility to house a special incarceration alternative program for adult male and adult female felony offenders.

C. The authorization in Subsection B of this section for a correctional facility in Guadalupe county and a correctional facility in Lea, Chaves or Santa Fe county is contingent upon construction of both facilities, so that one of the facilities shall not be constructed unless both of the facilities are constructed, as nearly as practicable, simultaneously.

D. The corrections department shall solicit proposals and award any contract under this section in accordance with the provisions of the Procurement Code. The contract shall include such terms and conditions as the corrections department may require after consultation with the general services department; provided that the terms and conditions shall include provisions:

(1) setting forth comprehensive standards for conditions of incarceration;

(2) that the contractor assumes all liability caused by or arising out of all aspects of the provision or operation of the facility;

(3) for liability insurance or other proof of financial responsibility acceptable to the general services department covering the contractor and its officers, employees and agents in an amount sufficient to cover all liability caused by or arising out of all aspects of the provision or operation of the facility;

(4) for termination for cause upon ninety days' notice to the contractor for failure to meet contract provisions when such failure seriously affects the availability or operation of the facility;

(5) that venue for the enforcement of the contract shall be in the district court for Santa Fe county;

(6) that continuation of the contract is subject to the availability of funds; and

(7) that compliance with the contract shall be monitored by the corrections department and the contract may be terminated for noncompliance.

E. When the contractor begins operation of a facility for which private contractor operation is authorized, the contractor's employees performing the functions of correctional officers shall be deemed correctional officers for the purposes of Sections 33-1-10 and 33-1-11 NMSA 1978 but for no other purpose of state law, unless specifically stated.

F. Any contract awarded pursuant to this section may include terms to provide for the renovation of the facility or for the construction of new buildings. Work performed pursuant to such terms and conditions shall not be considered a capital project or a state public works project as defined in Section 13-1-91 NMSA 1978 nor shall it be subject to the requirements of Section 13-1-150 NMSA 1978, review by the staff architect of the facilities management division of the general services department or regulation by the director of that division pursuant to Section 15-3B-6 NMSA 1978.

G. Any contract entered into by the corrections department with a private contractor to operate an existing facility shall include a provision securing the right of all persons employed by that facility prior to the effective date of that contract to be employed by that contractor in any position for which they qualify before that position is offered to any person not employed by that facility prior to that date."

### **Chapter 115 Section 24 Laws 2013**

SECTION 24. Section 33-1A-1 NMSA 1978 (being Laws 1983, Chapter 186, Section 1) is amended to read:

"33-1A-1. LEASE OF REAL PROPERTY FOR CORRECTIONAL FACILITY HOUSING.--The facilities management division of the general services department is authorized to lease a portion of the real property of the state on which a correctional facility is located, but not to include Grants, New Mexico, for a period not to exceed twenty-five years, to a private entity in consideration for the construction on the real property of low-rent housing units for correctional officers of the corrections department, their families and such other corrections department personnel or other state employees as the secretary of corrections may designate; provided the low-rent housing units are rented only to state employees."

### **Chapter 115 Section 25 Laws 2013**

SECTION 25. Section 33-1A-2 NMSA 1978 (being Laws 1983, Chapter 186, Section 2) is amended to read:

"33-1A-2. LONG-TERM LEASE OF CORRECTIONAL FACILITY HOUSING BY FACILITIES MANAGEMENT DIVISION--SUBLEASE TO CORRECTIONAL OFFICERS AND OTHERS.--In connection with and as part of the real property lease authorized in Section 33-1A-1 NMSA 1978, the facilities management division of the general services department is authorized to negotiate and execute a long-term lease, for a period not to exceed twenty-five years, of the low-rent housing units constructed pursuant to Chapter 33, Article 1A NMSA 1978 and to sublease them to correctional officers of the corrections department, their families and such other department personnel or other state employees as the secretary of corrections may designate."

### **Chapter 115 Section 26 Laws 2013**

SECTION 26. Section 33-1A-3 NMSA 1978 (being Laws 1983, Chapter 186, Section 3) is amended to read:

"33-1A-3. LONG-TERM CORRECTIONAL FACILITY HOUSING LEASE SUSPENSE FUND ESTABLISHED.--The facilities management division of the general services department shall establish a schedule of sublease rental fees for the low-rent housing units constructed pursuant to Chapter 33, Article 1A NMSA 1978. Sublease rental fee payments shall be paid to the general services department and deposited in the "long-term correctional facility housing lease suspense fund", hereby established, which shall be administered by the secretary of general services or the secretary's designee. Payments shall be made from the long-term correctional facility housing lease suspense fund to satisfy the long-term correctional facility housing lease terms, including rent, maintenance and replacement costs, insurance, management fees, taxes and all applicable costs. No other fund shall be liable for or available to satisfy the long-term correctional facility housing lease authorized in Chapter 33, Article 1A NMSA 1978."

### **Chapter 115 Section 27 Laws 2013**

SECTION 27. Section 33-1A-4 NMSA 1978 (being Laws 1983, Chapter 186, Section 4) is amended to read:

"33-1A-4. LEASE TERMS.--

A. Upon expiration of the long-term housing lease, the low-rent housing units constructed pursuant to Chapter 33, Article 1A NMSA 1978 shall become the exclusive property of the state, free of any encumbrances of any kind arising from the construction or leasing of the housing units.

B. The low-rent housing units constructed pursuant to Chapter 33, Article 1A NMSA 1978 shall conform to all applicable building codes, and the plans and specifications for the housing units shall be approved by the facilities management division of the general services department prior to commencement of construction.

C. The state shall be indemnified against any judgment awarding monetary damages due to the construction or safety of the low-rent housing units constructed pursuant to Chapter 33, Article 1A NMSA 1978."

### **Chapter 115 Section 28 Laws 2013**

SECTION 28. Section 33-1A-5 NMSA 1978 (being Laws 1983, Chapter 186, Section 5) is amended to read:

"33-1A-5. BOARD OF FINANCE APPROVAL.--No lease of low-rent housing units constructed pursuant to Chapter 33, Article 1A NMSA 1978 shall be binding

against the facilities management division of the general services department until it has been approved by the state board of finance."

### **Chapter 115 Section 29 Laws 2013**

SECTION 29. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS, PERSONNEL, PROPERTY, CONTRACTS AND REFERENCES IN LAW--BUILDING SERVICES DIVISION TO FACILITIES MANAGEMENT DIVISION.--On July 1, 2013:

A. all functions, personnel, appropriations, money, records, equipment, supplies and other property of the building services division of the general services department shall be transferred to the facilities management division of the general services department;

B. all contracts of the building services division of the general services department shall be binding and effective on the facilities management division of the general services department; and

C. all references in law to the building services division of the general services department shall be deemed to be references to the facilities management division of the general services department.

### **Chapter 115 Section 30 Laws 2013**

SECTION 30. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS, PERSONNEL, PROPERTY, CONTRACTS AND REFERENCES IN LAW--PROPERTY CONTROL DIVISION TO FACILITIES MANAGEMENT DIVISION.--On July 1, 2013:

A. all functions, personnel, appropriations, money, records, equipment, supplies and other property of the property control division of the general services department shall be transferred to the facilities management division of the general services department;

B. all contracts of the property control division of the general services department shall be binding and effective on the facilities management division of the general services department; and

C. all references in law to the property control division of the general services department shall be deemed to be references to the facilities management division of the general services department.

### **Chapter 115 Section 31 Laws 2013**

SECTION 31. REPEAL.--Section 15-11-1 NMSA 1978 (being Laws 2001, Chapter 108, Section 1) is repealed.



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Senate Bill 339

Approved April 2, 2013

## **LAWS 2013, CHAPTER 116**

AN ACT

RELATING TO HEALTH CARE; AMENDING SECTIONS OF THE MEDICAL IMAGING AND RADIATION THERAPY HEALTH AND SAFETY ACT TO PROVIDE LIMITED AUTHORIZATION FOR REGISTERED NURSES AND CERTIFIED NURSE-MIDWIVES TO PERFORM CERTAIN ULTRASOUND PROCEDURES.

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

### **Chapter 116 Section 1 Laws 2013**

SECTION 1. Section 61-14E-4 NMSA 1978 (being Laws 1983, Chapter 317, Section 4, as amended) is amended to read:

"61-14E-4. DEFINITIONS.--As used in the Medical Imaging and Radiation Therapy Health and Safety Act:

A. "advisory council" means the medical imaging and radiation therapy advisory council;

B. "board" means the environmental improvement board;

C. "certificate of limited practice" means a certificate issued pursuant to the Medical Imaging and Radiation Therapy Health and Safety Act to persons who perform restricted diagnostic radiography under direct supervision of a licensed practitioner limited to the following specific procedures:

(1) the viscera of the thorax;

(2) extremities;

(3) radiation to humans for diagnostic purposes in the practice of dentistry;

(4) axial/appendicular skeleton; or

(5) the foot, ankle or lower leg;

D. "certified nurse practitioner" means a person licensed pursuant to Section 61-3-23.2 NMSA 1978;

E. "credential" or "certification" means the recognition awarded to an individual who meets the requirements of a credentialing or certification organization;

F. "credentialing organization" or "certification organization" means a nationally recognized organization recognized by the board that issues credentials or certification through testing or evaluations that determine whether an individual meets defined standards for training and competence in a medical imaging modality;

G. "department" means the department of environment;

H. "diagnostic medical sonographer" means a person, including a vascular technologist or echocardiographer, other than a licensed practitioner, who provides patient care services using ultrasound;

I. "division" means the environmental health bureau of the field operations and infrastructure division of the department;

J. "ionizing radiation" means alpha particles, beta particles, gamma rays, x-rays, neutrons, high-speed electrons, high-speed protons and other particles capable of producing ions; "ionizing radiation" does not include non-ionizing radiation, such as sound waves, radio waves or microwaves, or visible, infrared or ultraviolet light;

K. "license" means a document issued by the department pursuant to the Medical Imaging and Radiation Therapy Health and Safety Act to an individual who has met the requirements of licensure;

L. "licensed practitioner" means a person licensed to practice medicine, dentistry, podiatry, chiropractic or osteopathy in this state;

M. "licensure" means a grant of authority through a license or limited license to perform specific medical imaging and radiation therapy services pursuant to the Medical Imaging and Radiation Therapy Health and Safety Act;

N. "magnetic resonance technologist" means a person other than a licensed practitioner who performs magnetic resonance procedures under the supervision of a licensed practitioner using magnetic fields and radio frequency signals;

O. "medical imaging" means the use of substances or equipment emitting ionizing or non-ionizing radiation on humans for diagnostic or interventional purposes;

P. "medical imaging modality" means:

(1) diagnostic medical sonography and all of its subspecialties;

- (2) magnetic resonance imaging and all of its subspecialties;
- (3) nuclear medicine technology and all of its subspecialties;
- (4) radiation therapy and all of its subspecialties; and
- (5) radiography and all of its subspecialties;

Q. "medical imaging professional" means a person who is a magnetic resonance technologist, radiographer, nuclear medicine technologist or diagnostic medical sonographer and who is licensed pursuant to the Medical Imaging and Radiation Therapy Health and Safety Act;

R. "non-ionizing radiation" means the static and time-varying electric and magnetic fields and radio frequency, including microwave radiation and ultrasound;

S. "nuclear medicine technologist" means a person other than a licensed practitioner who applies radiopharmaceutical agents to humans for diagnostic or therapeutic purposes under the direction of a licensed practitioner;

T. "physician assistant" means a person licensed pursuant to Section 61-6-7 or 61-10A-4 NMSA 1978;

U. "radiation therapy" means the application of ionizing radiation to humans for therapeutic purposes;

V. "radiation therapy technologist" means a person other than a licensed practitioner whose application of radiation to humans is for therapeutic purposes;

W. "radiographer" means a person other than a licensed practitioner whose application of radiation to humans is for diagnostic purposes;

X. "radiography" means the application of radiation to humans for diagnostic purposes, including adjustment or manipulation of x-ray systems and accessories, including image receptors, positioning of patients, processing of films and any other action that materially affects the radiation dose to patients;

Y. "radiologist" means a licensed practitioner certified by the American board of radiology, the British royal college of radiology, the American osteopathic board of radiology or the American chiropractic board of radiology; and

Z. "radiologist assistant" means an individual licensed as a radiographer as defined in the Medical Imaging and Radiation Therapy Health and Safety Act who holds additional certification as a registered radiologist assistant by the American registry of radiologic technologists and who works under the supervision of a radiologist;

provided that a radiologist assistant shall not interpret images, render diagnoses or prescribe medications or therapies."

## **Chapter 116 Section 2 Laws 2013**

SECTION 2. Section 61-14E-7 NMSA 1978 (being Laws 1983, Chapter 317, Section 7, as amended) is amended to read:

"61-14E-7. LICENSURE--EXCEPTIONS.--

A. It is unlawful, unless licensed by the department as a medical imaging professional or radiation therapist, for any person to:

(1) use ionizing or non-ionizing radiation on humans;

(2) use any title, abbreviation, letters, figures, signs or other devices to indicate that the person is a licensed medical imaging professional or radiation therapist; or

(3) engage in any of the medical imaging modalities as defined by the Medical Imaging and Radiation Therapy Health and Safety Act.

B. Notwithstanding any other provision of the Medical Imaging and Radiation Therapy Health and Safety Act, the requirement of a medical imaging license shall not apply to:

(1) a licensed practitioner;

(2) a health care practitioner licensed or certified by an independent board operating pursuant to Chapter 61 NMSA 1978 or a state regulatory body; provided that any medical imaging certification and examination program for health care practitioners established by an independent board or state regulatory body shall be submitted to the advisory council and approved by the board; or

(3) a registered nurse or certified nurse-midwife performing ultrasound procedures; provided that the registered nurse or certified nurse-midwife has documented demonstration of competency within the registered nurse's scope of practice in compliance with board of nursing rules or certified nurse-midwife's scope of practice in compliance with department of health rules. A registered nurse or a certified nurse-midwife may perform ultrasound procedures limited to a focused imaging target. A registered nurse or certified nurse-midwife shall not perform diagnostic ultrasound.

C. The requirement of a medical imaging license shall also not apply to a student who is enrolled in and attending a required individual education program of a school or college of medicine, osteopathy, chiropractic, podiatry, dentistry or dental hygiene to apply radiation to humans under the supervision of a licensed practitioner or

under the direct supervision of a licensed medical imaging professional or radiation therapist.

D. Notwithstanding any other provision of the Medical Imaging and Radiation Therapy Health and Safety Act, the requirement of a license shall not apply to a student completing clinical requirements of an approved education program working under the supervision of a licensed practitioner or under the direct supervision of a medical imaging professional or radiation therapist licensed in the practice for which the student is seeking licensure.

E. The department shall adopt rules and regulations for the education and licensure of advanced medical imaging professionals.

F. The department may require students in medical imaging and radiation therapy educational programs to register with the department while enrolled in an approved education program.

G. A registered nurse or a certified nurse-midwife shall not perform ionizing procedures, including radiography, radiation therapy, nuclear medicine or a non-ionizing magnetic resonance procedure, unless licensed by the department as a medical imaging professional. Nothing in the Medical Imaging and Radiation Therapy Health and Safety Act shall affect the authority of a health care professional licensed pursuant to Chapter 24 or Chapter 61 NMSA 1978 to order or use images resulting from ionizing or non-ionizing procedures in accordance with the licensed health care professional's scope of practice."

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Senate Bill 342, aa

Approved April 2, 2013

## **LAWS 2013, CHAPTER 117**

AN ACT

RELATING TO PUBLIC RECORDS; INSERTING AN INTERNAL REFERENCE REGARDING THE SALE OF DATA; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2011; DECLARING AN EMERGENCY.

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

### **Chapter 117 Section 1 Laws 2013**

SECTION 1. Section 14-2-6 NMSA 1978 (being Laws 1993, Chapter 258, Section 3, as amended by Laws 2011, Chapter 134, Section 3 and by Laws 2011,

Chapter 181, Section 1 and also by Laws 2011, Chapter 182, Section 1) is amended to read:

"14-2-6. DEFINITIONS.--As used in the Inspection of Public Records Act:

A. "custodian" means any person responsible for the maintenance, care or keeping of a public body's public records, regardless of whether the records are in that person's actual physical custody and control;

B. "file format" means the internal structure of an electronic file that defines the way it is stored and used;

C. "inspect" means to review all public records that are not excluded in Section 14-2-1 NMSA 1978;

D. "person" means any individual, corporation, partnership, firm, association or entity;

E. "protected personal identifier information" means:

(1) all but the last four digits of a:

(a) taxpayer identification number;

(b) financial account number; or

(c) driver's license number;

(2) all but the year of a person's date of birth; and

(3) a social security number;

F. "public body" means the executive, legislative and judicial branches of state and local governments and all advisory boards, commissions, committees, agencies or entities created by the constitution or any branch of government that receives any public funding, including political subdivisions, special taxing districts, school districts and institutions of higher education; and

G. "public records" means all documents, papers, letters, books, maps, tapes, photographs, recordings and other materials, regardless of physical form or characteristics, that are used, created, received, maintained or held by or on behalf of any public body and relate to public business, whether or not the records are required by law to be created or maintained."

## **Chapter 117 Section 2 Laws 2013**

SECTION 2. Section 14-2-9 NMSA 1978 (being Laws 1993, Chapter 258, Section 6, as amended by Laws 2011, Chapter 181, Section 2 and by Laws 2011, Chapter 182, Section 3) is amended to read:

"14-2-9. PROCEDURE FOR INSPECTION.--

A. Requested public records containing information that is exempt and nonexempt from disclosure shall be separated by the custodian prior to inspection, and the nonexempt information shall be made available for inspection. If necessary to preserve the integrity of computer data or the confidentiality of exempt information contained in a database, a partial printout of data containing public records or information may be furnished in lieu of an entire database. Exempt information in an electronic document shall be removed along with the corresponding metadata prior to disclosure by utilizing methods or redaction tools that prevent the recovery of exempt information from a redacted electronic document.

B. A custodian shall provide a copy of a public record in electronic format if the public record is available in electronic format and an electronic copy is specifically requested. However, a custodian is only required to provide the electronic record in the file format in which it exists at the time of the request.

C. A custodian:

(1) may charge reasonable fees for copying the public records, unless a different fee is otherwise prescribed by law;

(2) shall not charge fees in excess of one dollar (\$1.00) per printed page for documents eleven inches by seventeen inches in size or smaller;

(3) may charge the actual costs associated with downloading copies of public records to a computer disk or storage device, including the actual cost of the computer disk or storage device;

(4) may charge the actual costs associated with transmitting copies of public records by mail, electronic mail or facsimile;

(5) may require advance payment of the fees before making copies of public records;

(6) shall not charge a fee for the cost of determining whether any public record is subject to disclosure; and

(7) shall provide a receipt, upon request.

D. Nothing in this section regarding the provision of public data in electronic format shall limit the ability of the custodian to engage in the sale of data as

authorized by Sections 14-3-15.1 and 14-3-18 NMSA 1978, including imposing reasonable restrictions on the use of the database and the payment of a royalty or other consideration."

## **Chapter 117 Section 3 Laws 2013**

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

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SJC/Senate Bill 353, w/ec

Approved April 2, 2013

## **LAWS 2013, CHAPTER 118**

AN ACT

RELATING TO HUMAN SERVICES; REQUIRING THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT TO ESTABLISH A HOME VISITING PROGRAM; PROVIDING FOR RULEMAKING.

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

## **Chapter 118 Section 1 Laws 2013**

SECTION 1. SHORT TITLE.--This act may be cited as the "Home Visiting Accountability Act".

## **Chapter 118 Section 2 Laws 2013**

SECTION 2. DEFINITIONS.--As used in the Home Visiting Accountability Act:

- A. "culturally and linguistically appropriate" means taking into consideration the culture, customs and language of an eligible family's home;
- B. "department" means the children, youth and families department;
- C. "eligible family" means a family that elects to receive home visiting and includes:

- (1) a child, from birth until kindergarten entry; or



(2) a pregnant woman, an expectant father, a parent or a primary caregiver;

D. "home visiting" means a program strategy that:

(1) delivers a variety of informational, educational, developmental, referral and other support services for eligible families who are expecting or who have children who have not yet entered kindergarten and that is designed to promote child well-being and prevent adverse childhood experiences;

(2) provides a comprehensive array of services that promote parental competence and successful early childhood health and development by building long-term relationships with families and optimizing the relationships between parents and children in their home environments; and

(3) does not include:

(a) provision of case management or a one-time home visit or infrequent home visits, such as a home visit for a newborn child or a child in preschool;

(b) home visiting that is provided as a supplement to other services; or

(c) services delivered through an individualized family service plan or an individualized education program under Part B or Part C of the federal Individuals with Disabilities Education Act;

E. "home visiting program" means a program that:

(1) uses home visiting as a primary service delivery strategy; and

(2) offers services on a voluntary basis to pregnant women, expectant fathers and parents and primary caregivers of children from birth to kindergarten entry;

F. "home visiting system" means the infrastructure and programs that support and provide home visiting. A "home visiting system":

(1) provides universal, voluntary access;

(2) provides a common framework for service delivery and accountability across all home visiting programs;

(3) establishes a consistent statewide system of home visiting; and

(4) allows for the collection, aggregation and analysis of common data; and

G. "standards-based program" means a home visiting program that:

(1) is research-based and grounded in relevant, empirically based best practices and knowledge that:

(a) is linked to and measures the following outcomes: 1) babies that are born healthy; 2) children that are nurtured by their parents and caregivers; 3) children that are physically and mentally healthy; 4) children that are ready for school; 5) children and families that are safe; and 6) families that are connected to formal and informal supports in their communities;

(b) has comprehensive home visiting standards that ensure high-quality service delivery and continuous quality improvement; and

(c) has demonstrated significant, sustained positive outcomes;

(2) follows program standards that specify the purpose, outcomes, duration and frequency of services that constitute the program;

(3) follows a research-based curriculum or combinations of research-based curricula, or follows the curriculum of an evidence-based home visiting model or promising approach that the home visiting program has adopted pursuant to department rules defining "evidence-based model" and "promising approach";

(4) employs well-trained and competent staff and provides continual professional supervision and development relevant to the specific program or model being delivered;

(5) demonstrates strong links to other community-based services;

(6) operates within an organization that ensures compliance with home visiting standards;

(7) continually evaluates performance to ensure fidelity to the program standards;

(8) collects data on program activities and program outcomes; and

(9) is culturally and linguistically appropriate.

## **Chapter 118 Section 3 Laws 2013**

SECTION 3. HOME VISITING PROGRAMS--ACCOUNTABILITY--  
EXCLUSIONS--CONTRACTING--REPORTING.--

A. The department shall provide statewide home visiting services using a standards-based program. The department shall adopt and promulgate rules by which the standards-based home visiting program shall operate.

B. The department shall fund only standards-based home visiting programs that include periodic home visits to improve the health, well-being and self-sufficiency of eligible families.

C. A home visiting program shall provide culturally and linguistically appropriate, face-to-face visits by nurses, social workers and other early childhood and health professionals or by trained and supervised lay workers.

D. A home visiting program shall do two or more of the following:

- (1) improve prenatal, maternal, infant or child health outcomes, including reducing preterm births;
- (2) promote positive parenting practices;
- (3) build healthy parent and child relationships;
- (4) enhance children's social-emotional and language development;
- (5) support children's cognitive and physical development;
- (6) improve the health of eligible families;
- (7) provide resources and supports that may help to reduce child maltreatment and injury;
- (8) increase children's readiness to succeed in school; and
- (9) improve coordination of referrals for, and the provision of, other community resources and supports for eligible families.

E. The department shall work with the early learning advisory council and develop internal processes that provide for a greater ability to collaborate with other state agencies, local governments and private entities and share relevant home visiting data and information. The processes may include a uniform format for the collection of data relevant to each home visiting program.

F. When the department authorizes funds through payments, contracts or grants that are used for home visiting programs, it shall include language regarding

home visiting in its funding agreement contract or grant that is consistent with the provisions of the Home Visiting Accountability Act.

G. The department and the providers of home visiting services, in consultation with one or more experts in home visiting program evaluation, shall:

(1) jointly develop an outcomes measurement plan to monitor outcomes for children and families receiving services through home visiting programs;

(2) develop indicators that measure each objective established pursuant to Subsection D of this section; and

(3) complete and submit the outcomes measurement plan by November 1, 2013 to the legislature, the governor and the early learning advisory council.

H. Beginning January 1, 2014 and annually thereafter, the department shall produce an annual outcomes report to the governor, the legislature and the early learning advisory council.

I. The annual outcomes report shall include:

(1) the goals and achieved outcomes of the home visiting system implemented pursuant to the Home Visiting Accountability Act; and

(2) data regarding:

(a) the cost per eligible family served;

(b) the number of eligible families served;

(c) demographic data on eligible families served;

(d) the duration of participation by eligible families in the program;

(e) the number and type of programs that the department has funded;

(f) any increases in school readiness, child development and literacy;

(g) decreases in child maltreatment or child abuse;

(h) any reductions in risky parental behavior;

(i) the percentage of children receiving regular well-child exams, as recommended by the American academy of pediatrics;

(j) the percentage of infants on schedule to be fully immunized by age two;

(k) the number of children that received an ages and stages questionnaire and what percent scored age appropriately in all developmental domains;

(l) the number of children identified with potential developmental delay and, of those, how many began services within two months of the screening; and

(m) the percentage of children receiving home visiting services who are enrolled in high-quality licensed child care programs.

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Senate Bill 365, aa

Approved April 2, 2013

## **LAWS 2013, CHAPTER 119**

### **AN ACT**

RELATING TO TAXATION; PROVIDING FOR THE COLLECTION OF PROPERTY TAXES ON REAL PROPERTY DIVIDED OR COMBINED; DECLARING AN EMERGENCY.

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

### **Chapter 119 Section 1 Laws 2013**

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

"SPECIAL PROCEDURES FOR ADMINISTRATION OF TAXES ON REAL PROPERTY DIVIDED OR COMBINED.--

A. For real property subject to valuation for property taxation purposes in a taxable year that is divided or combined, a county shall proceed to determine the taxes due on the property by using the prior year's tax rate, if the current tax rates have not been set, and the prior year's value, if the current year value has not been set, and proceed to immediately collect the taxes, penalties, interest and fees through the taxable year in which the property is divided or combined.

B. A taxpayer shall pay the taxes, penalties, interest and fees due on real property divided or combined through the taxable year in which the property is divided or combined prior to filing a plat."

## **Chapter 119 Section 2 Laws 2013**

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

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SJC/Senate Bill 406, aa, w/ec

Approved April 2, 2013

## **LAWS 2013, CHAPTER 120**

AN ACT

RELATING TO MUNICIPALITIES; PROVIDING ADDITIONAL REQUIREMENTS TO BE MET FOR THE INCORPORATION OF A MUNICIPALITY; REQUIRING THE LOCAL GOVERNMENT DIVISION OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO CONVENE A REVIEW TEAM TO CONSIDER PETITIONS FOR MUNICIPAL INCORPORATION; REQUIRING PETITIONERS TO PRESENT A MUNICIPAL SERVICES AND REVENUE PLAN THAT DEMONSTRATES THE SERVICES TO BE PROVIDED TO RESIDENTS AND HOW THOSE SERVICES WILL BE PAID FOR; LIMITING ATTEMPTS TO INCORPORATE IF A REVIEW TEAM REJECTS THE MUNICIPAL PLAN.

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

## **Chapter 120 Section 1 Laws 2013**

SECTION 1. Section 3-2-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-2-1) 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;
- (3) describe the territory proposed to be incorporated as a municipality; and
- (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) money in an amount determined by the board of county commissioners to be sufficient to conduct a census in the territory proposed to be incorporated. The money shall be deposited with the county treasurer for payment of the census required in Section 3-2-5 NMSA 1978.

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 the required census results, 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 120 Section 2 Laws 2013**



SECTION 2. Section 3-2-2 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-2-2, as amended) is amended to read:

"3-2-2. CHARACTERISTICS OF TERRITORY PROPOSED TO BE INCORPORATED AS A MUNICIPALITY.--

A. A territory proposed to be incorporated as a municipality shall:

(1) not be within the boundary of another municipality;

(2) have a population density of not less than one person per acre, except for a class B county with a net taxable value of property for property tax purposes in 1990 of over ninety-five million dollars (\$95,000,000) and a population of less than ten thousand according to the 1990 federal decennial census and where the population density of the territory proposed to be incorporated is not less than one person per four acres;

(3) contain not less than one hundred fifty persons; and

(4) contain a sufficient assessed value of real property and a sufficient number of businesses so that the proposed municipality will contain a sufficient tax base to enable it to provide a clerk-treasurer, a police officer and office space for the municipal government within one year of incorporation.

B. In the alternative to the requirements of Paragraph (2) of Subsection A of this section, a territory proposed to be incorporated as a municipality shall:

(1) contain within its boundaries a resort area having more than fifty thousand visitors a year; and

(2) have more than one hundred fifty single-family residences, as shown by the property tax rolls."

### **Chapter 120 Section 3 Laws 2013**

SECTION 3. Section 3-2-5 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-2-4, as amended) is amended to read:

"3-2-5. INCORPORATION--DUTIES OF COUNTY COMMISSIONERS AFTER FILING OF PETITION TO ACT--CENSUS REQUIRED--ELECTION--RIGHT OF APPEAL TO DISTRICT COURT.--

A. After the petition for incorporation, together with the accompanying map or plat, the municipal services and revenue plan and the amount of money sufficient to pay the cost of a census have been filed with the board of county commissioners, the

board of county commissioners, in lieu of complying with the requirements of Section 3-1-5 NMSA 1978, shall determine within thirty days after the filing of the petition:

(1) from the voter registration list in the office of the county clerk if the signers of the petition are qualified electors residing in the territory proposed to be incorporated; or

(2) from the tax schedules of the county if any of the owners of the real estate who signed the petition are delinquent in the payment of property taxes; and

(3) if the territory proposed to be incorporated is within an existing municipality or within the urbanized area of a municipality.

B. If the board of county commissioners determines that the territory proposed to be incorporated is:

(1) not within the boundary of an existing municipality and not within the urbanized area of a municipality; or

(2) within the urbanized area of another municipality and in compliance with Section 3-2-3 NMSA 1978, the board of county commissioners shall cause a census to be taken of the persons residing within the territory proposed to be incorporated.

C. The census shall be completed and filed with the board of county commissioners within thirty days after the board of county commissioners authorizes the taking of the census.

D. Within fifteen days after the date the results of the census and the municipal incorporation review team's report have been filed with the board of county commissioners, the board of county commissioners shall determine if the conditions for incorporation of the territory as a municipality have been met as required in Sections 3-2-1 through 3-2-3 NMSA 1978 and shall have its determination recorded in the minutes of its meeting.

E. Based on the census results and the municipal incorporation review team's report, if the board of county commissioners determines that the conditions for incorporation have not been met, the board of county commissioners shall notify the petitioners of its determination by publishing in a newspaper of general circulation in the territory proposed to be incorporated, once, not more than ten days after its determination, a notice of its determination that the conditions for incorporation have not been met. If there is no newspaper of general circulation in the territory proposed to be incorporated, notice of the determination shall be posted in eight public places within the territory proposed to be incorporated.

F. After the board of county commissioners has determined that all of the conditions for incorporation of the territory as a municipality have been met, the board of county commissioners shall hold an election on the question of incorporating the territory as a municipality. Elections for the incorporation of municipalities shall only be held in odd-numbered years on the first Tuesday in July or in any year on the first Tuesday in January, unless that Tuesday is a holiday, in which case the election shall be held on the second Tuesday in July or the second Tuesday in January. The county clerk shall notify the secretary of finance and administration and the secretary of taxation and revenue of the date of the incorporation election within ten days after the adoption of the resolution calling the election.

G. The signers of the petition or a municipality within whose urbanized area the territory proposed to be incorporated is located may appeal any determination of the board of county commissioners to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978."

## **Chapter 120 Section 4 Laws 2013**

SECTION 4. Section 3-2-6 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-2-5) is amended to read:

"3-2-6. INCORPORATION--NOTICE OF THE ELECTION--REGISTERED VOTERS TO VOTE--APPOINTMENT OF ELECTION OFFICIALS--CONDUCT OF ELECTION--QUESTION TO BE SUBMITTED--LOCATION OF VOTING PLACES.--

A. The notice of election shall contain:

(1) a description of the territory proposed to be incorporated as a municipality;

(2) a statement that a plat or map of the territory, the municipal services and revenue plan and the findings of the municipal incorporation review team are on file in the office of the county clerk;

(3) the date and time the election will be held on incorporation; and

(4) a list of the polling places within the territory proposed to be incorporated wherein registered voters may vote.

B. The notice of election shall be published in a newspaper of general circulation within the territory proposed to be incorporated once each week for three successive weeks. The last publication shall not be more than fourteen nor less than seven days before the day of the election. If there is no newspaper of general circulation within the territory proposed to be incorporated, notice of the election shall be posted in eight public places within the territory proposed to be incorporated. The posting shall be made at least three weeks before the day of the election.

C. The board of county commissioners shall appoint the judges and clerks of the election in the manner judges and clerks of election are appointed for general elections. The election shall be conducted in the manner provided for the conduct of general elections.

D. The question on the ballot shall read substantially as follows:

"Shall the territory described as (herein insert a description of the territory proposed to be incorporated) and to be known as (herein insert the name of the proposed municipality) become an incorporated municipality?

For incorporation -----[ ]

Against incorporation -----[ ]".

E. Any registered voter who is a resident of the territory proposed to be incorporated may vote on the question of incorporating the territory as a municipality.

F. The board of county commissioners shall canvass the votes and declare the results of the election in the manner provided for the canvassing and declaring of votes in a general election."

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Senate Bill 438, aa

Approved April 2, 2013

## **LAWS 2013, CHAPTER 121**

### AN ACT

RELATING TO ELECTIONS; CHANGING THE TIME FOR FILING DECLARATIONS OF CANDIDACY AND NOMINATING PETITION SIGNATURES TO ALLOW TIME FOR JUDICIAL RESOLUTION OF NOMINATING PETITION AND OTHER CANDIDACY CHALLENGES.

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

### **Chapter 121 Section 1 Laws 2013**

SECTION 1. Section 1-8-21.1 NMSA 1978 (being Laws 1993, Chapter 55, Section 11) is amended to read:

"1-8-21.1. DESIGNATION OF CANDIDATES BY CONVENTION.--

A. State conventions of major political parties may designate candidates for nomination to statewide office or the office of United States representative.

B. No state convention for designating candidates shall be held later than the second Sunday in March preceding the primary election, and delegates to the convention shall be elected according to state party rules filed in the office of the secretary of state.

C. The state convention shall take only one ballot upon candidates for each office to be filled. Every candidate receiving twenty percent or more of the votes of the duly elected delegates to the convention for the office to be voted upon at the ensuing primary election shall be certified to the secretary of state as a convention-designated nominee for that office by the political party. Certification shall take place no later than 5:00 p.m. on the first Tuesday succeeding the state convention.

D. The certificate of designation submitted to the secretary of state shall state the name of the office for which each person is a candidate, each candidate's name and address and the name of the political party that each candidate represents and certification that the candidate has been a member of that political party for the period of time required by the Election Code."

## **Chapter 121 Section 2 Laws 2013**

SECTION 2. Section 1-8-26 NMSA 1978 (being Laws 1975, Chapter 295, Section 12, as amended) is amended to read:

"1-8-26. PRIMARY ELECTION LAW--TIME OF FILING--DOCUMENTS NECESSARY TO QUALIFY FOR BALLOT--CHALLENGE.--

A. Declarations of candidacy by preprimary convention designation for any statewide office or for the office of United States representative shall be filed with the proper filing officer on the first Tuesday in February of each even-numbered year between the hours of 9:00 a.m. and 5:00 p.m.

B. Declarations of candidacy for any other office to be nominated in the primary election shall be filed with the proper filing officer on the second Tuesday of March of each even-numbered year between the hours of 9:00 a.m. and 5:00 p.m.

C. Certificates of designation shall be submitted to the secretary of state on the first Tuesday following the preprimary convention at which the candidate's designation took place between the hours of 9:00 a.m. and 5:00 p.m.

D. Declarations of candidacy for retention for all affected judicial offices shall be filed with the proper filing officer between the hours of 9:00 a.m. and 5:00 p.m. on the twenty-first day after the primary election.

E. No candidate's name shall be placed on the ballot until the candidate has been notified in writing by the proper filing officer that the declaration of candidacy, the petition, if required, and the certificate of registration of the candidate on file are in proper order and that the candidate, based on those documents, is qualified to have the candidate's name placed on the ballot. The proper filing officer shall mail the notice no later than 5:00 p.m. on the Tuesday following the filing date.

F. If a candidate is notified by the proper filing officer that the candidate is not qualified to have the candidate's name appear on the ballot, the candidate may challenge that decision by filing a petition with the district court within ten days of the notification. The district court shall hear and render a decision on the matter within ten days after the petition is filed. The decision of the district court may be appealed to the supreme court within five days after the decision is rendered. The supreme court shall hear and render a decision on the appeal forthwith."

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SRC/Senate Bill 485

Approved April 2, 2013

## **LAWS 2013, CHAPTER 122**

### **AN ACT**

RELATING TO REAL PROPERTY; ENACTING THE HOMEOWNER ASSOCIATION ACT; PROVIDING FOR THE FORMATION AND MANAGEMENT OF HOMEOWNER ASSOCIATIONS; PROVIDING FOR DISCLOSURE OF RECORDS; REQUIRING DISCLOSURE OF HOMEOWNER ASSOCIATION INFORMATION TO PURCHASERS.

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

### **Chapter 122 Section 1 Laws 2013**

SECTION 1. SHORT TITLE.--This act may be cited as the "Homeowner Association Act".

### **Chapter 122 Section 2 Laws 2013**

SECTION 2. DEFINITIONS.--As used in the Homeowner Association Act:

A. "articles of incorporation" means the articles of incorporation, and all amendments thereto, of an association on record in the office of the county clerk in the county or counties in which the association is located;

B. "association" means a homeowner association;

C. "board" means the body, regardless of name, designated in the declaration or bylaws to act on behalf of the association;

D. "bylaws" means the code of rules adopted for the regulation or management of the affairs of the association, irrespective of the name by which such rules are designated;

E. "common area" means property within a development that is designated as a common area in the declaration and is required by the declaration to be maintained or operated by an association for use of the association's members;

F. "common expenses" means expenditures made by, or the financial liabilities of, the association, together with any allocations to reserves;

G. "community documents" means all documents governing the use of the lots and the creation and operation of the association, including the declaration, bylaws, articles of incorporation and rules of the association;

H. "declarant" means the person or group of persons designated in a declaration as declarant or, if no declarant is designated, the person or group of persons who sign the declaration and their successors or assigns who may submit property to a declaration;

I. "declaration" means an instrument, however denominated, including amendments or supplements to the instrument, that:

(1) imposes on the association maintenance or operational responsibilities for common areas, easements or portions of rights of way; and

(2) creates the authority in the association to impose on lots or on the owners or occupants of such lots, or on any other entity, any mandatory payment of money in connection with the provision of maintenance or services for the benefit of some or all of the lots, the owners or occupants of the lots or the common areas. "Declaration" does not include a like instrument for a condominium or time-share project;

J. "development" means real property subject to a declaration that contains residential lots and common areas with respect to which any person, by virtue of ownership of a lot, is a member of an association and is obligated to pay assessments provided for in a declaration;

K. "development right" means a right or combination of rights reserved by the declarant in a declaration;

L. "disclosure certificate" or "disclosure statement" means:

(1) a statement disclosing the existence and terms of any right of first refusal or other restraint on the free alienability of the lot;

(2) a statement setting forth the amount of the monthly common expense assessment and any unpaid common expense or special assessment currently due and payable from the selling lot owner;

(3) a statement of any other fees payable by lot owners;

(4) a statement of any capital expenditures anticipated by the association and approved by the board for the current fiscal year and the two next succeeding fiscal years;

(5) a statement of the amount of any reserves for capital expenditures and of any portions of those reserves designated by the association for any approved projects;

(6) the most recent regularly prepared balance sheet and income and expense statement, if any, of the association;

(7) the current operating budget of the association;

(8) a statement of any unsatisfied judgments or pending suits against the association and the status of any pending suits material to the association of which the association has actual knowledge;

(9) a statement describing any insurance coverage provided for the benefit of lot owners and the board of the association;

(10) a statement of the remaining term of any leasehold estate affecting the association and the provisions governing any extension or renewal thereof; and

(11) the contact person and contact information for the association;

M. "homeowner association" means an incorporated or unincorporated entity upon which maintenance and operational responsibilities are imposed and to which authority is granted in the declaration;

N. "lot" means a parcel of land designated for separate ownership or occupancy shown on a recorded subdivision plat for a development or the boundaries of which are described in the declaration or in a recorded instrument referred to or expressly contemplated by the declaration, other than a common area;



O. "lot owner" means a person or group of persons holding title to a lot, including a declarant;

P. "master planned community" means a large-scale residential development that allows for a phasing of development that will take place over a long period of time, following comprehensive and coordinated planning review by a local government and approval of design and development standards beyond conventionally platted subdivisions; provided that additional design and development standards approved by the local government shall be included in a site plan, area plan or master plan as required by the local government approving the development; and

Q. "proxy" means a person authorized to act for another.

### **Chapter 122 Section 3 Laws 2013**

SECTION 3. CREATION OF A HOMEOWNER ASSOCIATION.--An association pursuant to the Homeowner Association Act shall be organized in accordance with the laws of the state and be identified in a recorded declaration. The membership of the association shall consist exclusively of all lot owners in the development.

### **Chapter 122 Section 4 Laws 2013**

SECTION 4. RECORDING OR FILING OF HOMEOWNER ASSOCIATION NOTICE AND DECLARATION.--

A. An association organized after July 1, 2013 shall record a notice of homeowner association in the office of the county clerk of the county or counties in which the real property affected thereby is situated no later than thirty days after the date on which the association's declaration is recorded as provided in Section 3 of the Homeowner Association Act.

B. An association organized prior to July 1, 2013 shall, before June 30, 2014, record a notice of homeowner association in the office of the county clerk of the county or counties in which the development is situated.

C. A notice of homeowner association pursuant to Subsection A or B of this section shall fully and accurately disclose the name and address of the association and any management company charged with preparation of a disclosure certificate and shall contain the recording data for the subdivision plat and the declaration governing the lots within the development. A notice of homeowner association pursuant to Subsection A of this section shall also include the public regulation commission number, if any, of the association.

D. If an association fails to record a notice of homeowner association pursuant to this section, the association's authority to charge an assessment, levy a fine

for late payment of an assessment or enforce a lien for nonpayment of an assessment shall be suspended until the notice of homeowner association is recorded.

## **Chapter 122 Section 5 Laws 2013**

### **SECTION 5. RECORD DISCLOSURE TO MEMBERS--UPDATED INFORMATION.--**

A. All financial and other records of the association shall be made available for examination by a lot owner within ten business days of the request.

B. The association shall not charge a fee for making financial and other records available for review. The association may charge a reasonable fee for copies.

C. As used in this section, "financial and other records" includes:

- (1) the declaration of the association;
- (2) the name, address and telephone number of the association's designated agent;
- (3) the bylaws of the association;
- (4) the names of all association members;
- (5) minutes of all meetings of the association's lot owners and board for the previous five years, other than executive sessions, and records of all actions taken by a committee in place of the board or on behalf of the association for the previous five years;
- (6) the operating budget for the current fiscal year;
- (7) current assessments, including both regular and special assessments;
- (8) financial statements and accounts, including amounts held in reserve;
- (9) the most recent financial audit or review, if any;
- (10) all current contracts entered into by the association or the board on behalf of the association; and
- (11) current insurance policies, including company names, policy limits, deductibles, additional named insureds and expiration dates for property, general liability and association director and officer professional liability, and fidelity policies.

## **Chapter 122 Section 6 Laws 2013**

### **SECTION 6. DUTIES OF A HOMEOWNER ASSOCIATION.--**

A. The association shall exercise any powers conferred to the association in the community documents.

B. The association shall have a lien on a lot for any assessment levied against that lot or for fines imposed against that lot's owner from the time the assessment or fine becomes due. If an assessment is payable in installments, the full amount of the assessment shall be a lien from the time the first installment becomes due. The association's lien may be foreclosed in like manner as a mortgage on real estate.

C. Recording the declaration constitutes notice recorded in the office of the county clerk in the county or counties in which any part of the real property is located and perfection of the lien.

D. Upon written request by a lot owner, the association shall furnish a recordable statement setting forth the amount of unpaid assessments against the lot owner's lot. The statement shall be furnished within ten business days after receipt of the request and is binding on the association and the board.

## **Chapter 122 Section 7 Laws 2013**

### **SECTION 7. BOARD MEMBERS AND OFFICERS--DUTIES--BUDGET.--**

A. Except as provided in the community documents or other provisions of the Homeowner Association Act, the board acts on behalf of the association. In the performance of their duties, officers and members of the board shall exercise, if appointed by the declarant, the degree of care and loyalty required of a fiduciary of the lot owners and, if elected by the lot owners, ordinary and reasonable care.

B. The board or the lot owners, as provided for in the community documents, shall adopt a budget annually. Within thirty calendar days after adoption of any proposed budget for the association, the board shall provide a summary of the budget to all the lot owners.

## **Chapter 122 Section 8 Laws 2013**

### **SECTION 8. DECLARANT CONTROL OF BOARD.--**

A. Subject to the provisions of this section, the declaration shall provide for a period of declarant control of the association, during which period a declarant, or persons designated by the declarant, may appoint and remove the officers and members of the board.

B. Regardless of the period provided in the declaration, the period of declarant control shall terminate no later than the earlier of:

(1) sixty days after conveyance of seventy-five percent of the lots that are part of the development and any additional lots that may be added to the development to lot owners other than a declarant;

(2) two years after all declarants have ceased to offer lots for sale in the ordinary course of business;

(3) two years after a development right to add new lots was last exercised; or

(4) the day that the declarant or the declarant's designee, after giving written notice to the association, records an instrument voluntarily terminating all rights to declarant control.

C. Subsection B of this section does not apply to a master planned community.

D. A declarant may voluntarily terminate the right to appoint and remove officers and members of the board before termination of the period of declarant control, but in that event, the declarant may require, for the duration of the period of declarant control, that specified actions of the association or board, as described in a recorded instrument executed by the declarant, be approved by the declarant or the declarant's designee before they become effective.

E. Not later than sixty days after conveyance of twenty-five percent of the lots that are part of the development, and any additional lots that may be added to the development, to lot owners other than a declarant, at least one member and not less than twenty-five percent of the members of the board shall be elected by lot owners.

F. Not later than sixty days after conveyance of fifty percent of the lots that are part of the development, and any additional lot that may be added to the development, to lot owners other than the declarant, no less than thirty-three percent of the members of the board shall be elected by lot owners other than the declarant.

G. Not later than the termination of a period of declarant control, the lot owners shall elect a board of at least three members, at least a majority of whom shall be lot owners. The board shall elect the officers. The board members and officers shall take office upon election.

H. No amendment to the declaration that would limit, prohibit or eliminate the exercise of a development right shall be effective without the concurrence of the declarant.

I. A declarant shall not utilize cumulative or class voting for the purpose of evading any limitation imposed on declarants by the Homeowner Association Act, nor shall lots constitute a class because they are owned by a declarant.

## **Chapter 122 Section 9 Laws 2013**

### SECTION 9. PROXY AND ABSENTEE VOTING--BALLOT COUNTING.--

A. The association shall provide for votes to be cast in person, by absentee ballot or by proxy and may provide for voting by some other form of delivery.

B. Vote by proxy is allowed for lot owner meetings. The proxy vote shall:

(1) be dated and executed by a lot owner, but if a lot is owned by more than one person, each owner of the lot may vote or register protest to the casting of votes by the other owners of the lot through a duly executed proxy, but in no case shall the total vote cast be more than that allocated to the lot under the declaration;

(2) allow for revocation if notice of revocation is provided to the person presiding over a lot owner meeting; and

(3) be valid only for the meeting at which it is cast.

C. If proxy voting is utilized at a lot owner meeting, a person shall not pay a company or person to collect proxy votes.

D. Where directors or officers are to be elected by members, the bylaws may provide that such elections may be conducted by mail.

E. Votes cast by proxy and by absentee ballot are valid for the purpose of establishing a quorum.

F. Ballots, if used, shall be counted by a neutral third party or by a committee of volunteers. The volunteers shall be selected or appointed at an open meeting, in a fair manner, by the chair of the board or another person presiding during that portion of the meeting. The volunteers shall not be board members and, in the case of a contested election for a board position, shall not be candidates.

## **Chapter 122 Section 10 Laws 2013**

### SECTION 10. FINANCIAL AUDIT.--

A. Unless any provision in the community documents requires an annual audit by a certified public accountant, the board of directors of an association managing a master planned community or a development consisting of one hundred or more lots shall provide for an annual financial audit, review or compilation of the association. The

audit, review or compilation shall be completed no later than one hundred eighty days after the end of the association's fiscal year and shall be made available upon request to the members within thirty days after its completion.

B. Unless otherwise provided in the community documents, in an association managing a development consisting of fewer than one hundred lots, upon a majority vote of all of the lot owners, the board shall provide for a financial audit, review or compilation of the association's records and shall provide that the cost thereof be assessed as a common expense. The audit, review or compilation shall be made available to lot owners within thirty calendar days of its completion.

## **Chapter 122 Section 11 Laws 2013**

SECTION 11. CONTRACT DISCLOSURE STATEMENT OR DISCLOSURE CERTIFICATE--RIGHT OF CANCELLATION OF PURCHASE CONTRACT.--Except as provided in Section 12 of the Homeowner Association Act, a person selling a lot that is subject to an association shall provide in writing a disclosure certificate that states that the lot is located within a development that is subject to an association. If the lot is located within a development that is subject to an association and the association is subject to the Homeowner Association Act:

A. A seller or the seller's agent shall obtain a disclosure certificate from the association and provide it to the purchaser no later than seven days before closing; and

B. A purchaser or the purchaser's agent has the right to cancel the purchase contract within seven days after receiving the disclosure certificate.

## **Chapter 122 Section 12 Laws 2013**

SECTION 12. SALE OF LOTS--DISCLOSURE CERTIFICATE.--

A. Unless exempt pursuant to Subsection F of this section, prior to closing, a lot owner shall furnish to a purchaser copies of:

- (1) the declaration of the association, other than the plats and plans;
- (2) the bylaws of the association;
- (3) any covenants, conditions and restrictions applicable to the lot;
- (4) the rules of the association; and
- (5) a disclosure certificate from the association.

B. Within ten business days after receipt of a written request from a lot owner, the association shall furnish a disclosure certificate containing the information necessary to enable the lot owner to comply with the provisions of this section. A lot owner providing a disclosure certificate pursuant to Subsection A of this section shall not be liable to the purchaser for any erroneous information provided by the association and included in the disclosure certificate.

C. A purchaser shall not be liable for any unpaid assessment or fee greater than the amount, prorated to the date of closing, set forth in the disclosure certificate prepared by the association.

D. A lot owner shall not be liable to a purchaser for the failure or delay of the association to provide the disclosure certificate in a timely manner.

E. The information contained in the disclosure certificate shall be current as of the date on which the disclosure certificate is furnished to the lot owner by the association.

F. A disclosure certificate shall not be required in the case of a disposition:

(1) pursuant to court order;

(2) by a government or governmental agency;

(3) by foreclosure or deed in lieu of foreclosure; or

(4) that may be canceled at any time and for any reason by the purchaser without penalty.

G. An association may impose reasonable charges for preparation of a disclosure certificate as required by the Homeowner Association Act.

## **Chapter 122 Section 13 Laws 2013**

SECTION 13. PURCHASER'S CANCELLATION OF A PURCHASE CONTRACT.--If a purchaser elects to cancel a purchase pursuant to Section 11 of the Homeowner Association Act, the purchaser may do so by hand delivering notice of the cancellation to the lot owner or by mailing notice of cancellation, by prepaid United States mail, to the lot owner, or to the lot owner's agent for service of process. Cancellation shall be without penalty, and all payments made by the purchaser before cancellation shall be refunded within fifteen days.

## **Chapter 122 Section 14 Laws 2013**

SECTION 14. ATTORNEY FEES AND COSTS.--A court may award attorney fees and costs to any party that prevails in a civil action between a lot owner and the

association or declarant based upon any provision of the declaration or bylaws; provided that the declaration or bylaws allow at least one party to recover attorney fees or costs.

## **Chapter 122 Section 15 Laws 2013**

### SECTION 15. APPLICABILITY.--

A. Except as provided in Subsections B and C of this section, the Homeowner Association Act shall apply to all homeowner associations created and existing within this state.

B. Sections 9, 10 and 14 of the Homeowner Association Act do not apply to homeowner associations created before July 1, 2013; provided that any amendment to the community documents of an association created before July 1, 2013 shall comply with the Homeowner Association Act.

C. Except as provided in Sections 4 and 8 of the Homeowner Association Act, that act does not invalidate existing provisions of the articles of incorporation, declaration, bylaws or rules of a homeowner association created before July 1, 2013.

D. The Homeowner Association Act does not apply to a condominium governed by the Condominium Act.

## **Chapter 122 Section 16 Laws 2013**

SECTION 16. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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SJC/Senate Bill 497, aa

Approved April 2, 2013

## **LAWS 2013, CHAPTER 123**

AN ACT

RELATING TO TAXATION; EXPANDING THE DEDUCTION FOR LOCOMOTIVE FUEL FROM GROSS RECEIPTS AND FROM COMPENSATING TAX.

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

## **Chapter 123 Section 1 Laws 2013**



SECTION 1. Section 7-9-110.3 NMSA 1978 (being Laws 2011, Chapter 60, Section 3 and Laws 2011, Chapter 61, Section 3) is amended to read:

"7-9-110.3. PURPOSE AND REQUIREMENTS OF LOCOMOTIVE FUEL DEDUCTION.--

A. The purpose of the deduction on fuel loaded or used by a common carrier in a locomotive engine from gross receipts and from compensating tax is to encourage the construction, renovation, maintenance and operation of railroad locomotive refueling facilities and other railroad capital investments in New Mexico.

B. To be eligible for the deduction on fuel loaded or used by a common carrier in a locomotive engine from compensating tax, the fuel shall be used or loaded by a common carrier that:

(1) after July 1, 2011, made a capital investment of one hundred million dollars (\$100,000,000) or more in new construction or renovations at the railroad locomotive refueling facility in which the fuel is loaded or used; or

(2) on or after July 1, 2012, made a capital investment of fifty million dollars (\$50,000,000) or more in new railroad infrastructure improvements, including railroad facilities, track, signals and supporting railroad network, located in New Mexico; provided that the new railroad infrastructure improvements are not required by a regulatory agency to correct problems, such as regular or preventive maintenance, specifically identified by that agency as requiring necessary corrective action.

C. To be eligible for the deduction on fuel loaded or used by a common carrier in a locomotive engine from gross receipts, a common carrier shall deliver an appropriate nontaxable transaction certificate to the seller and the sale shall be made to a common carrier that:

(1) after July 1, 2011, made a capital investment of one hundred million dollars (\$100,000,000) or more in new construction or renovations at the railroad locomotive refueling facility in which the fuel is sold; or

(2) on or after July 1, 2012, made a capital investment of fifty million dollars (\$50,000,000) or more in new railroad infrastructure improvements, including railroad facilities, track, signals and supporting railroad network, located in New Mexico; provided that the new railroad infrastructure improvements are not required by a regulatory agency to correct problems, such as regular or preventative maintenance, specifically identified by that agency as requiring necessary corrective action.

D. The economic development department shall promulgate rules for the issuance of a certificate of eligibility for the purposes of claiming a deduction on fuel loaded or used by a common carrier in a locomotive engine from gross receipts or compensating tax. A common carrier may request a certificate of eligibility from the

economic development department to provide to the taxation and revenue department to establish eligibility for a nontaxable transaction certificate for the deduction on fuel loaded or used by a common carrier in a locomotive engine from gross receipts. The taxation and revenue department shall issue nontaxable transaction certificates to a common carrier upon the presentation of a certificate of eligibility obtained from the economic development department pursuant to this subsection.

E. The economic development department shall keep a record of temporary and permanent jobs from all railroad activity where a capital investment is made by a common carrier that claims a deduction on fuel loaded or used by a common carrier in a locomotive engine from gross receipts or from compensating tax. The economic development department and the taxation and revenue department shall estimate the amount of state revenue that is attributable to all railroad activity where a capital investment is made by a common carrier that claims a deduction on fuel loaded or used by a common carrier in a locomotive engine from gross receipts or from compensating tax.

F. The economic development department and the taxation and revenue department shall compile an annual report with the number of taxpayers who claim the deduction on fuel loaded or used by a common carrier in a locomotive engine from gross receipts and from compensating tax, the number of jobs created as a result of that deduction, the amount of that deduction approved, the net revenue to the state as a result of that deduction and any other information required by the legislature to aid in evaluating the effectiveness of that deduction. A taxpayer who claims a deduction on fuel loaded or used by a common carrier in a locomotive engine from gross receipts or from compensating tax shall provide the economic development department and the taxation and revenue department with the information required to compile that report. The economic development department and the taxation and revenue department shall present that report before the legislative interim revenue stabilization and tax policy committee and the legislative finance committee by November of each year. Notwithstanding any other section of law to the contrary, the economic development department and the taxation and revenue department may disclose the number of applicants for the deduction on fuel loaded or used by a common carrier in a locomotive engine from gross receipts and from compensating tax, the amount of the deduction approved, the number of employees of the taxpayer and any other information required by the legislature or the taxation and revenue department to aid in evaluating the effectiveness of that deduction.

G. An appropriate legislative committee shall review the effectiveness of the deduction for each taxpayer who claims the deduction on fuel loaded or used by a common carrier in a locomotive engine from gross receipts and from compensating tax every six years beginning in 2019."

## **Chapter 123 Section 2 Laws 2013**

SECTION 2. REPEAL.--Laws 2011, Chapter 60, Sections 4 and 5 and Laws 2011, Chapter 61, Sections 4 and 5 are repealed.

### **Chapter 123 Section 3 Laws 2013**

SECTION 3. 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.

### **Chapter 123 Section 4 Laws 2013**

SECTION 4. APPLICABILITY.--The deductions provided in this act apply to gross receipts tax and compensating tax reporting periods beginning on or after July 1, 2013.

### **Chapter 123 Section 5 Laws 2013**

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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House Bill 120

Approved April 2, 2013

## **LAWS 2013, CHAPTER 124**

AN ACT

RELATING TO UTILITIES; REQUIRING PUBLIC UTILITIES TO ACQUIRE AVAILABLE COST-EFFECTIVE AND ACHIEVABLE ENERGY EFFICIENCY AND LOAD MANAGEMENT RESOURCES; LIMITING PUBLIC UTILITY COST RECOVERY OPTIONS.

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

### **Chapter 124 Section 1 Laws 2013**

SECTION 1. Section 62-17-4 NMSA 1978 (being Laws 2005, Chapter 341, Section 4, as amended) is amended to read:

"62-17-4. DEFINITIONS.--As used in the Efficient Use of Energy Act:

A. "achievable" means those energy efficiency or load management resources available to the utility using its best efforts;

B. "commission" means the public regulation commission;

C. "cost-effective" means that the energy efficiency or load management program meets the utility cost test;

D. "customer" means a utility customer at a single, contiguous field, location or facility, regardless of the number of meters at that field, location or facility;

E. "distribution cooperative utility" means a utility with distribution facilities organized as a rural electric cooperative pursuant to Laws 1937, Chapter 100 or the Rural Electric Cooperative Act or similarly organized in other states;

F. "energy efficiency" means measures, including energy conservation measures, or programs that target consumer behavior, equipment or devices to result in a decrease in consumption of electricity and natural gas without reducing the amount or quality of energy services;

G. "large customer" means a customer with electricity consumption greater than seven thousand megawatt-hours per year or natural gas use greater than three hundred sixty thousand decatherms per year;

H. "load management" means measures or programs that target equipment or devices to result in decreased peak electricity demand or shift demand from peak to off-peak periods;

I. "program costs" means the prudent and reasonable costs of developing and implementing energy efficiency and load management programs, but "program costs" does not include charges for incentives or the removal of regulatory disincentives;

J. "public utility" means a public utility that is not also a distribution cooperative utility; and

K. "utility cost test" means a standard that is met if the monetary costs that are borne by the public utility and that are incurred to develop, acquire and operate energy efficiency or load management resources on a life-cycle basis are less than the avoided monetary costs associated with developing, acquiring and operating the associated supply-side resources. In developing this test for energy efficiency and load management programs directed to low-income customers, the commission shall either quantify or assign a reasonable value to reductions in working capital, reduced collection costs, lower bad-debt expense, improved customer service effectiveness and other appropriate factors as utility system economic benefits."

## **Chapter 124 Section 2 Laws 2013**

SECTION 2. Section 62-17-5 NMSA 1978 (being Laws 2005, Chapter 341, Section 5, as amended) is amended to read:

"62-17-5. COMMISSION APPROVAL--ENERGY EFFICIENCY AND LOAD MANAGEMENT PROGRAMS--DISINCENTIVES.--

A. Pursuant to the findings and purpose of the Efficient Use of Energy Act, the commission shall consider public utility acquisition of cost-effective energy efficiency and load management resources to be in the public interest.

B. The commission shall direct public utilities to evaluate and implement cost-effective programs that reduce energy demand and consumption.

C. Before the commission approves an energy efficiency and load management program for a public utility, it must find that the portfolio of programs is cost-effective and designed to provide every affected customer class with the opportunity to participate and benefit economically. The commission shall determine the cost-effectiveness of energy efficiency and load management measures using the utility cost test.

D. The commission shall act expeditiously on public utility requests for approval of energy efficiency or load management programs.

E. Public utilities shall obtain commission approval of energy efficiency and load management programs before they are implemented. Public utilities proposing new energy efficiency and load management programs shall, before seeking commission approval, solicit nonbinding recommendations on the design, implementation and use of third-party energy service contractors through competitive bidding on the programs from commission staff, the attorney general, the energy, minerals and natural resources department and other interested parties. The commission may for good cause require public utilities to solicit competitive bids for energy efficiency and load management resources.

F. The commission shall, upon petition or its own motion, identify regulatory disincentives or barriers for public utility expenditures on energy efficiency and load management measures and ensure that they are removed in a manner that balances the public interest, consumers' interests and investors' interests. The commission shall also provide public utilities an opportunity to earn a profit on cost-effective energy efficiency and load management resource development that, with satisfactory program performance, is financially more attractive to the utility than supply-side utility resources.

G. Public utilities providing electricity and natural gas service to New Mexico customers shall, subject to commission approval, acquire cost-effective and achievable energy efficiency and load management resources available in their service territories. This requirement, however, for public utilities providing electricity service,

shall not be less than savings of five percent of 2005 total retail kilowatt-hour sales to New Mexico customers in calendar year 2014 and eight percent of 2005 total retail kilowatt-hour sales to New Mexico customers in 2020 as a result of energy efficiency and load management programs implemented starting in 2007.

H. A public utility that determines it cannot achieve the minimum requirements established in Subsection G of this section shall report to the commission on why it cannot meet those requirements and shall propose alternative requirements based on acquiring cost-effective and achievable energy efficiency and load management resources. If the commission determines, after hearing, that the minimum requirements of Subsection G of this section exceed the achievable amount of energy efficiency and load management available to the public utility or that the program costs of energy efficiency and load management to achieve the minimum requirements of Subsection G of this section exceed the program costs funding established in Subsection A of Section 62-17-6 NMSA 1978, the commission shall establish lower minimum energy savings requirements for the utility based on the maximum amount of energy efficiency and load management that it determines can be achieved."

## **Chapter 124 Section 3 Laws 2013**

SECTION 3. Section 62-17-6 NMSA 1978 (being Laws 2005, Chapter 341, Section 6, as amended) is amended to read:

"62-17-6. COST RECOVERY.--

A. A public utility that undertakes cost-effective energy efficiency and load management programs shall have the option of recovering its prudent and reasonable costs along with commission-approved incentives for demand-side resources and load management programs implemented after the effective date of the Efficient Use of Energy Act through an approved tariff rider or in base rates, or by a combination of the two. Program costs and incentives may be deferred for future recovery through creation of a regulatory asset. Funding for program costs for investor-owned electric utilities shall be three percent of customer bills, excluding gross receipts taxes and franchise and right-of-way access fees, or seventy-five thousand dollars (\$75,000) per customer per calendar year, whichever is less, for customer classes with the opportunity to participate. Funding for annual program costs for gas utilities shall not exceed three percent of total annual revenues, nor shall charges exceed seventy-five thousand dollars (\$75,000) per customer per calendar year. Provided that the public utility's total portfolio of programs remains cost-effective, no less than five percent of the amount received by the public utility for program costs shall be specifically directed to energy-efficiency programs for low-income customers. Unless otherwise ordered by the commission, a tariff rider approved by the commission shall require language on customer bills explaining program benefits.

B. The tariff rider shall be applied on a monthly basis, unless otherwise allowed by the commission.

C. A tariff rider proposed by a public utility to fund approved energy efficiency and load management programs 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 an ordered suspension period, it shall be deemed approved as a matter of law. The commission shall approve utility reconciliations of the tariff rider annually."

## **Chapter 124 Section 4 Laws 2013**

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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HBIC/House Bill 267

Approved April 2, 2013

## **LAWS 2013, CHAPTER 125**

AN ACT

RELATING TO PUBLIC LANDS; AMENDING SECTIONS OF THE GEOTHERMAL RESOURCES ACT TO PROVIDE FOR CONDITIONS OF LEASES OF GEOTHERMAL RESOURCES TO SUSTAIN THE RESOURCE AND FOR TERMS BASED ON FAIR MARKET VALUE.

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

## **Chapter 125 Section 1 Laws 2013**

SECTION 1. Section 19-13-2 NMSA 1978 (being Laws 1967, Chapter 158, Section 2) is amended to read:

"19-13-2. DEFINITIONS.--As used in the Geothermal Resources Act:

A. "geothermal resources" means the natural heat of the earth in excess of two hundred fifty degrees Fahrenheit, or the energy in whatever form below the surface of the earth present in, resulting from, created by or which may be extracted from this natural heat in excess of two hundred fifty degrees Fahrenheit, and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gases and steam in whatever form found below the surface of the earth, but excluding oil, hydrocarbon gas and other hydrocarbon substances and excluding the

heating and cooling capacity of the earth not resulting from the natural heat of the earth in excess of two hundred fifty degrees Fahrenheit, as may be used for the heating and cooling of buildings through an on-site geexchange heat pump or similar on-site system;

B. "commissioner" means the commissioner of public lands;

C. "state lands" includes all land owned by the state, all land owned by school districts, beds of navigable rivers and lakes, submerged lands and lands in which mineral rights have been reserved to the state;

D. "lease" means a lease for the extraction and removal of geothermal resources from state lands; and

E. "well" means any well for the discovery of geothermal resources or any well on lands producing geothermal resources or reasonably presumed to contain geothermal resources."

## **Chapter 125 Section 2 Laws 2013**

SECTION 2. Section 19-13-3 NMSA 1978 (being Laws 1967, Chapter 158, Section 3) is amended to read:

"19-13-3. ADMINISTRATION OF ACT.--Administration of the Geothermal Resources Act shall be based on the principle of multiple use of state land and resources and shall allow coexistence of other leases on the same lands for deposits of other minerals, and the existence of leases issued pursuant to the Geothermal Resources Act shall not preclude other uses of the land covered thereby. Geothermal resources may be administered as a renewable energy resource, in which case any leases for and regulations of a geothermal resource as a renewable energy resource shall require that the geothermal resource not be diminished beneath applicable natural seasonal fluctuations in the measurable quantity, quality or temperature of any area classified as a known geothermal resources field. However, operations under other leases or for other uses shall not unreasonably interfere with or endanger operations under any lease issued pursuant to the Geothermal Resources Act, nor shall operations under leases issued pursuant to the Geothermal Resources Act unreasonably interfere with or endanger operations under any lease issued pursuant to any other law. The Geothermal Resources Act shall not be construed to supersede the authority that any state department or agency has with respect to the management, protection and utilization of the state lands and resources under its jurisdiction."

## **Chapter 125 Section 3 Laws 2013**

SECTION 3. Section 19-13-7 NMSA 1978 (being Laws 1967, Chapter 158, Section 7, as amended) is amended to read:



## "19-13-7. LEASES--TERMS--RENTALS AND ROYALTIES.--

A. Each lease issued pursuant to the Geothermal Resources Act shall provide for the following base rentals, royalties and percentage rentals with respect to geothermal resources produced or sold from the lands included within the lease:

(1) a base lease rent to be charged under each lease based upon fair market value at the time of leasing as determined by the commissioner;

(2) a royalty or percentage rent to be charged as a percentage of gross revenue derived from the production, sale or use of geothermal resources, or the energy produced therefrom, under the lease as determined by the commissioner, who shall not determine a value below or above a range that could be determined by the federal bureau of land management, based on fair market value of the geothermal resource or use of the geothermal resource at the time of leasing. The commissioner may require an escalation of the royalty or percentage rent over time; and

(3) a royalty of the gross revenue received from the sale of mineral products or chemical compounds recovered from geothermal fluids, if any, based on fair market value of the mineral product as determined by the commissioner, except that as to any by-product or minerals covered by other mineral leasing statutes administered by the commissioner or rules or regulations of the commissioner, the rate of royalty for such mineral or by-product shall be the same as the then-existing rate of royalty under leases currently being issued by the commissioner.

B. The commissioner shall have the authority in leasing lands pursuant to the Geothermal Resources Act to prescribe a development program. In prescribing the program, the commissioner shall consider all applicable economic factors, including market conditions and the cost of drilling for, producing, processing and utilizing geothermal resources."

## **Chapter 125 Section 4 Laws 2013**

SECTION 4. Section 19-13-11 NMSA 1978 (being Laws 1967, Chapter 158, Section 11, as amended) is amended to read:

### "19-13-11. LEASES--DURATION.--

A. Any lease entered into pursuant to the Geothermal Resources Act shall be for a primary term of five years and so long thereafter as geothermal resources are being produced or utilized or are capable of being produced or utilized in commercial quantities from such lands or from lands unitized therewith, subject to continued payment of rentals as provided in Section 19-13-7 NMSA 1978. If the lessee fails to produce or utilize geothermal resources or to discover geothermal resources capable of being produced or utilized in commercial quantities from the lands or from lands unitized therewith during the initial five-year term, the lessee may continue the lease in full force

and effect as to the portion held by the lessee for a secondary term of five years and so long thereafter as geothermal resources are being produced or utilized or are capable of being produced or utilized in commercial quantities from such lands or from lands unitized therewith by continued payment each year, in advance, of rentals at the rate set by the lease. Provided that if for any reason beyond the control of the lessee production or utilization of geothermal resources in commercial quantities ceases or if the capability to so produce is temporarily lost after the secondary term has expired, the producing lessee may, with the written permission of the commissioner, continue such lease as to the acreage held by the lessee in effect from year to year for an additional period not to exceed three years by continued payment of rentals as provided in the lease at the rate provided in the secondary term of the lease.

B. If commercial production or capability of commercial production occurs during the primary term and thereafter ceases before the primary term would have expired, the lease shall be deemed to be a "nonproducing or incapable of producing lease" from that date, and the lessee shall have the unexpired portion of the primary term and any subsequent terms within which to resume such production or capability of production. If commercial production or capability of commercial production occurs during the primary term and ceases during the secondary term, the lease shall be deemed to be a "nonproducing or incapable of producing lease" from that date and, upon payment of rentals as provided in Subsection A of this section, the lessee shall have the unexpired portion of the secondary term within which to resume such production or capability of production. When such production or capability of production is resumed, the term of the lease shall continue so long thereafter as geothermal resources are being produced or utilized or are capable of being produced or utilized in commercial quantities from the leased land or from land unitized therewith. In such cases, the rental rate for the lease or the portion thereof shall be the rental rate provided in the term or portion of the term in which such production or capability of production is resumed."

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House Bill 85, aa

Approved April 2, 2013

## **LAWS 2013, CHAPTER 126**

AN ACT

RELATING TO GAME AND FISH; AMENDING SECTION 17-3-13.7 NMSA 1978 (BEING LAWS 2011, CHAPTER 45, SECTION 1) TO PROVIDE FOR NONRESIDENT DISABLED MILITARY MEMBERS AND VETERANS TO HUNT ORYX AT THE RESIDENT FEE.

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

## Chapter 126 Section 1 Laws 2013

SECTION 1. Section 17-3-13.7 NMSA 1978 (being Laws 2011, Chapter 45, Section 1) is amended to read:

"17-3-13.7. NONRESIDENT DISABLED MILITARY MEMBERS AND VETERANS--HUNTING LICENSES AT RESIDENT FEE.--A nonresident disabled active duty member or veteran of the United States armed forces who is undergoing a rehabilitation program that involves hunting activities and that is sponsored by the federal government or a nonprofit organization authorized by the federal government and is under the direction of a military or federal veterans administration rehabilitation center may purchase:

- A. a deer license at the resident deer license fee;
- B. an antelope license at the resident antelope license fee;
- C. an elk license at the resident elk license fee;
- D. a javelina license at the resident javelina license fee;
- E. a turkey license at the resident turkey license fee; or
- F. an oryx license at the resident oryx license fee."

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House Bill 186

Approved April 2, 2013

## **LAWS 2013, CHAPTER 127**

AN ACT

RELATING TO EXECUTIVE REORGANIZATION; AMENDING A SECTION OF THE NMSA 1978 TO MOVE BRAIN INJURY ADVISORY COUNCIL FUNCTIONS FROM THE DEVELOPMENTAL DISABILITIES PLANNING COUNCIL TO THE GOVERNOR'S COMMISSION ON DISABILITY; ENACTING A TEMPORARY SECTION TO PROVIDE FOR THE TRANSFER OF BRAIN INJURY ADVISORY COUNCIL PERSONNEL, PROPERTY, CONTRACTS, PROGRAMS AND REFERENCES IN LAW TO THE GOVERNOR'S COMMISSION ON DISABILITY.

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

## **Chapter 127 Section 1 Laws 2013**

SECTION 1. Section 24-20-3 NMSA 1978 (being Laws 1995, Chapter 189, Section 1) is amended to read:

"24-20-3. BRAIN INJURY ADVISORY COUNCIL--CREATED--POWERS AND DUTIES.--

A. The "brain injury advisory council" is created to advise the governor's commission on disability, the governor, the legislature and other state agencies.

B. The brain injury advisory council shall consist of no fewer than eighteen and no more than twenty-four members appointed by the governor and shall include survivors of brain injuries; family members of persons with brain injuries; and health care professionals and other representatives of private sector organizations and state agencies that provide services and support to persons with brain injuries.

C. Members shall be appointed for staggered terms of three years, so that the terms of one-third of the members shall expire in a given year.

D. Members shall elect annually a chair and vice chair. Staff and other administrative support shall be provided by the governor's commission on disability or other state agency as assigned by the governor. Members shall meet at the call of the chair.

E. Members who are not state employees may receive per diem and travel expenses as provided in the Per Diem and Mileage Act for state employees. Reasonable accommodations shall be made available to permit full participation in council activities by its members, including personal assistance to members who are survivors of brain injuries and respite care for members who are family members of persons with brain injuries.

F. The brain injury advisory council shall:

(1) study and make recommendations to the Governor's commission on disability, the governor, the legislature and other state agencies concerning case management, community support systems, long-term care, employment, emergency medical services, rehabilitation and prevention and the improvement and coordination of state activities relative to the concerns of persons with brain injuries and their families or other caregivers; and

(2) advise appropriate state agencies and private organizations on the development of services and supports that meet the needs of persons with brain injuries."

## **Chapter 127 Section 2 Laws 2013**

SECTION 2. TEMPORARY PROVISION--BRAIN INJURY ADVISORY COUNCIL--GOVERNOR'S COMMISSION ON DISABILITY--TRANSFER OF PERSONNEL, PROPERTY AND CONTRACTS--PROGRAMS--REFERENCES IN LAW.--On July 1, 2013:

A. all personnel, appropriations, money, records, equipment, supplies and other personal property of the brain injury advisory council shall be transferred to the governor's commission on disability;

B. all contracts currently binding and effective upon the brain injury advisory council at the developmental disabilities planning council shall be binding and effective upon the brain injury advisory council at the governor's commission on disability; and

C. all programs and all references in law to the brain injury advisory council shall be construed as referring to the governor's commission on disability.

### **Chapter 127 Section 3 Laws 2013**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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House Bill 227

Approved April 2, 2013

## **LAWS 2013, CHAPTER 128**

AN ACT

RELATING TO PUBLIC WATER SUPPLIES; REQUIRING THE DEPARTMENT OF ENVIRONMENT TO COMPILE A LIST OF CONTAMINANTS THAT WILL BE TESTED IN PUBLIC WATER SUPPLIES IN THE TWELVE MONTHS FOLLOWING COMPILATION OF THE LIST.

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

### **Chapter 128 Section 1 Laws 2013**

SECTION 1. Section 74-1-13 NMSA 1978 (being Laws 1993, Chapter 317, Section 2, as amended) is amended to read:

"74-1-13. WATER CONSERVATION FEE--IMPOSITION--DEFINITIONS.--

A. There is imposed on every person who operates a public water supply system a water conservation fee in an amount equal to three cents (\$.03) per thousand gallons of water produced on which the fee imposed by this subsection has not been paid.

B. The "water conservation fund" is created in the state treasury and shall be administered by the department. The fund shall consist of water conservation fees collected pursuant to this section. 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. Money in the water conservation fund is appropriated to the department for administration of a public water supply program to:

(1) test public water supplies for the contaminants required to be tested pursuant to the provisions of the federal Safe Drinking Water Act, as amended, and collect chemical compliance samples as required by those provisions of the federal act;

(2) perform vulnerability assessments that will be used to assess a public water supply's susceptibility to those contaminants; and

(3) implement new requirements of the Utility Operators Certification Act and provide training for all public water supply operators.

D. The taxation and revenue department shall provide by regulation for the manner and form of collection of the water conservation fee. All water conservation fees collected by the taxation and revenue department, less the administrative fee withheld pursuant to Section 7-1-6.41 NMSA 1978, shall be deposited in the water conservation fund.

E. The fee imposed by this section shall be administered in accordance with the provisions of the Tax Administration Act and shall be paid to the taxation and revenue department by each person who operates a public water supply system in the manner required by the department on or before the twenty-fifth day of the month following the month in which the water is produced.

F. Each operator of a public water supply system shall register and comply with the provisions of Section 7-1-12 NMSA 1978 and furnish such information as may be required by the taxation and revenue department.

G. The department shall compile a list of the contaminants that require testing pursuant to Paragraph (1) of Subsection C of this section. The list shall be compiled no less than once every twelve months and include the contaminants that will be tested in the subsequent twelve months. The department shall establish by rule procedures to compile the list and to determine which contaminants that require testing

will be tested in the subsequent twelve months. The determination of which contaminants will be tested shall include consideration of the availability of funds in the water conservation fund, the needs of the public water supplies being tested for additional contaminants and public health and safety.

H. As used in this section:

(1) "person" means any individual or legal entity and also means, to the extent permitted by law, any federal, state or other governmental unit or subdivision or an agency, department or instrumentality thereof; and

(2) "public water supply system" means a system that provides piped water to the public for human consumption and that has at least fifteen service connections or regularly services an average of at least twenty-five individuals at least sixty days per year."

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HFL/HENRC/House Bill 415

Approved April 2, 2013

## **LAWS 2013, CHAPTER 129**

AN ACT

RELATING TO ANESTHESIOLOGIST ASSISTANT STUDENTS; PROVIDING FOR SUPERVISION OF ANESTHESIOLOGIST ASSISTANT STUDENTS BY ADDITIONAL PERSONS.

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

### **Chapter 129 Section 1 Laws 2013**

SECTION 1. Section 61-6-10.7 NMSA 1978 (being Laws 2001, Chapter 311, Section 7) is amended to read:

"61-6-10.7. EXEMPTION FROM LICENSURE.--

A. An anesthesiologist assistant student enrolled in an anesthesiologist assistant educational program accredited by the commission on accreditation of allied health education programs or its successor is exempt from licensure while functioning as an anesthesiologist assistant student; provided that the anesthesiologist assistant student is supervised by an anesthesiologist, a licensed anesthesiologist assistant or a second-year, third-year or fourth-year resident anesthesiologist.

B. An anesthesiologist assistant employed by the federal government is not required to be licensed as an anesthesiologist assistant pursuant to the Anesthesiologist Assistants Act while performing duties incident to that employment."

## **Chapter 129 Section 2 Laws 2013**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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House Bill 416

Approved April 2, 2013

## **LAWS 2013, CHAPTER 130**

AN ACT

RELATING TO HIGHER EDUCATION; CREATING THE TECHNOLOGY RESEARCH COLLABORATIVE.

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

## **Chapter 130 Section 1 Laws 2013**

SECTION 1. TECHNOLOGY RESEARCH COLLABORATIVE CREATED--PURPOSE.--

A. The "technology research collaborative" is created. The New Mexico institute of mining and technology shall be the fiscal agent for the collaborative.

B. Participating institutions associated with the collaborative shall include national laboratories, other major research institutes and all of the post-secondary educational institutions in New Mexico.

C. The purpose of the collaborative is to:

(1) establish advanced technology centers based on the wealth of scientific and technical talent that exists in the member institutions;

(2) develop and create new intellectual property for the state, encourage new opportunities for business and increase jobs;

(3) commercialize the intellectual property that is created; and



(4) create a work force to support enterprises based on the intellectual property that is created.

D. Intellectual property created by an employee or agent of an institution associated with the collaborative shall be owned by that institution. Intellectual property created jointly by the collaborative and an institution shall be owned jointly by those entities. If the intellectual property is created using federal funds, the applicable federal laws and regulations shall govern the ownership.

E. The collaborative may receive appropriations from the legislature through the board of regents of the New Mexico institute of mining and technology and may receive any other items of value from public or private sources.

F. The "board of the technology research collaborative" is created. The board shall consist of eleven members as follows:

(1) the governor or the governor's designee, who shall chair the collaborative;

(2) the presidents, or their designees, of the university of New Mexico, New Mexico state university and New Mexico institute of mining and technology;

(3) five members at large, appointed by the governor with the consent of the senate;

(4) the director of Sandia national laboratories or the director's designee; and

(5) the director of Los Alamos national laboratory or the director's designee.

G. Appointed members shall serve for two-year terms at the pleasure of the governor. Members shall serve until their successors have been appointed. The governor may fill any vacancy on the board for the remainder of an unexpired term.

H. The board may elect officers as it deems necessary to carry out its duties. A majority of the members of the board shall constitute a quorum for the transaction of business, and the board shall meet four times per year. Board members shall not vote by proxy.

I. Public members of the board shall receive per diem and mileage pursuant to the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

J. The board shall:

(1) employ a director and other staff, who shall be exempt from the provisions of the Personnel Act, as the board deems necessary to provide continuity and management of the collaborative; and

(2) prepare annual reports to the legislature on the expenditures and progress of the collaborative.

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House Bill 562

Approved April 2, 2013

## **LAWS 2013, CHAPTER 131**

### AN ACT

RELATING TO TORT CLAIMS; EXPANDING THE APPLICATION OF THE SPACE FLIGHT INFORMED CONSENT ACT; AMENDING THE CIRCUMSTANCES UNDER WHICH A SPACE FLIGHT ENTITY IS LIABLE UNDER THE SPACE FLIGHT INFORMED CONSENT ACT; EXTENDING THE SUNSET PROVISION OF THE ACT.

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

### **Chapter 131 Section 1 Laws 2013**

SECTION 1. Section 41-14-1 NMSA 1978 (being Laws 2010, Chapter 8, Section 1) is amended to read:

"41-14-1. SHORT TITLE.--Chapter 41, Article 14 NMSA 1978 may be cited as the "Space Flight Informed Consent Act"."

### **Chapter 131 Section 2 Laws 2013**

SECTION 2. Section 41-14-2 NMSA 1978 (being Laws 2010, Chapter 8, Section 2) 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 suborbital rocket;

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 131 Section 3 Laws 2013**

SECTION 3. Section 41-14-3 NMSA 1978 (being Laws 2010, Chapter 8, Section 3) is amended to read:

"41-14-3. LIMITED LIABILITY.--

A. Except as provided in Subsection B of this section, a space flight entity is not liable for injury to or death of a participant resulting from the inherent risks of space flight activities so long as the warning contained in Section 41-14-4 NMSA 1978 is distributed and signed as required. Except as provided in Subsection B of this section, a participant or participant's representative may not maintain an action against or recover from a space flight entity for the loss, damage or death of the participant resulting exclusively from any of the inherent risks of space flight activities.

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

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

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

(3) intentionally injures the participant.

C. A space flight entity shall present to and file with the spaceport authority a certificate of insurance coverage in the amount of at least one million dollars (\$1,000,000) that covers liability by the space flight entity for all space flight activities. No space flight entity that fails to maintain the insurance requirements of this section shall receive any of the protections afforded by the Space Flight Informed Consent Act.

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

## **Chapter 131 Section 4 Laws 2013**

SECTION 4. Laws 2010, Chapter 8, Section 5 is amended to read:

"DELAYED REPEAL.--The Space Flight Informed Consent Act is repealed effective July 1, 2021."

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Senate Bill 240, aa

Approved April 2, 2013

## **LAWS 2013, CHAPTER 132**

### **AN ACT**

RELATING TO UNEMPLOYMENT BENEFITS; ALLOWING THE WORKFORCE SOLUTIONS DEPARTMENT TO SEEK TO RECOVER BENEFITS AFTER A DECISION ALLOWING BENEFITS HAS BEEN MODIFIED OR REVERSED; PROVIDING A CIVIL PENALTY FOR FRAUDULENTLY OBTAINING OR INCREASING BENEFITS OR PREVENTING OR REDUCING THE PAYMENT OF BENEFITS.

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

### **Chapter 132 Section 1 Laws 2013**

SECTION 1. Section 51-1-8 NMSA 1978 (being Laws 1936 (S.S.), Chapter 1, Section 6, as amended) is amended to read:

"51-1-8. CLAIMS FOR BENEFITS.--

A. Claims for benefits shall be made in accordance with such regulations as the secretary may prescribe. Each employer shall post and maintain printed notices, in places readily accessible to employees, concerning their rights to file claims for unemployment benefits upon termination of their employment. Such notices shall be supplied by the division to each employer without cost to the employer.

B. A representative designated by the secretary as a claims examiner shall promptly examine the application and each weekly claim and, on the basis of the facts found, shall determine whether the claimant is unemployed, the week with respect to which benefits shall commence, the weekly benefit amount payable, the maximum duration of benefits, whether the claimant is eligible for benefits pursuant to Section 51-1-5 NMSA 1978 and whether the claimant shall be disqualified pursuant to Section 51-1-7 NMSA 1978. With the approval of the secretary, the claims examiner may refer, without determination, claims or any specified issues involved therein that raise complex questions of fact or law to a hearing officer for the division for a fair hearing and decision in accordance with the procedure described in Subsection D of this section. The claims examiner shall promptly notify the claimant and any other interested party of the determination and the reasons therefor. Unless the claimant or interested party, within

fifteen calendar days after the date of notification or mailing of the determination, files an appeal from the determination, the determination shall be the final decision of the division; provided that the claims examiner may reconsider a nonmonetary determination if additional information not previously available is provided or obtained or whenever the claims examiner finds an error in the application of law has occurred, but no redetermination shall be made more than twenty days from the date of the initial nonmonetary determination. Notice of a nonmonetary redetermination shall be given to all interested parties and shall be subject to appeal in the same manner as the original nonmonetary determination. If an appeal is pending at the time a redetermination is issued, the appeal, unless withdrawn, shall be treated as an appeal from the redetermination.

C. In the case of a claim for waiting period credit or benefits, "interested party", for purposes of determinations and adjudication proceedings and notices thereof, means:

(1) in the event of an issue concerning a separation from work for reasons other than lack of work, the claimant's most recent employer or most recent employing unit;

(2) in the event of an issue concerning a separation from work for lack of work, the employer or employing unit from whom the claimant separated for reasons other than lack of work if the claimant has not worked and earned wages in insured work or bona fide employment other than self-employment in an amount equal to or exceeding five times the claimant's weekly benefit amount; or

(3) in all other cases involving the allowance or disallowance of a claim, the secretary, the claimant and any employing unit directly involved in the facts at issue.

D. Upon appeal by any party, a hearing officer designated by the secretary shall afford the parties reasonable opportunity for a fair hearing to be held de novo, and the hearing officer shall issue findings of fact and a decision that affirms, reverses or modifies the determination of the claims examiner or tax representative on the facts or the law, based upon the evidence introduced at such hearing, including the documents and statements in the claim or tax records of the division. All hearings shall be held in accordance with regulations of the secretary and decisions issued promptly in accordance with time lapse standards promulgated by the secretary of the United States department of labor. The parties shall be duly notified of the decision, together with the reasons therefor, which shall be deemed to be the final decision of the department, unless within fifteen days after the date of notification or mailing of the decision further appeal is initiated pursuant to Subsection H of this section.

E. Except with the consent of the parties, no hearing officer or members of the board of review, established in Subsection F of this section, or secretary shall sit in any administrative or adjudicatory proceeding in which:

(1) either of the parties is related to the hearing officer, member of the board of review or secretary by affinity or consanguinity within the degree of first cousin;

(2) the hearing officer, member of the board of review or secretary was counsel for either party in that action; or

(3) the hearing officer, member of the board of review or secretary has an interest that would prejudice the rendering of an impartial decision.

The secretary, any member of the board of review or appeal tribunal hearing officer shall withdraw from any proceeding in which the hearing officer, member of the board of review or secretary cannot accord a fair and impartial hearing or when a reasonable person would seriously doubt whether the hearing officer, board member or secretary could be fair and impartial. Any party may request a disqualification of any appeal tribunal hearing officer or board of review member by filing an affidavit with the board of review or appeal tribunal promptly upon discovery of the alleged grounds for disqualification, stating with particularity the grounds upon which it is claimed that the person cannot be fair and impartial. The disqualification shall be mandatory if sufficient factual basis is set forth in the affidavit of disqualification. If a member of the board of review is disqualified or withdraws from any proceeding, the remaining members of the board of review may appoint an appeal tribunal hearing officer to sit on the board of review for the proceeding involved.

F. There is established within the department, for the purpose of providing higher level administrative appeal and review of determinations of a claims examiner or decisions issued by a hearing officer pursuant to Subsection B or D of this section, a "board of review" consisting of three members. Two members shall be appointed by the governor with the consent of the senate. The members so appointed shall hold office at the pleasure of the governor for terms of four years. One member appointed by the governor shall be a person who, on account of previous vocation, employment or affiliation, can be classed as a representative of employers, and the other member appointed by the governor shall be a person who, on account of previous vocation, employment or affiliation, can be classed as a representative of employees. The third member shall be an employee of the department appointed by the secretary who shall serve as chair of the board. Either member of the board of review appointed by the governor who has missed two consecutive meetings of the board may be removed from the board by the governor. Actions of the board shall be taken by majority vote. If a vacancy on the board in a position appointed by the governor occurs between sessions of the legislature, the position shall be filled by the governor until the next regular legislative session. The board shall meet at the call of the secretary. Members of the board appointed by the governor shall be paid per diem and mileage in accordance with the Per Diem and Mileage Act for necessary travel to attend regularly scheduled meetings of the board of review for the purpose of conducting the board's appellate and review duties.

G. The board of review shall hear and review all cases appealed in accordance with Subsection H of this section. The board of review may affirm, reverse or modify the decision of the hearing officer or remand any matter to the claims examiner, tax representative or hearing officer for further proceedings. Each member appointed by the governor shall be compensated at the rate of fifteen dollars (\$15.00) for each case reviewed up to a maximum compensation of twelve thousand dollars (\$12,000) in any one fiscal year.

H. Any party aggrieved by a final decision of a hearing officer may file, in accordance with regulations prescribed by the secretary, an application for appeal and review of the decision with the secretary. The secretary shall review the application and shall, within fifteen days after receipt of the application, either affirm the decision of the hearing officer, reverse the decision of the hearing officer, modify the decision of the hearing officer, remand the matter to the hearing officer, tax representative or claims examiner for an additional hearing or refer the decision to the board of review for further review and decision on the merits of the appeal. If the secretary affirms, reverses or modifies the decision of the hearing officer, that decision shall be the final administrative decision of the department and any appeal therefrom shall be taken to the district court in accordance with the provisions of Subsections M and N of this section. If the secretary remands a matter to a hearing officer, tax representative or claims examiner for an additional hearing, judicial review shall be permitted only after issuance of a final administrative decision. If the secretary refers the decision of the hearing officer to the board of review for further review, the board's decision on the merits of the appeal shall be the final administrative decision of the department, which may be appealed to the district court in accordance with the provisions of Subsections M and N of this section. If the secretary takes no action within fifteen days of receipt of the application for appeal and review, the decision shall be promptly scheduled for review by the board of review as though it had been referred by the secretary. The secretary may request the board of review to review a decision of a hearing officer that the secretary believes to be inconsistent with the law or with applicable rules of interpretation or that is not supported by the evidence, and the board of review shall grant the request if it is filed within fifteen days of the issuance of the decision of the hearing officer. The secretary may also direct that any pending determination or adjudicatory proceeding be removed to the board of review for a final decision. If the board of review holds a hearing on any matter, the hearing shall be conducted by a quorum of the board of review in accordance with regulations prescribed by the secretary for hearing appeals. The board of review shall promptly notify the interested parties of its findings of fact and decision. A decision of the board of review on any disputed matter reviewed and decided by it shall be based upon the law and the lawful rules of interpretation issued by the secretary, and it shall be the final administrative decision of the department, except in cases of remand. If the board of review remands a matter to a hearing officer, claims examiner or tax representative, judicial review shall be permitted only after issuance of a final administrative decision.

I. Notwithstanding any other provision of this section granting any party the right to appeal, benefits shall be paid promptly in accordance with a determination or



a decision of a claims examiner, hearing officer, secretary, board of review or reviewing court, regardless of the pendency of the period to file an appeal or petition for judicial review that is provided with respect thereto in Subsection D or M of this section or the pendency of any such filing or petition until such determination or decision has been modified or reversed by a subsequent decision. The provisions of this subsection shall apply to all claims for benefits pending on the date of its enactment.

J. If a determination or decision allowing benefits is finally modified or reversed, the appropriate contributing employer's account will be relieved of benefit charges in accordance with Subsection B of Section 51-1-11 NMSA 1978.

K. The manner in which disputed claims shall be presented, the reports thereon required from the claimant and from employers and the conduct of hearings and appeals shall be in accordance with rules prescribed by the secretary for determining the rights of the parties, whether or not the rules conform to common law or statutory rules of evidence and other technical rules of procedure. A hearing officer or the board of review may refer to the secretary for interpretation any question of controlling legal significance, and the secretary shall issue a declaratory interpretation, which shall be binding upon the decision of the hearing officer and the board of review. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded but need not be transcribed unless the disputed claim is appealed to the district court.

L. Witnesses subpoenaed pursuant to this section shall be allowed fees at a rate fixed by the secretary. Such fees and all administrative expenses of proceedings involving disputed claims shall be deemed a part of the expense of administering the Unemployment Compensation Law.

M. Any determination or decision of a claims examiner or hearing officer or by a representative of the tax section of the department in the absence of an appeal therefrom as provided by this section shall become final fifteen days after the date of notification or mailing thereof, and judicial review thereof shall be permitted only after any party claiming to be aggrieved thereby has exhausted the remedies as provided in Subsection H of this section. The division and any employer or claimant who is affected by the decision shall be joined as a party in any judicial action involving the decision. All parties shall be served with an endorsed copy of the petition within thirty days from the date of filing and an endorsed copy of the order granting the petition within fifteen days from entry of the order. Service on the department shall be made on the secretary or the secretary's designated legal representative either by mail with accompanying certification of service or by personal service. The division may be represented in a judicial action by an attorney employed by the department or, when requested by the secretary, by the attorney general or any district attorney.

N. The final decision of the secretary or board of review upon any disputed matter may be reviewed both upon the law, including the lawful rules of interpretation issued by the secretary, and the facts by the district court of the county wherein the

person seeking the review resides upon certiorari, unless it is determined by the district court where the petition is filed that, as a matter of equity and due process, venue should be in a different county. For the purpose of the review, the division shall return on certiorari the reports and all of the evidence heard by it on the reports and all the papers and documents in its files affecting the matters and things involved in such certiorari. The district court shall render its judgment after hearing, and either the department or any other party affected may appeal from the judgment to the court of appeals in accordance with the rules of appellate procedure. Certiorari shall not be granted unless applied for within thirty days from the date of the final decision of the secretary or board of review. Certiorari shall be heard in a summary manner and shall be given precedence over all other civil cases except cases arising under the Workers' Compensation Act. It is not necessary in any proceedings before the division to enter exceptions to the rulings, and no bond shall be required in obtaining certiorari from the district court, but certiorari shall be granted as a matter of right to the party applying therefor."

## **Chapter 132 Section 2 Laws 2013**

SECTION 2. Section 51-1-34 NMSA 1978 (being Laws 1936 (S.S.), Chapter 1, Section 13, as amended) is amended to read:

"51-1-34. ADMINISTRATION FUNDS.--

A. There is created a special fund to be held in the custody of the state treasurer and known as the "unemployment compensation administration fund".

(1) All money paid into the fund is available to the secretary. All money in the fund shall be expended solely for the purposes and in the amount found necessary by the secretary of labor of the United States for the administration of the Unemployment Compensation Law. Except as provided in Subsection B of this section, the fund shall consist of money appropriated by the state, and all money received from the federal government or any of its agencies, including the department of labor of the United States, the railroad retirement board or from any other source for such purpose. Money received from the railroad retirement board as compensation for services or facilities supplied to the board shall be paid into the fund. All money in the fund shall be deposited, administered and disbursed in accordance with the Unemployment Compensation Law and regulations, except that money in the fund shall not be commingled with other state funds but shall be maintained in a separate account on the books of the depository. Any balance in the fund shall not lapse at any time but shall be continuously available for expenditure consistent with the Unemployment Compensation Law. Such money is subject to the general laws applicable to the deposit of public money in New Mexico, and collateral pledged shall be maintained in a separate custody account.

(2) If Section 303(a)(5) of Title 3 of the Social Security Act and Section 3304(a)(4) of the Internal Revenue Code are amended to permit a state agency

to use, in financing administrative expenditures incurred in carrying out its employment security functions, some part of the money collected, or to be collected, under the Unemployment Compensation Law, in partial or complete substitution for grants under Title 3, then the Unemployment Compensation Law shall be modified by proclamation and by general rules in the manner and to the extent and within the limits necessary to permit such use under the Unemployment Compensation Law, and the modification is effective on the same date as the use is permissible under federal amendments.

B. There is created a special fund to be held in the custody of the state treasurer and known as the "employment security department fund".

(1) The fund is separate from the unemployment compensation administration fund.

(2) All money paid into the employment security department fund may be expended only pursuant to an appropriation by the legislature or specific provision of law. The department shall submit its annual budget for expenditures from the fund in accordance with the rules and regulations established by the department of finance and administration governing the submission of budgets by state agencies. All balances in the fund at the end of the fiscal year that have not been appropriated for expenditure shall remain in the fund and be invested by the state treasurer until appropriated by the legislature. The money in the fund, except for refunds of interest and penalties erroneously collected, and except for fiscal-year balances, shall be expended solely for the purposes and in the amount found necessary for the payment of the costs of administration not chargeable against federal grants or other funds received for the unemployment compensation administration fund. Nothing in this section shall prevent the unencumbered money of the fund from being used as a revolving fund to cover necessary and proper expenditures for which federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. Money shall not be expended or made available for expenditure in any manner that would permit its substitution for, or cause a corresponding reduction in, federal funds that would be available, in the absence of such money, to finance expenditures for the administration of the Unemployment Compensation Law. Except as provided in Paragraph (2) of Subsection B and Subsection D of Section 51-1-38 NMSA 1978, the fund shall consist of all interest collected on delinquent contributions and all penalties provided by the Unemployment Compensation Law and all other money received for the fund from any other source. All money in the fund shall be deposited, administered and disbursed in accordance with this section, except that money in the fund shall not be commingled with other state funds but shall be maintained in a separate account on the books of the depository and is subject to the general laws applicable to the deposit of public money in New Mexico, and collateral pledged shall be maintained in a separate custody account.

C. The state treasurer is liable on the state treasurer's official bond for the faithful performance of duties in connection with the funds created by Subsections A and B of this section, in addition to the liability upon all other bonds."

## Chapter 132 Section 3 Laws 2013

SECTION 3. Section 51-1-38 NMSA 1978 (being Laws 1936 (S.S.), Chapter 1, Section 16, as amended) is amended to read:

### "51-1-38. PENALTIES--LIABILITY FOR BENEFIT OVERPAYMENT.--

A. Whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under the Unemployment Compensation Law either for that person or for any other person, shall be punished by a fine of not more than one hundred dollars (\$100) or by imprisonment for not longer than thirty days or by both such fine and imprisonment, and each such false statement or misrepresentation or failure to disclose a material fact shall constitute a separate offense. In any case where, after notice and an opportunity to be heard, any person is found by the secretary to have so obtained or increased the amount of any benefit for the person, the person shall, in addition to other penalties provided herein, forfeit all benefit rights under the Unemployment Compensation Law for a period of not more than one year from and after such determination.

B. In addition to the penalty pursuant to Subsection A of this section, whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact to obtain or increase any benefit or other payment under the Unemployment Compensation Law, either for that person or for any other person, shall be required to pay a civil penalty of twenty-five percent of the amount of overpaid benefits, collected in the manner provided in Subsection B of Section 51-1-36 NMSA 1978. The penalty shall be distributed as follows:

(1) fifteen percent of the amount of overpaid benefits shall be distributed to the fund; and

(2) ten percent of the amount of overpaid benefits shall be distributed to the employment security department fund created pursuant to Subsection B of Section 51-1-34 NMSA 1978.

C. Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining subject hereto or to avoid or reduce any contribution or other payment required from an employing unit under the Unemployment Compensation Law or who willfully fails or refuses to make any such contributions or other payment or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, shall be punished by a fine of not more than one hundred dollars (\$100) or by imprisonment for not longer than thirty days or by both such fine and

imprisonment, and each such false statement or representation or failure to disclose a material fact and each day of such failure or refusal may constitute a separate offense.

D. In addition to the penalty pursuant to Subsection C of this section, any employing unit or officer or agent of an employing unit that makes a false statement or representation knowing it to be false or that knowingly fails to disclose a material fact to prevent or reduce the payment of benefits to any individual entitled to benefits under the Unemployment Compensation Law shall be required to pay a civil penalty in an amount not to exceed ten thousand dollars (\$10,000), as determined by rule established by the department. The penalty shall be collected in a manner provided in Subsection B of Section 51-1-36 NMSA 1978 and distributed to the fund.

E. Any person who willfully violates any provision of the Unemployment Compensation Law or any rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of the Unemployment Compensation Law and for which a penalty is neither prescribed herein nor provided by any other applicable statute, shall be punished by a fine of not more than one hundred dollars (\$100) or by imprisonment for not longer than thirty days or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.

F. Notwithstanding any other provision of the Unemployment Compensation Law, if any individual claiming benefits or waiting period credits, in connection with such claim, makes any false statement or representation, in writing or otherwise, knowing it to be false or knowingly fails to disclose any material fact in order to obtain or increase the amount of a benefit payment, such claim shall not constitute a valid claim for benefits in any amount or for waiting period credits but shall be void and of no effect for all purposes. The entire amount of the benefits obtained by means of such claim shall be, in addition to any other penalties provided herein, subject to recoupment by deduction from the claimant's future benefits or they may be recovered as provided for the collection of past due contributions in Subsection B of Section 51-1-36 NMSA 1978.

G. Any person who, by reason of the nondisclosure or misrepresentation by the person or by another of a material fact (irrespective of whether such nondisclosure or misrepresentation was known or fraudulent), has received any sum as benefits under the Unemployment Compensation Law, while any conditions for the receipt of benefits imposed by the Unemployment Compensation Law were not fulfilled in the person's case and any person who receives any sum as benefits while the person knows or should know that the person is not entitled to such benefits because the person has received a notice of denial or disqualification or has received a monetary eligibility notice showing erroneous base period employers and wages, shall, in the discretion of the secretary and notwithstanding any action brought pursuant to Subsection A of this section, either be liable to have such sum deducted from any future benefits payable to the person under the Unemployment Compensation Law or be liable to repay to the department for the unemployment compensation fund a sum equal to the

amount so received by the person, and such sum shall be collectible in the manner provided in Subsection B of Section 51-1-36 NMSA 1978 for the collection of past-due contributions.

H. Any person who has received benefits as a result of a determination or decision of the department or any court that the person was eligible and not disqualified for such benefits and such determination or decision is subsequently modified or reversed by a final decision as provided in Section 51-1-8 NMSA 1978, or who has received benefits as a result of administrative error or for any other reason while conditions for the receipt of benefits imposed by the Unemployment Compensation Law were not fulfilled in the person's case or while the person was disqualified from receiving benefits, irrespective of whether such overpayment of benefits was due to any fault of the person claiming benefits, shall, as determined by the secretary or the secretary's authorized delegate, either be liable to have such sum deducted from any future benefits payable to the person under the Unemployment Compensation Law at a rate to be determined by the secretary but not less than fifty percent of the weekly benefit amount payable to the person, or be liable to repay to the department, for the unemployment compensation fund or for credit to the appropriate reimbursable account, a sum equal to the amount of benefits received by the person for which the person was not eligible or for which the person was disqualified or that was otherwise overpaid to the person; provided, that for the purposes of this subsection, no determination or decision establishing an overpayment of benefits shall be issued by the department against any person for failure to meet the eligibility conditions of Paragraph (3) of Subsection A of Section 51-1-5 NMSA 1978 more than one year after payment of benefits has been made, unless such condition of eligibility has been appealed or otherwise contested within such year.

I. Any amount of benefits for which a person is determined to be overpaid pursuant to this section may be collected in the manner provided in Subsection B of Section 51-1-36 NMSA 1978 for the collection of past-due contributions, notwithstanding that the person from whom the overpayment is to be collected has been assessed a penalty pursuant to Subsections A through E of this section.

J. A person shall be liable to repay the amount of benefits received for any period for which the person also received an award or settlement of back pay resulting from an action or grievance concerning a discharge unless the amount of the back pay award or settlement was reduced by the amount of benefits received during the period. The individual shall furnish the division with a signed copy of the award or settlement agreement that sets forth the person's name, the name of the employer, the period of time covered by the award or settlement and the amount by which the award or settlement was so reduced."

## **Chapter 132 Section 4 Laws 2013**

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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House Bill 329, aa

Approved April 3, 2013

## **LAWS 2013, CHAPTER 133**

AN ACT

RELATING TO UNEMPLOYMENT COMPENSATION; ESTABLISHING A TEMPORARY SCHEDULE FOR EMPLOYER CONTRIBUTIONS TO THE UNEMPLOYMENT COMPENSATION FUND; ESTABLISHING A NEW FORMULA FOR EMPLOYER CONTRIBUTIONS TO THE UNEMPLOYMENT COMPENSATION FUND; PROVIDING FOR AN EXCESS CLAIMS PREMIUM; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

### **Chapter 133 Section 1 Laws 2013**

SECTION 1. Section 51-1-8 NMSA 1978 (being Laws 1936 (S.S.), Chapter 1, Section 6, as amended) is amended to read:

"51-1-8. CLAIMS FOR BENEFITS.--

A. Claims for benefits shall be made in accordance with such regulations as the secretary may prescribe. Each employer shall post and maintain printed notices, in places readily accessible to employees, concerning their rights to file claims for unemployment benefits upon termination of their employment. Such notices shall be supplied by the division to each employer without cost to the employer.

B. A representative designated by the secretary as a claims examiner shall promptly examine the application and each weekly claim and, on the basis of the facts found, shall determine whether the claimant is unemployed, the week with respect to which benefits shall commence, the weekly benefit amount payable, the maximum duration of benefits, whether the claimant is eligible for benefits pursuant to Section 51-1-5 NMSA 1978 and whether the claimant shall be disqualified pursuant to Section 51-1-7 NMSA 1978. With the approval of the secretary, the claims examiner may refer, without determination, claims or any specified issues involved therein that raise complex questions of fact or law to a hearing officer for the division for a fair hearing and decision in accordance with the procedure described in Subsection D of this section. The claims examiner shall promptly notify the claimant and any other interested party of the determination and the reasons therefor. Unless the claimant or interested party, within fifteen calendar days after the date of notification or mailing of the determination, files an appeal from the determination, the determination shall be the final decision of the

division; provided that the claims examiner may reconsider a nonmonetary determination if additional information not previously available is provided or obtained or whenever the claims examiner finds an error in the application of law has occurred, but no redetermination shall be made more than twenty days from the date of the initial nonmonetary determination. Notice of a nonmonetary redetermination shall be given to all interested parties and shall be subject to appeal in the same manner as the original nonmonetary determination. If an appeal is pending at the time a redetermination is issued, the appeal, unless withdrawn, shall be treated as an appeal from the redetermination.

C. In the case of a claim for waiting period credit or benefits, "interested party", for purposes of determinations and adjudication proceedings and notices thereof, means:

(1) in the event of an issue concerning a separation from work for reasons other than lack of work, the claimant's most recent employer or most recent employing unit;

(2) in the event of an issue concerning a separation from work for lack of work, the employer or employing unit from whom the claimant separated for reasons other than lack of work if the claimant has not worked and earned wages in insured work or bona fide employment other than self-employment in an amount equal to or exceeding five times the claimant's weekly benefit amount; or

(3) in all other cases involving the allowance or disallowance of a claim, the secretary, the claimant and any employing unit directly involved in the facts at issue.

D. Upon appeal by any party, a hearing officer designated by the secretary shall afford the parties reasonable opportunity for a fair hearing to be held de novo, and the hearing officer shall issue findings of fact and a decision that affirms, modifies or reverses the determination of the claims examiner or tax representative on the facts or the law, based upon the evidence introduced at such hearing, including the documents and statements in the claim or tax records of the division. All hearings shall be held in accordance with regulations of the secretary and decisions issued promptly in accordance with time lapse standards promulgated by the secretary of the United States department of labor. The parties shall be duly notified of the decision, together with the reasons therefor, which shall be deemed to be the final decision of the department, unless within fifteen days after the date of notification or mailing of the decision further appeal is initiated pursuant to Subsection H of this section.

E. Except with the consent of the parties, no hearing officer or members of the board of review, established in Subsection F of this section, or secretary shall sit in any administrative or adjudicatory proceeding in which:



(1) either of the parties is related to the hearing officer, member of the board of review or secretary by affinity or consanguinity within the degree of first cousin;

(2) the hearing officer, member of the board of review or secretary was counsel for either party in that action; or

(3) the hearing officer, member of the board of review or secretary has an interest that would prejudice the rendering of an impartial decision.

The secretary, any member of the board of review or appeal tribunal hearing officer shall withdraw from any proceeding in which the hearing officer, member of the board of review or secretary cannot accord a fair and impartial hearing or when a reasonable person would seriously doubt whether the hearing officer, board member or secretary could be fair and impartial. Any party may request a disqualification of any appeal tribunal hearing officer or board of review member by filing an affidavit with the board of review or appeal tribunal promptly upon discovery of the alleged grounds for disqualification, stating with particularity the grounds upon which it is claimed that the person cannot be fair and impartial. The disqualification shall be mandatory if sufficient factual basis is set forth in the affidavit of disqualification. If a member of the board of review is disqualified or withdraws from any proceeding, the remaining members of the board of review may appoint an appeal tribunal hearing officer to sit on the board of review for the proceeding involved.

F. There is established within the department, for the purpose of providing higher level administrative appeal and review of determinations of a claims examiner or decisions issued by a hearing officer pursuant to Subsection B or D of this section, a "board of review" consisting of three members. Two members shall be appointed by the governor with the consent of the senate. The members so appointed shall hold office at the pleasure of the governor for terms of four years. One member appointed by the governor shall be a person who, on account of previous vocation, employment or affiliation, can be classed as a representative of employers, and the other member appointed by the governor shall be a person who, on account of previous vocation, employment or affiliation, can be classed as a representative of employees. The third member shall be an employee of the department appointed by the secretary who shall serve as chair of the board. Either member of the board of review appointed by the governor who has missed two consecutive meetings of the board may be removed from the board by the governor. Actions of the board shall be taken by majority vote. If a vacancy on the board in a position appointed by the governor occurs between sessions of the legislature, the position shall be filled by the governor until the next regular legislative session. The board shall meet at the call of the secretary. Members of the board appointed by the governor shall be paid per diem and mileage in accordance with the Per Diem and Mileage Act for necessary travel to attend regularly scheduled meetings of the board of review for the purpose of conducting the board's appellate and review duties.

G. The board of review shall hear and review all cases appealed in accordance with Subsection H of this section. The board of review may modify, affirm or reverse the decision of the hearing officer or remand any matter to the claims examiner, tax representative or hearing officer for further proceedings. Each member appointed by the governor shall be compensated at the rate of fifteen dollars (\$15.00) for each case reviewed up to a maximum compensation of twelve thousand dollars (\$12,000) in any one fiscal year.

H. Any party aggrieved by a final decision of a hearing officer may file, in accordance with regulations prescribed by the secretary, an application for appeal and review of the decision with the secretary. The secretary shall review the application and shall, within fifteen days after receipt of the application, either affirm the decision of the hearing officer, reverse the decision of the hearing officer, modify the decision of the hearing officer, remand the matter to the hearing officer, tax representative or claims examiner for an additional hearing or refer the decision to the board of review for further review and decision on the merits of the appeal. If the secretary affirms, reverses or modifies the decision of the hearing officer, that decision shall be the final administrative decision of the department and any appeal therefrom shall be taken to the district court in accordance with the provisions of Subsections M and N of this section. If the secretary remands a matter to a hearing officer, tax representative or claims examiner for an additional hearing, judicial review shall be permitted only after issuance of a final administrative decision. If the secretary refers the decision of the hearing officer to the board of review for further review, the board's decision on the merits of the appeal shall be the final administrative decision of the department, which may be appealed to the district court in accordance with the provisions of Subsections M and N of this section. If the secretary takes no action within fifteen days of receipt of the application for appeal and review, the decision shall be promptly scheduled for review by the board of review as though it had been referred by the secretary. The secretary may request the board of review to review a decision of a hearing officer that the secretary believes to be inconsistent with the law or with applicable rules of interpretation or that is not supported by the evidence, and the board of review shall grant the request if it is filed within fifteen days of the issuance of the decision of the hearing officer. The secretary may also direct that any pending determination or adjudicatory proceeding be removed to the board of review for a final decision. If the board of review holds a hearing on any matter, the hearing shall be conducted by a quorum of the board of review in accordance with regulations prescribed by the secretary for hearing appeals. The board of review shall promptly notify the interested parties of its findings of fact and decision. A decision of the board of review on any disputed matter reviewed and decided by it shall be based upon the law and the lawful rules of interpretation issued by the secretary, and it shall be the final administrative decision of the department, except in cases of remand. If the board of review remands a matter to a hearing officer, claims examiner or tax representative, judicial review shall be permitted only after issuance of a final administrative decision.

I. Notwithstanding any other provision of this section granting any party the right to appeal, benefits shall be paid promptly in accordance with a determination or

a decision of a claims examiner, hearing officer, secretary, board of review or reviewing court, regardless of the pendency of the period to file an appeal or petition for judicial review that is provided with respect thereto in Subsection D or M of this section or the pendency of any such filing or petition until such determination or decision has been modified or reversed by a subsequent decision. The provisions of this subsection shall apply to all claims for benefits pending on the date of its enactment.

J. If a prior determination or decision allowing benefits is affirmed by a decision of the department, including the board of review or a reviewing court, the benefits shall be paid promptly regardless of any further appeal that may thereafter be available to the parties, and no injunction, supersedeas, stay or other writ or process suspending the payment of benefits shall be issued by the secretary or board of review or any court, and no action to recover benefits paid to a claimant shall be taken. If a determination or decision allowing benefits is finally modified or reversed, the appropriate contributing employer will be relieved of benefit charges in accordance with Subsection A of Section 51-1-11 NMSA 1978.

K. The manner in which disputed claims shall be presented, the reports thereon required from the claimant and from employers and the conduct of hearings and appeals shall be in accordance with rules prescribed by the secretary for determining the rights of the parties, whether or not the rules conform to common law or statutory rules of evidence and other technical rules of procedure. A hearing officer or the board of review may refer to the secretary for interpretation any question of controlling legal significance, and the secretary shall issue a declaratory interpretation, which shall be binding upon the decision of the hearing officer and the board of review. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded but need not be transcribed unless the disputed claim is appealed to the district court.

L. Witnesses subpoenaed pursuant to this section shall be allowed fees at a rate fixed by the secretary. Such fees and all administrative expenses of proceedings involving disputed claims shall be deemed a part of the expense of administering the Unemployment Compensation Law.

M. Any determination or decision of a claims examiner or hearing officer or by a representative of the tax section of the department in the absence of an appeal therefrom as provided by this section shall become final fifteen days after the date of notification or mailing thereof, and judicial review thereof shall be permitted only after any party claiming to be aggrieved thereby has exhausted the remedies as provided in Subsection H of this section. The division and any employer or claimant who is affected by the decision shall be joined as a party in any judicial action involving the decision. All parties shall be served with an endorsed copy of the petition within thirty days from the date of filing and an endorsed copy of the order granting the petition within fifteen days from entry of the order. Service on the department shall be made on the secretary or the secretary's designated legal representative either by mail with accompanying certification of service or by personal service. The division may be represented in a

judicial action by an attorney employed by the department or, when requested by the secretary, by the attorney general or any district attorney.

N. The final decision of the secretary or board of review upon any disputed matter may be reviewed both upon the law, including the lawful rules of interpretation issued by the secretary, and the facts by the district court of the county wherein the person seeking the review resides upon certiorari, unless it is determined by the district court where the petition is filed that, as a matter of equity and due process, venue should be in a different county. For the purpose of the review, the division shall return on certiorari the reports and all of the evidence heard by it on the reports and all the papers and documents in its files affecting the matters and things involved in such certiorari. The district court shall render its judgment after hearing, and either the department or any other party affected may appeal from the judgment to the court of appeals in accordance with the rules of appellate procedure. Certiorari shall not be granted unless applied for within thirty days from the date of the final decision of the secretary or board of review. Certiorari shall be heard in a summary manner and shall be given precedence over all other civil cases except cases arising under the Workers' Compensation Act. It is not necessary in any proceedings before the division to enter exceptions to the rulings, and no bond shall be required in obtaining certiorari from the district court, but certiorari shall be granted as a matter of right to the party applying therefor."

## **Chapter 133 Section 2 Laws 2013**

SECTION 2. Section 51-1-11 NMSA 1978 (being Laws 2003, Chapter 47, Section 11, as amended) is amended to read:

"51-1-11. FUTURE RATES BASED ON BENEFIT EXPERIENCE.--

A. The division shall maintain a separate account for each contributing employer and shall credit the contributing employer's account with all contributions paid by that employer under the Unemployment Compensation Law. Nothing in the Unemployment Compensation Law shall be construed to grant an employer or individuals in the employer's service prior claims or rights to the amounts paid by the employer into the fund.

B. Benefits paid to an individual shall be charged against the accounts of the individual's base-period employers on a pro rata basis according to the proportion of the individual's total base-period wages received from each employer, except that no benefits paid to a claimant as extended benefits under the provisions of Section 51-1-48 NMSA 1978 shall be charged to the account of any base-period employer who is not on a reimbursable basis and who is not a governmental entity and, except as the secretary shall by rule prescribe otherwise, in the case of benefits paid to an individual who:

(1) left the employ of a base-period employer who is not on a reimbursable basis voluntarily without good cause in connection with the individual's employment;

(2) was discharged from the employment of a base-period employer who is not on a reimbursable basis for misconduct connected with the individual's employment;

(3) is employed part time by a base-period employer who is not on a reimbursable basis and who continues to furnish the individual the same part-time work while the individual is separated from full-time work for a nondisqualifying reason;  
or

(4) received benefits based upon wages earned from a base-period employer who is not on a reimbursable basis while attending approved training under the provisions of Subsection E of Section 51-1-5 NMSA 1978.

C. The division shall not charge a contributing or reimbursing base-period employer's account with any portion of benefit amounts that the division can bill to or recover from the federal government as either regular or extended benefits.

D. The division shall not charge a contributing base-period employer's account with any portion of benefits paid to an individual for dependent allowance or because the individual to whom benefits are paid:

(1) separated from employment due to domestic abuse, as "domestic abuse" is defined in Section 40-13-2 NMSA 1978; or

(2) voluntarily left work to relocate because of a spouse, who is in the military service of the United States or the New Mexico national guard, receiving permanent change of station orders, activation orders or unit deployment orders.

E. All contributions to the fund shall be pooled and available to pay benefits to any individual entitled thereto, irrespective of the source of the contributions.

F. For each calendar year, if, as of the computation date for that year, an employer's account has been chargeable with benefits throughout the preceding thirty-six months, the secretary shall classify the employer in accordance with its actual experience of benefits charged against its accounts. For such an employer, the contribution rate shall be determined pursuant to Subsection I of this section on the basis of the employer's record and the condition of the fund as of the computation date for the calendar year. If, as of the computation date for a calendar year, an employer's account has not been chargeable with benefits throughout the preceding thirty-six months, the contribution rate for that employer for the calendar year shall be two percent, except that:

(1) an individual, type of organization or employing unit that acquires all or part of the trade or business of another employing unit, pursuant to Paragraphs (2) and (3) of Subsection E of Section 51-1-42 NMSA 1978, that has a rate of contribution less than two percent shall be entitled to the transfer of the reduced rate to the extent permitted under Subsection H of this section;

(2) an employer that, at the time of establishing an account, is in business in another state or states and that is not currently doing business in New Mexico may elect, pursuant to Paragraph (3) of this subsection, to receive a beginning contribution rate of two percent or a contribution rate based on the current contribution rate schedule in Paragraph (4) of Subsection I of this section, whichever is lower, if:

(a) the employer has been in operation in the other state or states for at least three years immediately preceding the date of becoming a liable employer in New Mexico, throughout which an individual in the employer's employ could have received benefits if eligible; and

(b) the employer provides the authenticated account history as defined by rule of the secretary from information accumulated from operations in the other state or all the other states to compute a current New Mexico rate; and

(3) the election authorized in Paragraph (2) of this subsection shall be made in writing within thirty days after receiving notice of New Mexico liability and, if not made timely, a two percent rate will be assigned; if the election is made timely, the employer's account will receive the lesser of the computed rate determined by the condition of the account for the computation date immediately preceding the New Mexico liable date, or two percent; rates for subsequent years will be determined by the condition of the account for the computation date.

G. An employer may make voluntary payments in addition to the contributions required under the Unemployment Compensation Law, which shall be credited to the employer's account in accordance with department rule. The voluntary payments shall be included in the employer's account as of the employer's most recent computation date if they are made on or before the following March 1. Voluntary payments when accepted from an employer shall not be refunded in whole or in part.

H. In the case of a transfer of an employing enterprise, notwithstanding any other provision of law, the experience history of the transferred enterprise shall be transferred from the predecessor employer to the successor under the following conditions and in accordance with the applicable rules of the secretary:

(1) as used in this subsection:

(a) "employing enterprise" means a business activity engaged in by a contributing employing unit in which one or more persons have been

employed within the current or the three preceding calendar quarters. An "employing enterprise" includes the employer's work force;

(b) "predecessor" means the owner and operator of an employing enterprise immediately prior to the transfer of such enterprise;

(c) "successor" means any person that acquires an employing enterprise and continues to operate such business entity;

(d) "experience history" means the experience rating record and reserve account, including the actual contributions, benefit charges and payroll experience of the employing enterprise;

(e) "common ownership" means that two or more businesses are substantially owned, managed or controlled by the same person or persons;

(f) "knowingly" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibition involved; and

(g) "violates or attempts to violate" includes an intent to evade, a misrepresentation or a willful nondisclosure;

(2) except as otherwise provided in this subsection, for the purpose of this subsection, two or more employers who are parties to or the subject of any transaction involving the transfer of an employing enterprise shall be deemed to be a single employer and the experience history of the employing enterprise shall be transferred to the successor employer if the successor employer has acquired by the transaction all of the business enterprises of the predecessor; provided that:

(a) all contributions, interest and penalties due from the predecessor employer have been paid;

(b) notice of the transfer has been given in accordance with the rules of the secretary during the calendar year of the transaction transferring the employing enterprise or the date of the actual transfer of control and operation of the employing enterprise;

(c) the successor shall notify the division of the acquisition on or before the due date of the successor's first wage and contribution report. If the successor employer fails to notify the division of the acquisition within this time limit, the division, when it receives actual notice, shall effect the transfer of the experience history and applicable rate of contribution retroactively to the date of the acquisition, and the successor shall pay a penalty of fifty dollars (\$50.00); and

(d) where the transaction involves only a merger, consolidation or other form of reorganization without a substantial change in the

ownership and controlling interest of the business entity, as determined by the secretary, the limitations on transfers stated in Subparagraphs (a), (b) and (c) of this paragraph shall not apply. A party to a merger, consolidation or other form of reorganization described in this subparagraph shall not be relieved of liability for any contributions, interest or penalties due and owing from the employing enterprise at the time of the merger, consolidation or other form of reorganization;

(3) the applicable experience history may be transferred to the successor in the case of a partial transfer of an employing enterprise if the successor has acquired one or more of the several employing enterprises of a predecessor but not all of the employing enterprises of the predecessor and each employing enterprise so acquired was operated by the predecessor as a separate store, factory, shop or other separate employing enterprise and the predecessor, throughout the entire period of the contribution with liability applicable to each enterprise transferred, has maintained and preserved payroll records that, together with records of contribution liability and benefit chargeability, can be separated by the parties from the enterprises retained by the predecessor to the satisfaction of the secretary or the secretary's delegate. A partial experience history transfer will be made only if the successor:

(a) notifies the division of the acquisition, in writing, not later than the due date of the successor's first quarterly wage and contribution report after the effective date of the acquisition;

(b) files an application provided by the division that contains the endorsement of the predecessor within thirty days from the delivery or mailing of such application by the division to the successor's last known address; and

(c) files with the application, in a manner described by the department, a schedule of the name and social security number of and the wages paid to and the contributions paid for each employee for the three and one-half year period preceding the computation date as defined in Subparagraph (d) of Paragraph (3) of Subsection I of this section through the date of transfer or such lesser period as the enterprises transferred may have been in operation. The application and schedule shall be supported by the predecessor's permanent employment records, which shall be available for audit by the division. The application and schedule shall be reviewed by the division and, upon approval, the percentage of the predecessor's experience history attributable to the enterprises transferred shall be transferred to the successor. The percentage shall be obtained by dividing the taxable payrolls of the transferred enterprises for such three and one-half year period preceding the date of computation or such lesser period as the enterprises transferred may have been in operation by the predecessor's entire payroll;

(4) if, at the time of a transfer of an employing enterprise in whole or in part, both the predecessor and the successor are under common ownership, then the experience history attributable to the transferred business shall also be transferred to and combined with the experience history attributable to the successor employer. The



rates of both employers shall be recalculated and made effective immediately upon the date of the transfer;

(5) whenever a person, who is not currently an employer, acquires the trade or business of an employing enterprise, the experience history of the acquired business shall not be transferred to the successor if the secretary or the secretary's designee finds that the successor acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions. Instead, the successor shall be assigned the applicable new employer rate pursuant to this section. In determining whether the business was acquired solely or primarily for the purpose of obtaining a lower rate of contribution, the secretary or the secretary's designee shall consider:

- (a) the cost of acquiring the business;
- (b) whether the person continued the business enterprise of the acquired business;
- (c) how long such business enterprise was continued; and
- (d) whether a substantial number of new employees were hired for performance of duties unrelated to those that the business activity conducted prior to acquisition;

(6) if, following a transfer of experience history pursuant to this subsection, the department determines that a substantial purpose of the transfer of the employing enterprise was to obtain a reduced liability for contributions, then the experience rating accounts of the employers involved shall be combined into a single account and a single rate assigned to the combined account;

(7) the secretary shall adopt such rules as are necessary to interpret and carry out the provisions of this subsection, including rules that:

- (a) describe how experience history is to be transferred; and
- (b) establish procedures to identify the type of transfer or acquisition of an employing enterprise; and

(8) a person who knowingly violates or attempts to violate a rule adopted pursuant to Paragraph (7) of this subsection, who transfers or acquires, or attempts to transfer or acquire, an employing enterprise for the sole or primary purpose of obtaining a reduced liability for contributions or who knowingly advises another person to violate a rule adopted pursuant to Paragraph (7) of this subsection or to transfer or acquire an employing enterprise for the sole or primary purpose of obtaining a reduced liability for contributions is guilty of a misdemeanor and shall be punished by a fine of not less than one thousand five hundred dollars (\$1,500) or more than three thousand dollars (\$3,000) or, if an individual, by imprisonment for a definite term not to

exceed ninety days or both. In addition, such a person shall be subject to the following civil penalty imposed by the secretary:

(a) if the person is an employer, the person shall be assigned the highest contribution rate established by the provisions of this section for the calendar year in which the violation occurs and the three subsequent calendar years; provided that, if the difference between the increased penalty rate and the rate otherwise applicable would be less than two percent of the employer's payroll, the contribution rate shall be increased by two percent of the employer's payroll for the calendar year in which the violation occurs and the three subsequent calendar years; or

(b) if the person is not an employer, the secretary may impose a civil penalty not to exceed three thousand dollars (\$3,000).

I. For each calendar year, if, as of the computation date for that year, an employer's account has been chargeable with benefits throughout the preceding thirty-six months, the contribution rate for that employer shall be determined as follows:

(1) the total assets in the fund and the total of the last annual payrolls of all employers subject to contributions as of the computation date for each year shall be determined. These annual totals are here called "the fund" and "total payrolls". For each year, the "reserve" of each employer shall be fixed by the excess of the employer's total contributions over total benefit charges computed as a percentage of the employer's average payroll reported for contributions. The determination of each employer's annual rate, computed as of the computation date for each calendar year, shall be made by matching the employer's reserve as shown in the reserve column with the corresponding rate in the rate column of the applicable rate schedule of the table provided in Paragraph (4) of this subsection;

(2) for each calendar year after 2014, except as otherwise provided, each employer's rate shall be the corresponding rate in:

(a) Contribution Schedule 0 of the table provided in Paragraph (4) of this subsection if the fund equals at least two and three-tenths percent of the total payrolls;

(b) Contribution Schedule 1 of the table provided in Paragraph (4) of this subsection if the fund equals less than two and three-tenths percent but not less than one and seven-tenths percent of the total payrolls;

(c) Contribution Schedule 2 of the table provided in Paragraph (4) of this subsection if the fund equals less than one and seven-tenths percent but not less than one and three-tenths percent of the total payrolls;

(d) Contribution Schedule 3 of the table provided in Paragraph (4) of this subsection if the fund equals less than one and three-tenths percent but not less than one percent of the total payrolls;

(e) Contribution Schedule 4 of the table provided in Paragraph (4) of this subsection if the fund equals less than one percent but not less than seven-tenths percent of the total payrolls;

(f) Contribution Schedule 5 of the table provided in Paragraph (4) of this subsection if the fund equals less than seven-tenths percent but not less than three-tenths percent of the total payrolls; or

(g) Contribution Schedule 6 of the table provided in Paragraph (4) of this subsection if the fund equals less than three-tenths percent of the total payrolls;

(3) as used in this section:

(a) "annual payroll" means the total amount of remuneration from an employer for employment during a twelve-month period ending on a computation date, and "average payroll" means the average of the last three annual payrolls;

(b) "base-period wages" means the wages of an individual for insured work during the individual's base period on the basis of which the individual's benefit rights were determined;

(c) "base-period employers" means the employers of an individual during the individual's base period; and

(d) "computation date" for each calendar year means the close of business on June 30 of the preceding calendar year;

(4) table of employer reserves and contribution rate schedules:

Employer Reserve	Contribution Schedule 0	Contribution Schedule 1	Contribution Schedule 2	Contribution Schedule 3
10.0% and over	0.03%	0.05%	0.1%	0.6%
9.0%-9.9%	0.06%	0.1%	0.2%	0.9%
8.0%-8.9%	0.09%	0.2%	0.4%	1.2%
7.0%-7.9%	0.10%	0.4%	0.6%	1.5%

6.0%-6.9%	0.30%	0.6%	0.8%	1.8%
5.0%-5.9%	0.50%	0.8%	1.1%	2.1%
4.0%-4.9%	0.80%	1.1%	1.4%	2.4%
3.0%-3.9%	1.20%	1.4%	1.7%	2.7%
2.0%-2.9%	1.50%	1.7%	2.0%	3.0%
1.0%-1.9%	1.80%	2.0%	2.4%	3.3%
0.9%-0.0%	2.40%	2.4%	3.3%	3.6%
(-0.1%)-( -0.5%)	3.30%	3.3%	3.6%	3.9%
(-0.5%)-( -1.0%)	4.20%	4.2%	4.2%	4.2%
(-1.0%)-( -2.0%)	5.00%	5.0%	5.0%	5.0%
Under (-2.0%)	5.40%	5.4%	5.4%	5.4%

Employer	Contribution	Contribution	Contribution
Reserve	Schedule 4	Schedule 5	Schedule 6

10.0% and over	0.9%	1.2%	2.7%
9.0%-9.9%	1.2%	1.5%	2.7%
8.0%-8.9%	1.5%	1.8%	2.7%
7.0%-7.9%	1.8%	2.1%	2.7%
6.0%-6.9%	2.1%	2.4%	2.7%
5.0%-5.9%	2.4%	2.7%	3.0%
4.0%-4.9%	2.7%	3.0%	3.3%
3.0%-3.9%	3.0%	3.3%	3.6%
2.0%-2.9%	3.3%	3.6%	3.9%
1.0%-1.9%	3.6%	3.9%	4.2%

0.9%-0.0%	3.9%	4.2%	4.5%
(-0.1%)-(-0.5%)	4.2%	4.5%	4.8%
(-0.5%)-(-1.0%)	4.5%	4.8%	5.1%
(-1.0%)-(-2.0%)	5.0%	5.1%	5.3%
Under (-2.0%)	5.4%	5.4%	5.4%;

(5) from January 1, 2011 through December 31, 2012, each employer making contributions pursuant to this subsection shall make a contribution at the rate specified in Contribution Schedule 1; and

(6) from January 1, 2013 through December 31, 2014, each employer making contributions pursuant to this subsection shall make a contribution at the rate specified in Contribution Schedule 2.

J. The division shall promptly notify each employer of the employer's rate of contributions as determined for any calendar year pursuant to this section. Such notification shall include the amount determined as the employer's average payroll, the total of all of the employer's contributions paid on the employer's behalf and credited to the employer's account for all past years and total benefits charged to the employer's account for all such years. Such determination shall become conclusive and binding upon the employer unless, within thirty days after the mailing of notice thereof to the employer's last known address or in the absence of mailing, within thirty days after the delivery of such notice, the employer files an application for review and redetermination, setting forth the employer's reason therefor. The employer shall be granted an opportunity for a fair hearing in accordance with rules prescribed by the secretary, but an employer shall not have standing, in any proceeding involving the employer's rate of contributions or contribution liability, to contest the chargeability to the employer's account of any benefits paid in accordance with a determination, redetermination or decision pursuant to Section 51-1-8 NMSA 1978, except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for the employer and only in the event that the employer was not a party to such determination, redetermination or decision, or to any other proceedings under the Unemployment Compensation Law in which the character of such services was determined. The employer shall be promptly notified of the decision on the employer's application for redetermination, which shall become final unless, within fifteen days after the mailing of notice thereof to the employer's last known address or in the absence of mailing, within fifteen days after the delivery of such notice, further appeal is initiated pursuant to Subsection D of Section 51-1-8 NMSA 1978.

K. The division shall provide each contributing employer, within ninety days of the end of each calendar quarter, a written determination of benefits chargeable

to the employer's account. Such determination shall become conclusive and binding upon the employer for all purposes unless, within thirty days after the mailing of the determination to the employer's last known address or in the absence of mailing, within thirty days after the delivery of such determination, the employer files an application for review and redetermination, setting forth the employer's reason therefor. The employer shall be granted an opportunity for a fair hearing in accordance with rules prescribed by the secretary, but an employer shall not have standing in any proceeding involving the employer's contribution liability to contest the chargeability to the employer's account of any benefits paid in accordance with a determination, redetermination or decision pursuant to Section 51-1-8 NMSA 1978, except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for the employer and only in the event that the employer was not a party to such determination, redetermination or decision, or to any other proceedings under the Unemployment Compensation Law in which the character of such services was determined. The employer shall be promptly notified of the decision on the employer's application for redetermination, which shall become final unless, within fifteen days after the mailing of notice thereof to the employer's last known address or in the absence of mailing, within fifteen days after the delivery of such notice, further appeal is initiated pursuant to Subsection D of Section 51-1-8 NMSA 1978.

L. The contributions, together with interest and penalties thereon imposed by the Unemployment Compensation Law, shall not be assessed nor shall action to collect the same be commenced more than four years after a report showing the amount of the contributions was due. In the case of a false or fraudulent contribution report with intent to evade contributions or a willful failure to file a report of all contributions due, the contributions, together with interest and penalties thereon, may be assessed or an action to collect such contributions may be begun at any time. Before the expiration of such period of limitation, the employer and the secretary may agree in writing to an extension thereof and the period so agreed on may be extended by subsequent agreements in writing. In any case where the assessment has been made and action to collect has been commenced within four years of the due date of any contribution, interest or penalty, including the filing of a warrant of lien by the secretary pursuant to Section 51-1-36 NMSA 1978, such action shall not be subject to any period of limitation.

M. The secretary shall correct any error in the determination of an employer's rate of contribution during the calendar year to which the erroneous rate applies, notwithstanding that notification of the employer's rate of contribution may have been issued and contributions paid pursuant to the notification. Upon issuance by the division of a corrected rate of contribution, the employer shall have the same rights to review and redetermination as provided in Subsection J of this section.

N. Any interest required to be paid on advances to this state's unemployment compensation fund under Title 12 of the Social Security Act shall be paid in a timely manner as required under Section 1202 of Title 12 of the Social Security Act

and shall not be paid, directly or indirectly, by the state from amounts in the state's unemployment compensation fund."

## **Chapter 133 Section 3 Laws 2013**

SECTION 3. Section 51-1-11 NMSA 1978 (being Laws 2003, Chapter 47, Section 11, as amended by Section 2 of this act) is repealed and a new Section 51-1-11 NMSA 1978 is enacted to read:

"51-1-11. EMPLOYER CONTRIBUTION RATES--BENEFITS CHARGEABLE--UNEMPLOYMENT COMPENSATION FUND ADEQUATE RESERVE--RESERVE FACTOR--EXCESS CLAIMS PREMIUM--DEFINITIONS.--

A. Benefits paid to an individual shall be charged to the individual's base-period employers on a pro rata basis according to the proportion of the individual's total base-period wages received from each employer, except that no benefits paid to a claimant as extended benefits under the provisions of Section 51-1-48 NMSA 1978 shall be charged to any base-period employer who is not on a reimbursable basis and who is not a governmental entity and, except as the secretary shall by rule prescribe otherwise, in the case of benefits paid to an individual who:

(1) left the employ of a base-period employer who is not on a reimbursable basis voluntarily without good cause in connection with the individual's employment;

(2) was discharged from the employment of a base-period employer who is not on a reimbursable basis for misconduct connected with the individual's employment;

(3) is employed part time by a base-period employer who is not on a reimbursable basis and who continues to furnish the individual the same part-time work while the individual is separated from full-time work for a nondisqualifying reason;  
or

(4) received benefits based upon wages earned from a base-period employer who is not on a reimbursable basis while attending approved training under the provisions of Subsection E of Section 51-1-5 NMSA 1978.

B. The division shall not charge a contributing or reimbursing base-period employer with any portion of benefit amounts that the division can bill to or recover from the federal government as either regular or extended benefits.

C. The division shall not charge a contributing base-period employer with any portion of benefits paid to an individual for dependent allowance or because the individual to whom benefits are paid:

(1) separated from employment due to domestic abuse, as "domestic abuse" is defined in Section 40-13-2 NMSA 1978; or

(2) voluntarily left work to relocate because of a spouse, who is in the military service of the United States or the New Mexico national guard, receiving permanent change of station orders, activation orders or unit deployment orders.

D. All contributions to the fund shall be pooled and available to pay benefits to any individual entitled thereto, irrespective of the source of the contributions.

E. In the case of a transfer of an employing enterprise, notwithstanding any other provision of law, the experience history of the transferred enterprise shall be transferred from the predecessor employer to the successor under the following conditions and in accordance with the applicable rules of the secretary:

(1) except as otherwise provided in this subsection, for the purpose of this subsection, two or more employers who are parties to or the subject of any transaction involving the transfer of an employing enterprise shall be deemed to be a single employer and the experience history of the employing enterprise shall be transferred to the successor employer if the successor employer has acquired by the transaction all of the business enterprises of the predecessor; provided that:

(a) all contributions, interest and penalties due from the predecessor employer have been paid;

(b) notice of the transfer has been given in accordance with the rules of the secretary during the calendar year of the transaction transferring the employing enterprise or the date of the actual transfer of control and operation of the employing enterprise;

(c) the successor shall notify the division of the acquisition on or before the due date of the successor's first wage and contribution report. If the successor employer fails to notify the division of the acquisition within this time limit, the division, when it receives actual notice, shall effect the transfer of the experience history and applicable rate of contribution retroactively to the date of the acquisition, and the successor shall pay a penalty of fifty dollars (\$50.00); and

(d) where the transaction involves only a merger, consolidation or other form of reorganization without a substantial change in the ownership and controlling interest of the business entity, as determined by the secretary, the limitations on transfers stated in Subparagraphs (a), (b) and (c) of this paragraph shall not apply. A party to a merger, consolidation or other form of reorganization described in this subparagraph shall not be relieved of liability for any contributions, interest or penalties due and owing from the employing enterprise at the time of the merger, consolidation or other form of reorganization;



(2) the applicable experience history may be transferred to the successor in the case of a partial transfer of an employing enterprise if the successor has acquired one or more of the several employing enterprises of a predecessor but not all of the employing enterprises of the predecessor and each employing enterprise so acquired was operated by the predecessor as a separate store, factory, shop or other separate employing enterprise and the predecessor, throughout the entire period of the contribution with liability applicable to each enterprise transferred, has maintained and preserved payroll records that, together with records of contribution liability and benefit chargeability, can be separated by the parties from the enterprises retained by the predecessor to the satisfaction of the secretary or the secretary's delegate. A partial experience history transfer will be made only if the successor:

(a) notifies the division of the acquisition, in writing, not later than the due date of the successor's first quarterly wage and contribution report after the effective date of the acquisition;

(b) files an application provided by the division that contains the endorsement of the predecessor within thirty days from the delivery or mailing of such application by the division to the successor's last known address; and

(c) files with the application a form with a schedule of the name and social security number of and the wages paid to and the contributions paid for each employee for the three and one-half year period preceding the computation date through the date of transfer or such lesser period as the enterprises transferred may have been in operation. The application and form shall be supported by the predecessor's permanent employment records, which shall be available for audit by the division. The application and form shall be reviewed by the division and, upon approval, the percentage of the predecessor's experience history attributable to the enterprises transferred shall be transferred to the successor. The percentage shall be obtained by dividing the taxable payrolls of the transferred enterprises for such three and one-half year period preceding the date of computation or such lesser period as the enterprises transferred may have been in operation by the predecessor's entire payroll;

(3) if, at the time of a transfer of an employing enterprise in whole or in part, both the predecessor and the successor are under common ownership, then the experience history attributable to the transferred business shall also be transferred to and combined with the experience history attributable to the successor employer. The rates of both employers shall be recalculated and made effective immediately upon the date of the transfer;

(4) whenever a person, who is not currently an employer, acquires the trade or business of an employing enterprise, the experience history of the acquired business shall not be transferred to the successor if the secretary or the secretary's designee finds that the successor acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions. Instead, the successor shall be assigned the applicable new employer rate pursuant to this section. In determining

whether the business was acquired solely or primarily for the purpose of obtaining a lower rate of contribution, the secretary or the secretary's designee shall consider:

- (a) the cost of acquiring the business;
- (b) whether the person continued the business enterprise of the acquired business;
- (c) how long such business enterprise was continued; and
- (d) whether a substantial number of new employees were hired for performance of duties unrelated to those that the business activity conducted prior to acquisition;

(5) if, following a transfer of experience history pursuant to this subsection, the department determines that a substantial purpose of the transfer of the employing enterprise was to obtain a reduced liability for contributions, then the experience rating accounts of the employers involved shall be combined into a single account and a single rate assigned to the combined account;

(6) the secretary shall adopt such rules as are necessary to interpret and carry out the provisions of this subsection, including rules that:

- (a) describe how experience history is to be transferred; and
- (b) establish procedures to identify the type of transfer or acquisition of an employing enterprise; and

(7) a person who knowingly violates or attempts to violate a rule adopted pursuant to Paragraph (6) of this subsection, who transfers or acquires, or attempts to transfer or acquire, an employing enterprise for the sole or primary purpose of obtaining a reduced liability for contributions or who knowingly advises another person to violate a rule adopted pursuant to Paragraph (6) of this subsection or to transfer or acquire an employing enterprise for the sole or primary purpose of obtaining a reduced liability for contributions is guilty of a misdemeanor and shall be punished by a fine of not less than one thousand five hundred dollars (\$1,500) or more than three thousand dollars (\$3,000) or, if an individual, by imprisonment for a definite term not to exceed ninety days or both. In addition, such a person shall be subject to the following civil penalty imposed by the secretary:

(a) if the person is an employer, the person shall be assigned the highest contribution rate established by the provisions of this section for the calendar year in which the violation occurs and the three subsequent calendar years; provided that, if the difference between the increased penalty rate and the rate otherwise applicable would be less than two percent of the employer's payroll, the

contribution rate shall be increased by two percent of the employer's payroll for the calendar year in which the violation occurs and the three subsequent calendar years; or

(b) if the person is not an employer, the secretary may impose a civil penalty not to exceed three thousand dollars (\$3,000).

F. For each calendar year, if, as of the computation date for that year, an employer has been a contributing employer throughout the preceding twenty-four months, the contribution rate for that employer shall be determined by multiplying the employer's benefit ratio by the reserve factor as determined pursuant to Subsection H of this section; provided that an employer's contribution rate shall not be less than thirty-three hundredths percent or more than five and four-tenths percent. An employer's benefit ratio is determined by dividing the employer's benefit charges during the immediately preceding fiscal years, up to a maximum of three fiscal years, by the total of the annual payrolls of the same time period, calculated to four decimal places, disregarding any remaining fraction.

G. For each calendar year, if, as of the computation date of that year, an employer has been a contributing employer for less than twenty-four months, the contribution rate for that employer shall be the average of the contribution rates for all contributing employers in the employer's industry, as determined by administrative rule, but shall not be less than one percent or more than five and four-tenths percent; provided that an individual, type of organization or employing unit that acquires all or part of the trade or business of another employing unit, pursuant to Paragraphs (2) and (3) of Subsection E of Section 51-1-42 NMSA 1978, that has a rate of contribution less than average of the contribution rates for all contributing employers in the employer's industry, shall be entitled to the transfer of the contribution rate of the other employing unit to the extent permitted under Subsection E of this section.

H. The division shall ensure that the fund sustains an adequate reserve. An adequate reserve shall be determined to mean that the funds in the fund available for benefits equal the total amount of funds needed to pay between eighteen and twenty-four months of benefits at the average of the five highest years of benefits paid in the last twenty-five years. For the purpose of sustaining an adequate reserve, the division shall determine a reserve factor to be used when calculating an employer's contribution rate pursuant to Subsection F of this section by rule promulgated by the secretary. The rules shall set forth a formula that will set the reserve factor in proportion to the difference between the amount of funds available for benefits in the fund, as of the computation date, and the adequate reserve, within the following guidelines:

(1) 1.0000 if, as of the computation date, there is an adequate reserve;

(2) between 0.5000 and 0.9999 if, as of the computation date, there is greater than an adequate reserve; and

(3) between 1.0001 and 4.0000 if, as of the computation date, there is less than an adequate reserve.

I. If an employer's contribution rate pursuant to Subsection F of this section is calculated to be greater than five and four-tenths percent, notwithstanding the limitation pursuant to Subsection F of this section, the employer shall be charged an excess claims premium in addition to the contribution rate applicable to the employer; provided that an employer's excess claims premium shall not exceed one percent of the employer's annual payroll. The excess claims premium shall be determined by multiplying the employer's excess claims rate by the employer's annual payroll. An employer's excess claims rate shall be determined by multiplying the difference of the employer's contribution rate, notwithstanding the limitation pursuant to Subsection F of this section, less five and four-tenths percent by ten percent.

J. The division shall promptly notify each employer of the employer's rate of contributions and excess claims premium as determined for any calendar year pursuant to this section. Such notification shall include the amount determined as the employer's annual payroll, the total of all of the employer's contributions paid on the employer's behalf for all past years and total benefits charged to the employer for all such years. Such determination shall become conclusive and binding upon the employer unless, within thirty days after the mailing of notice thereof to the employer's last known address or in the absence of mailing, within thirty days after the delivery of such notice, the employer files an application for review and redetermination, setting forth the employer's reason therefor. The employer shall be granted an opportunity for a fair hearing in accordance with rules prescribed by the secretary, but an employer shall not have standing, in any proceeding involving the employer's rate of contributions or contribution liability, to contest the chargeability to the employer of any benefits paid in accordance with a determination, redetermination or decision pursuant to Section 51-1-8 NMSA 1978, except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for the employer and only in the event that the employer was not a party to such determination, redetermination or decision, or to any other proceedings under the Unemployment Compensation Law in which the character of such services was determined. The employer shall be promptly notified of the decision on the employer's application for redetermination, which shall become final unless, within fifteen days after the mailing of notice thereof to the employer's last known address or in the absence of mailing, within fifteen days after the delivery of such notice, further appeal is initiated pursuant to Subsection D of Section 51-1-8 NMSA 1978.

K. The division shall provide each contributing employer, within ninety days of the end of each calendar quarter, a written determination of benefits chargeable to the employer. Such determination shall become conclusive and binding upon the employer for all purposes unless, within thirty days after the mailing of the determination to the employer's last known address or in the absence of mailing, within thirty days after the delivery of such determination, the employer files an application for review and redetermination, setting forth the employer's reason therefor. The employer shall be

granted an opportunity for a fair hearing in accordance with rules prescribed by the secretary, but an employer shall not have standing in any proceeding involving the employer's contribution liability to contest the chargeability to the employer of any benefits paid in accordance with a determination, redetermination or decision pursuant to Section 51-1-8 NMSA 1978, except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for the employer and only in the event that the employer was not a party to such determination, redetermination or decision, or to any other proceedings under the Unemployment Compensation Law in which the character of such services was determined. The employer shall be promptly notified of the decision on the employer's application for redetermination, which shall become final unless, within fifteen days after the mailing of notice thereof to the employer's last known address or in the absence of mailing, within fifteen days after the delivery of such notice, further appeal is initiated pursuant to Subsection D of Section 51-1-8 NMSA 1978.

L. The contributions and excess claims premiums, together with interest and penalties thereon imposed by the Unemployment Compensation Law, shall not be assessed nor shall action to collect the same be commenced more than four years after a report showing the amount of the contributions was due. In the case of a false or fraudulent contribution report with intent to evade contributions or a willful failure to file a report of all contributions due, the contributions and excess claims premiums, together with interest and penalties thereon, may be assessed or an action to collect such contributions may be begun at any time. Before the expiration of such period of limitation, the employer and the secretary may agree in writing to an extension thereof and the period so agreed on may be extended by subsequent agreements in writing. In any case where the assessment has been made and action to collect has been commenced within four years of the due date of any contribution, excess claims premium, interest or penalty, including the filing of a warrant of lien by the secretary pursuant to Section 51-1-36 NMSA 1978, such action shall not be subject to any period of limitation.

M. The secretary shall correct any error in the determination of an employer's rate of contribution during the calendar year to which the erroneous rate applies, notwithstanding that notification of the employer's rate of contribution may have been issued and contributions paid pursuant to the notification. Upon issuance by the division of a corrected rate of contribution, the employer shall have the same rights to review and redetermination as provided in Subsection J of this section.

N. Any interest required to be paid on advances to this state's unemployment compensation fund under Title 12 of the Social Security Act shall be paid in a timely manner as required under Section 1202 of Title 12 of the Social Security Act and shall not be paid, directly or indirectly, by the state from amounts in the state's unemployment compensation fund.

O. As used in this section:

(1) "annual payroll" means the total taxable amount of remuneration from an employer for employment during a twelve-month period ending on a computation date;

(2) "base-period employers" means the employers of an individual during the individual's base period;

(3) "base-period wages" means the wages of an individual for insured work during the individual's base period on the basis of which the individual's benefit rights were determined;

(4) "common ownership" means that two or more businesses are substantially owned, managed or controlled by the same person or persons;

(5) "computation date" for each calendar year means the close of business on June 30 of the preceding calendar year;

(6) "employing enterprise" means a business activity engaged in by a contributing employing unit in which one or more persons have been employed within the current or the three preceding calendar quarters. An "employing enterprise" includes the employer's work force;

(7) "experience history" means the benefit charges and payroll experience of the employing enterprise;

(8) "knowingly" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibition involved;

(9) "predecessor" means the owner and operator of an employing enterprise immediately prior to the transfer of such enterprise;

(10) "successor" means any person that acquires an employing enterprise and continues to operate such business entity; and

(11) "violates or attempts to violate" includes an intent to evade, a misrepresentation or a willful nondisclosure."

## **Chapter 133 Section 4 Laws 2013**

SECTION 4. Section 51-1-13 NMSA 1978 (being Laws 1971, Chapter 209, Section 4, as amended) is amended to read:

"51-1-13. FINANCING BENEFITS PAID TO EMPLOYEES OF NONPROFIT ORGANIZATIONS.--Benefits paid to employees of nonprofit organizations shall be financed in accordance with the provisions of this section. For the purpose of this

section, a "nonprofit organization" is an organization or group of organizations described in Paragraph (8) of Subsection F of Section 51-1-42 NMSA 1978.

A. Any nonprofit organization that, pursuant to Paragraph (8) of Subsection F of Section 51-1-42 NMSA 1978, is subject to the Unemployment Compensation Law shall pay contributions in accordance with the provisions of Section 51-1-9 NMSA 1978, unless it elects, in accordance with this subsection, to pay to the division for the fund an amount equal to the amount of regular benefits and of one-half of the extended benefits paid, that is attributable to service in the employ of such nonprofit organization, to individuals for weeks of unemployment that begin during the effective period of such election.

(1) Any nonprofit organization that becomes subject to the Unemployment Compensation Law after January 1, 1972 may elect to become liable for payments in lieu of contributions for a period of not less than two taxable years by filing a written notice of its election with the division not later than thirty days immediately following the date subjectivity is determined.

(2) Any nonprofit organization that makes an election in accordance with Paragraph (1) of this subsection will continue to be liable for payments in lieu of contributions until it files with the division a written notice terminating its election not later than thirty days prior to the beginning of the taxable year for which such termination shall first be effective.

(3) Any nonprofit organization that has been paying contributions under the Unemployment Compensation Law may change to a reimbursable basis by filing with the division written notice of its election not later than thirty days prior to the beginning of the taxable year for which its election shall first be effective. Such election shall not be terminated by the organization for the following two taxable years.

(4) The division, in accordance with such regulations as the secretary may prescribe, shall notify each nonprofit organization of any determination that it may make of the organization's status as an employer and of the effective date of any election that the organization makes and of any termination of such election. Such determination shall be subject to reconsideration, appeal and review in accordance with regulations of the secretary governing appeals by employers of their liability under Section 51-1-9 NMSA 1978.

B. Payments in lieu of contributions shall be made in accordance with the provisions of this subsection.

(1) At the end of each calendar quarter or at the end of any other period as determined by the secretary, the division shall bill each nonprofit organization or group of such organizations that has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half of

the amount of extended benefits paid during such quarter or other prescribed period that is attributable to service in the employ of such organization.

(2) Effective with the calendar quarter beginning January 1, 1987 and each succeeding calendar quarter, each employer that is liable for payments in lieu of contributions, including governmental entities, shall pay to the division an amount equal to twenty-five percent of the total benefit charges made to each such employer during the four calendar quarters ending the preceding June 30. Such payments shall be made on or before the tenth day of the first month of each calendar quarter.

(3) In the event that any employer liable for making payments in lieu of contributions incurred no benefit charges during the four calendar quarters ending the preceding June 30, the employer shall pay to the division, each calendar quarter, an amount equal to one-eighth of one percent of the employer's annual taxable wages paid for such period for employment as defined in Subsection F of Section 51-1-42 NMSA 1978 and Section 51-1-44 NMSA 1978 as estimated by the secretary. Such payments shall be paid on or before the tenth day of the first month of the calendar quarter.

(4) For each calendar quarter, the secretary shall determine the amount paid by each employer subject to payment in lieu of contributions and the amount of benefits charged to such employer. Each employer who has made payments in an amount less than the amount of benefits charged to the employer shall pay the balance of the amount charged within twenty-five days of the notification by the division. If the quarterly payment made by an employer pursuant to Paragraph (2) of this subsection exceeds the amount of benefits charged to such employer, the excess payment shall be refunded on a quarterly basis.

(5) Payments made by any nonprofit organization under the provisions of this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization.

C. Collection of past due payments of amounts in lieu of contributions shall be as provided in this subsection.

(1) Past due payments of amounts in lieu of contributions are subject to the same penalties that are applied to past due contributions pursuant to Section 51-1-12 NMSA 1978.

(2) The provisions of Section 51-1-36 NMSA 1978 shall apply to all contributions or payments of amounts in lieu of contributions for which a nonprofit organization becomes liable pursuant to an election made pursuant to Subsection A of this section.

(3) Any nonprofit organization that elects to become liable for payments in lieu of contributions shall be required, within thirty days after the effective



date of its election, to execute and file with the secretary a surety bond or such other surety undertaking or security, which may consist of a cash security deposit, in a form approved by the secretary. With the consent of the secretary, a cash security deposit may be made in three annual installments. This paragraph shall not apply to:

(a) group accounts established pursuant to Subsection E of this section or any member of such a group account; or

(b) governmental entities as defined in Subsection B of Section 51-1-44 NMSA 1978; except that all instrumentalities of governmental entities shall be included as part of the controlling governmental entity or entities for purposes of determining liability for the payment of unemployment compensation contributions.

(4) The amount of the surety bond or other surety undertaking or security required by Paragraph (3) of this subsection shall be equal to 2.7 percent of contribution times the organization's taxable wages paid for employment, as defined in Subsection F of Section 51-1-42 NMSA 1978 and Section 51-1-44 NMSA 1978, for the four calendar quarters immediately preceding the effective date of the election. If the nonprofit organization did not pay wages in each of the preceding four calendar quarters, the amount of surety bond required shall be determined by the secretary based upon an estimate of taxable wages to be paid during the succeeding four calendar quarters. Thereafter, the amount of the surety bond shall be adjusted on the basis of the organization's actual taxable payroll.

(5) If any nonprofit organization that is not required to execute and file a surety bond or other security is delinquent in making payments in lieu of contributions as required pursuant to Subsection B of this section or if any nonprofit organization that is required to execute and maintain a surety bond or other security fails to do so or is delinquent in making payments as required pursuant to Subsection B of this section, the secretary may terminate the organization's election to make payments in lieu of contributions effective as of the beginning of the next taxable year and the termination shall be effective until the organization executes and files with the department a surety bond or other security as required.

(6) Any bond or other surety undertaking or security required under this subsection shall be in force for a period of not less than two taxable years and shall be renewed with the approval of the secretary at such times as the secretary may prescribe.

D. Each employer who is liable for payments in lieu of contributions shall pay to the division for the fund the amount of regular benefits plus the amount of one-half of extended benefits paid that are attributable to service in the employ of that employer in accordance with the provisions of Subsection A of Section 51-1-11 NMSA 1978, except that any employer that is liable for payments in lieu of contributions shall not be relieved of charges for benefits paid to an individual who was separated from the employ of that employer for any reason.

E. Two or more employers who have become liable for payments in lieu of contributions, in accordance with the provisions of Subsection A of this section, Subsection B of Section 51-1-14 NMSA 1978 and Section 51-1-16 NMSA 1978, may file a joint application for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. Each application shall identify and authorize a group representative to act as the group's agent for the purpose of this subsection. Upon its approval of the application, the division shall establish a group account for the employers effective as of the beginning of the calendar quarter in which it receives the application and shall notify the group's representative of the effective date of the account. The account shall remain in effect for not less than two years and thereafter until terminated at the discretion of the secretary or upon application by the group. Each group account shall be liable for the prepayment of payments in lieu of contributions as provided in Paragraphs (2), (3) and (4) of Subsection B of this section. Each member of the group account shall be liable to the division for payments in lieu of contributions with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in the quarter that are attributable to service performed in the employ of all members of the group, as the total wages paid for service in employment for such member during the quarter bear to the total wages paid during the quarter for service performed in the employ of all members of the group. The secretary shall prescribe regulations as the secretary deems necessary with respect to applications for establishment, maintenance and termination of group accounts that are authorized by this subsection, for addition of new members to and withdrawal of active members from the accounts and for the determination of the amounts that are payable under this subsection by members of the group and the time and manner of payments.

F. Each group account may apportion liability for amounts due to the group representative as the group shall determine."

## **Chapter 133 Section 5 Laws 2013**

SECTION 5. Section 51-1-42 NMSA 1978 (being Laws 2003, Chapter 47, Section 12, as amended) is amended to read:

"51-1-42. DEFINITIONS.--As used in the Unemployment Compensation Law:

A. "base period" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year, except that "base period" means for benefit years beginning on or after January 1, 2005 for an individual who does not have sufficient wages in the base period as defined to qualify for benefits pursuant to Section 51-1-5 NMSA 1978, the individual's base period shall be the last four completed calendar quarters immediately preceding the first day of the individual's benefit year if that period qualifies the individual for benefits pursuant to Section 51-1-5 NMSA 1978; provided that:

(1) wages that fall within the base period of claims established pursuant to this subsection are not available for reuse in qualifying for a subsequent benefit year; and

(2) in the case of a combined-wage claim pursuant to the arrangement approved by the federal secretary of labor, the base period is that base period applicable under the unemployment compensation law of the paying state;

B. "benefits" means the cash unemployment compensation payments payable to an eligible individual pursuant to Section 51-1-4 NMSA 1978 with respect to the individual's weeks of unemployment;

C. "contributions" means the money payments required by Section 51-1-9 NMSA 1978 to be made into the fund by an employer on account of having individuals performing services for the employer;

D. "employing unit" means any individual or type of organization, including any partnership, association, cooperative, trust, estate, joint-stock company, agricultural enterprise, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, household, fraternity or club, the legal representative of a deceased person or any state or local government entity to the extent required by law to be covered as an employer, that has in its employ one or more individuals performing services for it within this state. An individual performing services for an employing unit that maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of the Unemployment Compensation Law. An individual performing services for a contractor, subcontractor or agent that is performing work or services for an employing unit, as described in this subsection, that are within the scope of the employing unit's usual trade, occupation, profession or business, shall be deemed to be in the employ of the employing unit for all purposes of the Unemployment Compensation Law unless the contractor, subcontractor or agent is itself an employer within the provisions of Subsection E of this section;

E. "employer" includes:

(1) an employing unit that:

(a) unless otherwise provided in this section, paid for service in employment as defined in Subsection F of this section wages of four hundred fifty dollars (\$450) or more in any calendar quarter in either the current or preceding calendar year or had in employment, as defined in Subsection F of this section, for some portion of a day in each of twenty different calendar weeks during either the current or the preceding calendar year, and irrespective of whether the same individual was in employment in each such day, at least one individual;

(b) for the purposes of Subparagraph (a) of this paragraph, if any week includes both December 31 and January 1, the days of that week up to January 1 shall be deemed one calendar week and the days beginning January 1, another such week; and

(c) for purposes of defining an "employer" under Subparagraph (a) of this paragraph, the wages or remuneration paid to individuals performing services in employment in agricultural labor or domestic services as provided in Paragraphs (6) and (7) of Subsection F of this section shall not be taken into account; except that any employing unit determined to be an employer of agricultural labor under Paragraph (6) of Subsection F of this section shall be an employer under Subparagraph (a) of this paragraph so long as the employing unit is paying wages or remuneration for services other than agricultural services;

(2) any individual or type of organization that acquired the trade or business or substantially all of the assets thereof, of an employing unit that at the time of the acquisition was an employer subject to the Unemployment Compensation Law; provided that where such an acquisition takes place, the secretary may postpone activating the individual or type of organization pursuant to Section 51-1-11 NMSA 1978 until such time as the successor employer has employment as defined in Subsection F of this section;

(3) an employing unit that acquired all or part of the organization, trade, business or assets of another employing unit and that, if treated as a single unit with the other employing unit or part thereof, would be an employer under Paragraph (1) of this subsection;

(4) an employing unit not an employer by reason of any other paragraph of this subsection:

(a) for which, within either the current or preceding calendar year, service is or was performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment fund; or

(b) that, as a condition for approval of the Unemployment Compensation Law for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required, pursuant to that act, to be an "employer" under the Unemployment Compensation Law;

(5) an employing unit that, having become an employer under Paragraph (1), (2), (3) or (4) of this subsection, has not, under Section 51-1-18 NMSA 1978, ceased to be an employer subject to the Unemployment Compensation Law;

(6) for the effective period of its election pursuant to Section 51-1-18 NMSA 1978, any other employing unit that has elected to become fully subject to the Unemployment Compensation Law;

(7) an employing unit for which any services performed in its employ are deemed to be performed in this state pursuant to an election under an arrangement entered into in accordance with Subsection A of Section 51-1-50 NMSA 1978; and

(8) an Indian tribe as defined in 26 USCA Section 3306(u) for which service in employment is performed;

F. "employment":

(1) means any service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied;

(2) means an individual's entire service, performed within or both within and without this state if:

(a) the service is primarily localized in this state with services performed outside the state being only incidental thereto; or

(b) the service is not localized in any state but some of the service is performed in this state and: 1) the base of operations or, if there is no base of operations, the place from which such service is directed or controlled, is in this state; or 2) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in this state;

(3) means services performed within this state but not covered under Paragraph (2) of this subsection if contributions or payments in lieu of contributions are not required and paid with respect to such services under an unemployment compensation law of any other state, the federal government or Canada;

(4) means services covered by an election pursuant to Section 51-1-18 NMSA 1978 and services covered by an election duly approved by the secretary in accordance with an arrangement pursuant to Paragraph (1) of Subsection A of Section 51-1-50 NMSA 1978 shall be deemed to be employment during the effective period of the election;

(5) means services performed by an individual for an employer for wages or other remuneration unless and until it is established by a preponderance of evidence that:

(a) the individual has been and will continue to be free from control or direction over the performance of the services both under the individual's contract of service and in fact;

(b) the service is either outside the usual course of business for which the service is performed or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(c) the individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the contract of service;

(6) means service performed after December 31, 1977 by an individual in agricultural labor as defined in Subsection Q of this section if:

(a) the service is performed for an employing unit that: 1) paid remuneration in cash of twenty thousand dollars (\$20,000) or more to individuals in that employment during any calendar quarter in either the current or the preceding calendar year; or 2) employed in agricultural labor ten or more individuals for some portion of a day in each of twenty different calendar weeks in either the current or preceding calendar year, whether or not the weeks were consecutive, and regardless of whether the individuals were employed at the same time;

(b) the service is not performed before January 1, 1980 by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to Sections 214(c) and 101(15)(H) of the federal Immigration and Nationality Act; and

(c) for purposes of this paragraph, an individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for a farm operator or other person shall be treated as an employee of the crew leader: 1) if the crew leader meets the requirements of a crew leader as defined in Subsection L of this section; or 2) substantially all the members of the crew operate or maintain mechanized agricultural equipment that is provided by the crew leader; and 3) the individuals performing the services are not, by written agreement or in fact, within the meaning of Paragraph (5) of this subsection, performing services in employment for the farm operator or other person;

(7) means service performed after December 31, 1977 by an individual in domestic service in a private home, local college club or local chapter of a college fraternity or sorority for a person or organization that paid cash remuneration of one thousand dollars (\$1,000) in any calendar quarter in the current or preceding calendar year to individuals performing such services;

(8) means service performed after December 31, 1971 by an individual in the employ of a religious, charitable, educational or other organization but only if the following conditions are met:

(a) the service is excluded from "employment" as defined in the Federal Unemployment Tax Act solely by reason of Section 3306(c)(8) of that act; and

(b) the organization meets the requirements of "employer" as provided in Subparagraph (a) of Paragraph (1) of Subsection E of this section;

(9) means service of an individual who is a citizen of the United States, performed outside the United States, except in Canada, after December 31, 1971 in the employ of an American employer, other than service that is deemed "employment" under the provisions of Paragraph (2) of this subsection or the parallel provisions of another state's law, if:

(a) the employer's principal place of business in the United States is located in this state;

(b) the employer has no place of business in the United States, but: 1) the employer is an individual who is a resident of this state; 2) the employer is a corporation organized under the laws of this state; or 3) the employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state; or

(c) none of the criteria of Subparagraphs (a) and (b) of this paragraph are met, but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this state.

"American employer" for the purposes of this paragraph means a person who is: 1) an individual who is a resident of the United States; 2) a partnership if two-thirds or more of the partners are residents of the United States; 3) a trust if all of the trustees are residents of the United States; or 4) a corporation organized under the laws of the United States or of any state. For the purposes of this paragraph, "United States" includes the United States, the District of Columbia, the commonwealth of Puerto Rico and the Virgin Islands;

(10) means, notwithstanding any other provisions of this subsection, service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under the Unemployment Compensation Law;

(11) means service performed in the employ of an Indian tribe if:

(a) the service is excluded from "employment" as defined in 26 USCA Section 3306(c) solely by reason of 26 USCA Section 3306(c)(7); and

(b) the service is not otherwise excluded from employment pursuant to the Unemployment Compensation Law;

(12) does not include:

(a) service performed in the employ of: 1) a church or convention or association of churches; or 2) an organization that is operated primarily for religious purposes and that is operated, supervised, controlled or principally supported by a church or convention or association of churches;

(b) service performed by a duly ordained, commissioned or licensed minister of a church in the exercise of such ministry or by a member of a religious order in the exercise of duties required by such order;

(c) service performed by an individual in the employ of the individual's son, daughter or spouse, and service performed by a child under the age of majority in the employ of the child's father or mother;

(d) service performed in the employ of the United States government or an instrumentality of the United States immune under the constitution of the United States from the contributions imposed by the Unemployment Compensation Law except that to the extent that the congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation act, all of the provisions of the Unemployment Compensation Law shall be applicable to such instrumentalities, and to service performed for such instrumentalities in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services; provided that if this state shall not be certified for any year by the secretary of labor of the United States under Section 3304 of the federal Internal Revenue Code of 1986, 26 U.S.C. Section 3304, the payments required of such instrumentalities with respect to such year shall be refunded by the department from the fund in the same manner and within the same period as is provided in Subsection D of Section 51-1-36 NMSA 1978 with respect to contributions erroneously collected;

(e) service performed in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving that rehabilitation or remunerative work;



(f) service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of congress;

(g) service performed in the employ of a foreign government, including service as a consular or other officer or employee or a nondiplomatic representative;

(h) service performed by an individual for a person as an insurance agent or as an insurance solicitor, if all such service performed by the individual for the person is performed for remuneration solely by way of commission;

(i) service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(j) service covered by an election duly approved by the agency charged with the administration of any other state or federal unemployment compensation law, in accordance with an arrangement pursuant to Paragraph (1) of Subsection A of Section 51-1-50 NMSA 1978 during the effective period of the election;

(k) service performed, as part of an unemployment work-relief or work-training program assisted or financed in whole or part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving the work relief or work training;

(l) service performed by an individual who is enrolled at a nonprofit or public educational institution that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at the institution that combines academic instruction with work experience, if the service is an integral part of such program and the institution has so certified to the employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(m) service performed in the employ of a hospital, if the service is performed by a patient of the hospital, or services performed by an inmate of a custodial or penal institution for any employer;

(n) service performed by real estate salespersons for others when the services are performed for remuneration solely by way of commission;

(o) service performed in the employ of a school, college or university if the service is performed by a student who is enrolled and is regularly attending classes at the school, college or university;

(p) service performed by an individual for a fixed or contract fee officiating at a sporting event that is conducted by or under the auspices of a nonprofit or governmental entity if that person is not otherwise an employee of the entity conducting the sporting event;

(q) service performed for a private, for-profit person or entity by an individual as a product demonstrator or product merchandiser if the service is performed pursuant to a written contract between that individual and a person or entity whose principal business is obtaining the services of product demonstrators and product merchandisers for third parties, for demonstration and merchandising purposes and the individual: 1) is compensated for each job or the compensation is based on factors related to the work performed; 2) provides the equipment used to perform the service, unless special equipment is required and provided by the manufacturer through an agency; 3) is responsible for completion of a specific job and for any failure to complete the job; 4) pays all expenses, and the opportunity for profit or loss rests solely with the individual; and 5) is responsible for operating costs, fuel, repairs and motor vehicle insurance. For the purpose of this subparagraph, "product demonstrator" means an individual who, on a temporary, part-time basis, demonstrates or gives away samples of a food or other product as part of an advertising or sales promotion for the product and who is not otherwise employed directly by the manufacturer, distributor or retailer, and "product merchandiser" means an individual who, on a temporary, part-time basis builds or resets a product display and who is not otherwise directly employed by the manufacturer, distributor or retailer; or

(r) service performed for a private, for-profit person or entity by an individual as a landman if substantially all remuneration paid in cash or otherwise for the performance of the services is directly related to the completion by the individual of the specific tasks contracted for rather than to the number of hours worked by the individual. For the purposes of this subparagraph, "landman" means a land professional who has been engaged primarily in: 1) negotiating for the acquisition or divestiture of mineral rights; 2) negotiating business agreements that provide for the exploration for or development of minerals; 3) determining ownership of minerals through the research of public and private records; and 4) reviewing the status of title, curing title defects and otherwise reducing title risk associated with ownership of minerals; managing rights or obligations derived from ownership of interests and minerals; or utilizing or pooling of interest in minerals; and

(13) for the purposes of this subsection, if the services performed during one-half or more of any pay period by an individual for the person employing the individual constitute employment, all the services of the individual for the period shall be deemed to be employment, but, if the services performed during more than one-half of any such pay period by an individual for the person employing the individual do not constitute employment, then none of the services of the individual for the period shall be deemed to be employment. As used in this paragraph, the term "pay period" means a period, of not more than thirty-one consecutive days, for which a payment of remuneration is ordinarily made to the individual by the person employing the individual.

This paragraph shall not be applicable with respect to services performed in a pay period by an individual for the person employing the individual where any of such service is excepted by Subparagraph (f) of Paragraph (12) of this subsection;

G. "employment office" means a free public employment office, or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices;

H. "fund" means the unemployment compensation fund established by the Unemployment Compensation Law to which all contributions and payments in lieu of contributions required under the Unemployment Compensation Law and from which all benefits provided under the Unemployment Compensation Law shall be paid;

I. "unemployment" means, with respect to an individual, any week during which the individual performs no services and with respect to which no wages are payable to the individual and during which the individual is not engaged in self-employment or receives an award of back pay for loss of employment. The secretary shall prescribe by rule what constitutes part-time and intermittent employment, partial employment and the conditions under which individuals engaged in such employment are eligible for partial unemployment benefits, but no individual who is otherwise eligible shall be deemed ineligible for benefits solely for the reason that the individual seeks, applies for or accepts only part-time work, instead of full-time work, if the part-time work is for at least twenty hours per week;

J. "state", when used in reference to any state other than New Mexico, includes, in addition to the states of the United States, the District of Columbia, the commonwealth of Puerto Rico and the Virgin Islands;

K. "unemployment compensation administration fund" means the fund established by Subsection A of Section 51-1-34 NMSA 1978 from which administrative expenses under the Unemployment Compensation Law shall be paid. "Employment security department fund" means the fund established by Subsection B of Section 51-1-34 NMSA 1978 from which certain administrative expenses under the Unemployment Compensation Law shall be paid;

L. "crew leader" means a person who:

(1) holds a valid certificate of registration as a crew leader or farm labor contractor under the federal Migrant and Seasonal Agricultural Worker Protection Act;

(2) furnishes individuals to perform services in agricultural labor for any other person;

(3) pays, either on the crew leader's own behalf or on behalf of such other person, the individuals so furnished by the crew leader for service in agricultural labor; and

(4) has not entered into a written agreement with the other person for whom the crew leader furnishes individuals in agricultural labor that the individuals will be the employees of the other person;

M. "week" means such period of seven consecutive days, as the secretary may by rule prescribe. The secretary may by rule prescribe that a week shall be deemed to be "in", "within" or "during" the benefit year that includes the greater part of such week;

N. "calendar quarter" means the period of three consecutive calendar months ending on March 31, June 30, September 30 or December 31;

O. "insured work" means services performed for employers who are covered under the Unemployment Compensation Law;

P. "benefit year" with respect to an individual means the one-year period beginning with the first day of the first week of unemployment with respect to which the individual first files a claim for benefits in accordance with Subsection A of Section 51-1-8 NMSA 1978 and thereafter the one-year period beginning with the first day of the first week of unemployment with respect to which the individual next files such a claim for benefits after the termination of the individual's last preceding benefit year; provided that at the time of filing such a claim the individual has been paid the wage required under Paragraph (5) of Subsection A of Section 51-1-5 NMSA 1978;

Q. "agricultural labor" includes all services performed:

(1) on a farm, in the employ of a person, in connection with cultivating the soil or in connection with raising or harvesting an agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, bees, poultry and fur-bearing animals and wildlife;

(2) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation or maintenance of the farm and its tools and equipment, if the major part of the service is performed on a farm;

(3) in connection with the operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for supplying and storing water for farming purposes when such ditches, canals, reservoirs or waterways are owned and operated by the farmers using the water stored or carried therein; and

(4) in handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivery to storage or to market or to a carrier for

transportation to market any agricultural or horticultural commodity but only if the service is performed as an incident to ordinary farming operations. The provisions of this paragraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

As used in this subsection, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal and truck farms, plantations, ranches, nurseries, greenhouses, ranges and orchards;

R. "payments in lieu of contributions" means the money payments made into the fund by an employer pursuant to the provisions of Subsection B of Section 51-1-13 NMSA 1978 or Subsection E of Section 51-1-59 NMSA 1978;

S. "department" means the workforce solutions department; and

T. "wages" means all remuneration for services, including commissions and bonuses and the cash value of all remuneration in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash shall be established and determined in accordance with rules prescribed by the secretary; provided that the term "wages" shall not include:

(1) subsequent to December 31, 1977, that part of the remuneration in excess of the base wage as determined by the secretary for each calendar year. The base wage upon which contribution shall be paid during any calendar year shall be sixty percent of the state's average annual earnings computed by the division by dividing total wages reported to the division by contributing employers for the second preceding calendar year before the calendar year the computed base wage becomes effective by the average annual employment reported by contributing employers for the same period rounded to the next higher multiple of one hundred dollars (\$100); provided that the base wage so computed for any calendar year shall not be less than seven thousand dollars (\$7,000). Wages paid by an employer to an individual in the employer's employ during any calendar year in excess of the base wage in effect for that calendar year shall be reported to the department but shall be exempt from the payment of contributions unless such wages paid in excess of the base wage become subject to tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund;

(2) the amount of any payment with respect to services performed after June 30, 1941 to or on behalf of an individual in the employ of an employing unit under a plan or system established by the employing unit that makes provision for individuals in its employ generally or for a class or classes of individuals, including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any payment, on account of:

(a) retirement if the payments are made by an employer to or on behalf of an employee under a simplified employee pension plan that provides for payments by an employer in addition to the salary or other remuneration normally payable to the employee or class of employees and does not include any payments that represent deferred compensation or other reduction of an employee's normal taxable wages or remuneration or any payments made to a third party on behalf of an employee as part of an agreement of deferred remuneration;

(b) sickness or accident disability if the payments are received under a workers' compensation or occupational disease disablement law;

(c) medical and hospitalization expenses in connection with sickness or accident disability; or

(d) death; provided the individual in its employ has not the option to receive, instead of provision for the death benefit, any part of such payment, or, if such death benefit is insured, any part of the premiums or contributions to premiums paid by the individual's employing unit and has not the right under the provisions of the plan or system or policy of insurance providing for the death benefit to assign the benefit, or to receive a cash consideration in lieu of the benefit either upon the individual's withdrawal from the plan or system providing for the benefit or upon termination of the plan or system or policy of insurance or of the individual's service with the employing unit;

(3) remuneration for agricultural labor paid in any medium other than cash;

(4) a payment made to, or on behalf of, an employee or an employee's beneficiary under a cafeteria plan within the meaning of Section 125 of the federal Internal Revenue Code of 1986;

(5) a payment made, or benefit furnished to or for the benefit of an employee if at the time of the payment or such furnishing it is reasonable to believe that the employee will be able to exclude the payment or benefit from income under Section 129 of the federal Internal Revenue Code of 1986;

(6) a payment made by an employer to a survivor or the estate of a former employee after the calendar year in which the employee died;

(7) a payment made to, or on behalf of, an employee or the employee's beneficiary under an arrangement to which Section 408(p) of the federal Internal Revenue Code of 1986 applies, other than any elective contributions under Paragraph (2)(A)(i) of that section;

(8) a payment made to or for the benefit of an employee if at the time of the payment it is reasonable to believe that the employee will be able to exclude

the payment from income under Section 106 of the federal Internal Revenue Code of 1986; or

(9) the value of any meals or lodging furnished by or on behalf of the employer if at the time the benefit is provided it is reasonable to believe that the employee will be able to exclude such items from income under Section 119 of the federal Internal Revenue Code of 1986."

## **Chapter 133 Section 6 Laws 2013**

SECTION 6. 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 after July 1, 2003 and ending 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:

(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: 1) for either or both of the corresponding three-month periods ending in the two preceding calendar years; or 2) for weeks of unemployment beginning after December 17, 2010 and ending before December 31, 2011, for any or all of the corresponding three-month periods ending in the three 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."

## **Chapter 133 Section 7 Laws 2013**

### SECTION 7. EFFECTIVE DATE.--

A. The effective date of the provisions of Section 2 of this act is January 1, 2014.

B. The effective date of the provisions of Sections 1 and 3 through 6 of this act is January 1, 2015.

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SFC/Senate Bill 334

Approved April 3, 2013

## **LAWS 2013, CHAPTER 134**

### AN ACT

RELATING TO WORKERS' COMPENSATION; DEFINING "EXTRA-HAZARDOUS EMPLOYER" IN THE WORKERS' COMPENSATION ACT; RAISING THE MINIMUM THRESHOLD FOR A MANDATORY SAFETY VISIT; CLARIFYING COMPENSATION BENEFITS TO BENEFICIARIES; ALLOWING ALL PARTIES TO OBTAIN A PERIODIC EXAMINATION OF THE WORKER FROM A HEALTH CARE PROVIDER OF CHOICE; REPLACING THE SAFETY AND FRAUD DIVISION IN THE WORKERS' COMPENSATION ADMINISTRATION WITH AN ENFORCEMENT BUREAU; ALLOWING A PERSON EMPLOYED AS AN OMBUDSMAN PURSUANT TO THE WORKERS' COMPENSATION ADMINISTRATION ACT TO HOLD ANOTHER POSITION IN THE ADMINISTRATION UPON LEAVING THE POSITION OF OMBUDSMAN; ALLOWING THE WORKERS' COMPENSATION ADMINISTRATION TO SERVE PARTIES IN FORMATS IN ADDITION TO CERTIFIED MAIL; REMOVING THE REQUIREMENT THAT HEARINGS ON WORKERS' COMPENSATION CLAIMS

BE HELD IN THE COUNTY IN WHICH THE INJURY OCCURRED; PROVIDING PENALTIES; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2003.

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

### **Chapter 134 Section 1 Laws 2013**

SECTION 1. Section 52-1-1.1 NMSA 1978 (being Laws 1986, Chapter 22, Section 26, as amended by Laws 2003, Chapter 259, Section 1 and by Laws 2003, Chapter 263, Section 1) is amended to read:

"52-1-1.1. DEFINITIONS.--As used in Chapter 52, Articles 1 through 6 NMSA 1978:

A. "controlled insurance plan" means a plan of insurance coverage that is established by an owner or principal contractor that requires participation by contractors or subcontractors who are engaged in the construction project, including coverage plans that are for a fixed term of coverage on a single construction site;

B. "director" means the director of the workers' compensation administration;

C. "division" means the workers' compensation administration;

D. "extra-hazardous employer" means an employer whose injury frequencies substantially exceed those that may reasonably be expected in that employer's business or industry;

E. "rolling wrap-up or consolidated insurance plan" means coverage for an ongoing project or series of projects in which the common insurance program remains in place indefinitely and contracted work is simply added as it occurs under the control of one owner or principal contractor;

F. "workers' compensation judge" means an individual appointed by the director to act as a workers' compensation judge in the administration of the Workers' Compensation Act or the New Mexico Occupational Disease Disablement Law;

G. "workman" or "workmen" means worker or workers;

H. "Workmen's Compensation Act" means the Workers' Compensation Act; and

I. "workmen's compensation administration" or "administration" means the workers' compensation administration."

## Chapter 134 Section 2 Laws 2013

SECTION 2. Section 52-1-6.2 NMSA 1978 (being Laws 1989, Chapter 263, Section 92, as amended) is amended to read:

### "52-1-6.2. SAFETY PROGRAMS--INSPECTIONS--PENALTIES--BONUSES.--

A. Every employer subject to the provisions of the Workers' Compensation Act who has an annual workers' compensation premium liability of fifteen thousand dollars (\$15,000) or more or who is a certified self-insurer shall receive an annual safety inspection. The director shall determine the adequacy and structure of the safety inspection, including establishing procedures for appropriate self-inspection. For any employer who is not self-insured, inspections and recommendations for creating a safer workplace shall be provided upon request by every insurer providing workers' compensation insurance in this state to its workers' compensation insurance policyholders. To enforce this provision, the director may assess a penalty not to exceed five thousand dollars (\$5,000) against any employer.

B. The administration shall develop safety programs for employers with an annual workers' compensation premium liability of less than fifteen thousand dollars (\$15,000).

C. The superintendent of insurance may assess a penalty against an insurer that refuses to provide annual safety inspections and recommendations. The penalty shall not exceed five thousand dollars (\$5,000) per insurer per violation.

D. Any employer who is subject to the provisions of the Workers' Compensation Act may implement a safety program, as approved by the superintendent of insurance, that provides for bonuses of up to ten percent of a worker's wage to be paid to a worker who fulfills criteria established by the employer for eligibility for the bonus. The criteria shall incorporate the concept of bonuses based upon a stated number of accident-free work days completed by the worker. Any bonus paid under a program authorized by this section shall not be included in computing a worker's average wage for establishing workers' compensation insurance premiums or benefits.

E. The administration shall develop a program to identify extra-hazardous employers. The administration shall notify each identified extra-hazardous employer and the insurance carrier for that employer that the employer has been identified as an extra-hazardous employer.

F. An employer that receives notification under Subsection E of this section shall obtain a safety consultation within thirty days from the administration's safety consultants, the employer's insurer or another professional source approved by the director for that purpose. The safety consultant shall file a written report with the director and the employer setting out any hazardous conditions or practices identified by the safety consultation.

G. The employer, in consultation with the safety consultant, shall, within a reasonable time, formulate a specific accident-prevention plan that addresses the hazards identified by the consultant. An employer that fails to formulate, implement or otherwise comply with the accident-prevention plan shall be subject to a penalty not to exceed five thousand dollars (\$5,000)."

## **Chapter 134 Section 3 Laws 2013**

SECTION 3. Section 52-1-46 NMSA 1978 (being Laws 1959, Chapter 67, Section 25, as amended) is amended to read:

"52-1-46. COMPENSATION BENEFITS FOR DEATH.--Subject to the limitation of compensation payable under Subsection G of this section, if an accidental injury sustained by a worker proximately results in the worker's death within the period of two years following the worker's accidental injury, compensation shall be paid in the amount and to the persons entitled thereto as follows:

A. if there are no eligible dependents, except as provided in Subsection C of Section 52-1-10 NMSA 1978 of the Workers' Compensation Act, the compensation shall be limited to the funeral expenses, not to exceed seven thousand five hundred dollars (\$7,500), and the expenses provided for medical and hospital services for the deceased, together with all other sums that the deceased should have been paid for compensation benefits up to the time of the worker's death;

B. if there are eligible dependents at the time of the worker's death, payment shall consist of a sum not to exceed seven thousand five hundred dollars (\$7,500) for funeral expenses and expenses provided for medical and hospital services for the deceased, together with such other sums as the deceased should have been paid for compensation benefits up to the time of the worker's death and compensation benefits to the eligible dependents as hereinafter specified, subject to the limitations on maximum periods of recovery provided in Sections 52-1-41 through 52-1-43 and 52-1-47 NMSA 1978;

C. if there are eligible dependents entitled thereto, compensation shall be paid to the dependents or to the person authorized by the director or appointed by the court to receive the same for the benefit of the dependents in such portions and amounts, to be computed and distributed as follows:

(1) if there is no widow or widower entitled to compensation, sixty-six and two-thirds percent of the average weekly wage of the deceased to the child or children;

(2) if there are no children, sixty-six and two-thirds percent of the average weekly wage of the deceased to the widow or widower, until remarriage; or

(3) if there is a widow or widower and children:

(a) if all the children are living with the widow or widower, forty-five percent of the weekly compensation benefits as provided in Sections 52-1-41 through 52-1-43 and 52-1-47 NMSA 1978 to the widow or widower and fifty-five percent divided equally to the children; or

(b) if no child is living with a widow or widower, forty percent of the weekly compensation benefits as provided in Sections 52-1-41 through 52-1-43 and 52-1-47 NMSA 1978 to the widow or widower and sixty percent divided equally to the children; and

(4) two years' compensation benefits in one lump sum shall be payable to a widow or widower upon remarriage; however, the total benefits shall not exceed the maximum compensation benefit as provided in Subsection B of this section;

D. if there is neither widow, widower nor children, compensation may be paid to the father and mother or the survivor of them, if dependent to any extent upon the worker for support at the time of the worker's death, twenty-five percent of the average weekly wage of the deceased, and in no event shall the maximum compensation to such dependents exceed the amounts contributed by the deceased worker for their care; provided that if the father and mother, or the survivor of them, was totally dependent upon such worker for support at the time of the worker's death, they shall be entitled to fifty percent of the average weekly wage of the deceased;

E. if there is neither widow, widower nor children nor dependent parent, then to the brothers and sisters and grandchildren if actually dependent to any extent upon the deceased worker for support at the time of the worker's death, thirty-five percent of the average weekly wage of the deceased worker with fifteen percent additional for brothers and sisters and grandchildren in excess of two, with a maximum of sixty-six and two-thirds percent of the average weekly wage of the deceased, and in no event shall the maximum compensation to partial dependents exceed the respective amounts contributed by the deceased worker for their care;

F. in the event of the death or remarriage of the widow or widower entitled to compensation benefits as provided in this section, the surviving children shall then be entitled to compensation benefits computed and paid as provided in Paragraph (1) of Subsection C of this section for the remainder of the compensable period. In the event compensation benefits payable to children as provided in this section are terminated as provided in Subsection E of Section 52-1-17 NMSA 1978, a surviving widow or widower shall then be entitled to compensation benefits computed and paid as provided in Paragraphs (2) and (4) of Subsection C of this section for the remainder of the compensable period; and

G. no compensation benefits payable by reason of a worker's death shall exceed the maximum weekly compensation benefits as provided in Sections 52-1-41 through 52-1-43 and 52-1-47 NMSA 1978, and no dependent or any class thereof, other than a widow, widower or children, shall in any event be paid total benefits in excess of

seven thousand five hundred dollars (\$7,500) exclusive of funeral expenses and the expenses provided for medical and hospital services for the deceased paid for by the employer."

## **Chapter 134 Section 4 Laws 2013**

SECTION 4. Section 52-1-51 NMSA 1978 (being Laws 1929, Chapter 113, Section 19, as amended) is amended to read:

"52-1-51. PHYSICAL EXAMINATIONS OF WORKER--INDEPENDENT MEDICAL EXAMINATION--UNSANITARY OR INJURIOUS PRACTICES BY WORKER--TESTIMONY OF HEALTH CARE PROVIDERS.--

A. In the event of a dispute between the parties concerning the reasonableness or necessity of medical or surgical treatment, the date upon which maximum medical improvement was reached, the correct impairment rating for the worker, the cause of an injury or any other medical issue, if the parties cannot agree upon the use of a specific independent medical examiner, either party may petition a workers' compensation judge for permission to have the worker undergo an independent medical examination. If a workers' compensation judge believes that an independent medical examination will assist the judge with the proper determination of any issue in the case, including the cause of the injury, the workers' compensation judge may order an independent medical examination upon the judge's own motion. The independent medical examination shall be performed immediately, pursuant to procedures adopted by the director, by a health care provider other than the designated health care provider, unless the employer and the worker otherwise agree.

B. In deciding who may conduct the independent medical examination, the workers' compensation judge shall not designate the health care provider initially chosen by the petitioner. The workers' compensation judge shall designate a health care provider on the approved list of persons authorized by the committee appointed by the advisory council on workers' compensation to create that list. The decision of the workers' compensation judge shall be final. The employer shall pay for any independent medical examination.

C. Only a health care provider who has treated the worker pursuant to Section 52-1-49 NMSA 1978 or the health care provider providing the independent medical examination pursuant to this section may offer testimony at any workers' compensation hearing concerning the particular injury in question.

D. If, pursuant to Subsection C of Section 52-1-49 NMSA 1978, either party selects a new health care provider, the other party shall be entitled to periodic examinations of the worker by the health care provider the other party previously selected. Examinations may not be required more frequently than at six-month intervals; except that upon application to the workers' compensation judge having jurisdiction of the claim and after reasonable cause therefor, examinations within six-month intervals



may be ordered. In considering such applications, the workers' compensation judge shall exercise care to prevent harassment of the claimant.

E. If an independent medical examination or an examination pursuant to Subsection D of this section is requested, the worker shall travel to the place at which the examination shall be conducted. Within thirty days after the examination, the worker shall be compensated by the employer for all necessary and reasonable expenses incidental to submitting to the examination, including the cost of travel, meals, lodging, loss of pay or other like direct expense, but the amount to be compensated for meals and lodging shall not exceed that allowed for nonsalaried public officers under the Per Diem and Mileage Act.

F. No attorney shall be present at any examination authorized under this section.

G. Both the employer and the worker shall be given a copy of the report of the examination of the worker made by the independent health care provider pursuant to this section.

H. If a worker fails or refuses to submit to examination in accordance with this section, the worker shall forfeit all workers' compensation benefits that would accrue or become due to the worker except for that failure or refusal to submit to examination during the period that the worker persists in such failure and refusal unless the worker is by reason of disability unable to appear for examination.

I. If any worker persists in any unsanitary or injurious practice that tends to imperil, retard or impair the worker's recovery or increase the worker's disability or refuses to submit to such medical or surgical treatment as is reasonably essential to promote the worker's recovery, the workers' compensation judge may in the judge's discretion reduce or suspend the workers' compensation benefits."

## **Chapter 134 Section 5 Laws 2013**

SECTION 5. Section 52-5-1.3 NMSA 1978 (being Laws 1990 (2nd S.S.), Chapter 2, Section 63) is amended to read:

"52-5-1.3. ENFORCEMENT BUREAU.--

A. There is created in the workers' compensation administration an "enforcement bureau".

B. The enforcement bureau shall investigate to determine whether any fraudulent conduct relating to workers' compensation is being practiced. The enforcement bureau shall refer to an appropriate law enforcement agency any finding of fraud. For any claim pending in the administration, the enforcement bureau shall also

bring its findings to the attention of the workers' compensation judge assigned to that claim.

C. For the purposes of this section, "fraud" includes the intentional misrepresentation of a material fact resulting in workers' compensation or occupational disablement coverage, the payment or withholding of benefits or an attempt to obtain or withhold benefits. The intentional misrepresentation of a material fact may occur through the conduct, practices, omissions or representations of any person. Any person found guilty of committing fraud shall be sentenced pursuant to the provisions of Section 30-16-6 NMSA 1978 and the provisions of the Criminal Sentencing Act."

## **Chapter 134 Section 6 Laws 2013**

SECTION 6. Section 52-5-1.4 NMSA 1978 (being Laws 1990 (2nd S.S.), Chapter 2, Section 64, as amended) is amended to read:

### "52-5-1.4. OMBUDSMAN PROGRAM.--

A. The director shall establish an ombudsman program to assist injured or disabled workers, persons claiming death benefits, employers and other persons in protecting their rights and obtaining information available under workers' compensation and occupational disease disablement laws.

B. An ombudsman shall meet with or otherwise provide information to injured or disabled workers, investigate complaints and communicate with employers, insurance carriers and health care providers on behalf of injured or disabled workers. An ombudsman shall otherwise assist unrepresented claimants, employers and other parties to enable them to protect their rights in the workers' compensation and occupational disease disablement system. At least one specially qualified employee in each location that the administration has an office shall be designated by the director as an ombudsman, and duties described in this section shall be that person's primary responsibility. The director may designate additional ombudsmen and assign them as the director deems appropriate.

C. An ombudsman need not be an attorney but shall demonstrate familiarity with workers' compensation and occupational disease disablement laws.

D. An ombudsman shall not be an advocate for any person and shall restrict ombudsman's activities to providing information and facilitating communication. An ombudsman shall not assist a claimant, employer or any other person in any proceeding beyond the informal conference held pursuant to Section 52-5-5 NMSA 1978.

E. Each employer shall notify the employer's employees of the ombudsman service in a manner prescribed by the director. The notice shall include the posting of a notice in one or more conspicuous places. The director shall also describe

clearly the availability of the ombudsmen on the first report of accident form required under Section 52-1-58 NMSA 1978, or the first report of disablement form required under Section 52-3-51 NMSA 1978."

## **Chapter 134 Section 7 Laws 2013**

SECTION 7. Section 52-5-5 NMSA 1978 (being Laws 1986, Chapter 22, Section 31, as amended) is amended to read:

### "52-5-5. CLAIMS--INFORMAL CONFERENCES.--

A. When a dispute arises under the Workers' Compensation Act or the New Mexico Occupational Disease Disablement Law, any party may file a claim with the director no sooner than thirty-one days from the date of injury or the occurrence of the disabling disease. The director shall assist workers and employees not represented by counsel in the preparation of the claim document.

B. The director shall prepare a form of claim, which shall be available to all parties. The claim shall state concisely in numbered paragraphs the questions at issue or in dispute that the claimant expects to be determined with sufficient particularity that the responding or opposing party may be notified adequately of the claim and its basis, including, if applicable, the specific benefit that is due and not paid.

C. Upon receipt, every claim shall be evaluated by the director or the director's designee, who shall then contact all parties and attempt to informally resolve the dispute. Within sixty days after receipt of the claim, the director shall issue recommendations for resolution and serve the parties with a copy. Within thirty days of receipt of the recommendation of the director, each party shall notify the director on a form provided by the director of the acceptance or rejection of the recommendation. A party failing to notify the director waives any right to reject the recommendation and is bound conclusively by the director's recommendation unless, upon application made to the director within thirty days after the foregoing deadline, the director finds that the party's failure to notify was the result of excusable neglect. If either party makes a timely rejection of the director's recommendation, the claim shall be assigned to a workers' compensation judge for hearing.

D. Each party to a dispute shall have a peremptory right to disqualify one workers' compensation judge; provided that:

(1) the employer and the employer's insurer shall constitute a single party for purposes of this subsection;

(2) this peremptory right to disqualify one worker's compensation judge shall not apply to the judge appointed pursuant to Section 52-1-49 NMSA 1978 to render a decision within seven days on a request for a different health care provider; and

(3) no party shall be required to disqualify a workers' compensation judge until a judge has been assigned to a case."

## **Chapter 134 Section 8 Laws 2013**

SECTION 8. Section 52-5-6 NMSA 1978 (being Laws 1986, Chapter 22, Section 32, as amended) is amended to read:

### "52-5-6. AUTHORITY OF THE DIRECTOR TO CONDUCT HEARINGS.--

A. Unless the parties agree otherwise, or it is ordered by the workers' compensation judge or the director in the case of a director's hearing, hearings shall be held at an office of the workers' compensation administration that is located nearest to the location of injury or disablement. In determining the site of hearing, the judge or the director shall consider cost-effectiveness, judicial efficiency, the health and mobility of the worker and the convenience of parties and witnesses. Hearings may be conducted by videoconferencing or by telephone at the discretion of the judge or the director.

B. The workers' compensation judge and the director shall have the power to preserve and enforce order during hearings; administer oaths; issue subpoenas to compel the attendance and testimony of witnesses, the production of books, papers, documents and other evidence or the taking of depositions before a designated individual competent to administer oaths; examine witnesses; enter noncriminal sanctions for misconduct; and do all things conformable to law that may be necessary to enable the judge or the director to discharge the duties of the judge's or the director's office effectively.

C. In addition to the noncriminal sanctions that may be ordered by the workers' compensation judge or the director, any person committing any of the following acts in a proceeding before a workers' compensation judge or the director may be held accountable for the person's conduct in accordance with the provisions of Subsection D of this section:

- (1) disobedience of or resistance to any lawful order or process;
- (2) misbehavior during a hearing or so near the place of the hearing as to obstruct it;
- (3) failure to produce any pertinent book, paper or document after having been ordered to do so;
- (4) refusal to appear after having been subpoenaed;
- (5) refusal to take the oath or affirmation as a witness; or
- (6) refusal to be examined according to law.

D. The director may certify to the district court of the district in which the acts were committed the facts constituting any of the acts specified in Paragraphs (1) through (6) of Subsection C of this section. The court shall hold a hearing and, if the evidence so warrants, may punish the offending person in the same manner and to the same extent as for contempt committed before the court, or it may commit the person upon the same conditions as if the doing of the forbidden act had occurred with reference to the process of or in the presence of the court."

## **Chapter 134 Section 9 Laws 2013**

SECTION 9. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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Senate Bill 275

Approved April 3, 2013

## **LAWS 2013, CHAPTER 135**

AN ACT

RELATING TO GAME AND FISH; AMENDING A SECTION OF CHAPTER 17, ARTICLE 1 NMSA 1978 TO PROVIDE FOR A DEFINITE PERIOD OF REVOCATION OF LICENSE PRIVILEGES; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2005.

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

## **Chapter 135 Section 1 Laws 2013**

SECTION 1. Section 17-1-14 NMSA 1978 (being Laws 1921, Chapter 35, Section 7, as amended by Laws 2005, Chapter 38, Section 1 and by Laws 2005, Chapter 177, Section 1) is amended to read:

"17-1-14. GENERAL POWERS AND DUTIES OF STATE GAME COMMISSION--GAME PROTECTION FUND--LIABILITY SUSPENSE ACCOUNT.--

A. The state game commission shall have general control over the collection and disbursement of all money collected or received under the state laws for the protection and propagation of game and fish, which money shall be paid over to the state treasurer to the credit of the game protection fund, unless otherwise provided by law, and the fund, including all earned income, shall not be transferred to another fund. Prior to depositing money into the game protection fund, the department of game and

fish shall ensure that an amount adequate to cover the cost of refunds allowed by the provisions of Chapter 17 NMSA 1978 is held in a liability suspense account. All refunds shall be made from the liability suspense account. Money not needed to cover the cost of refunds shall be deposited in the game protection fund at the end of each month. Chapter 17 NMSA 1978 shall be guaranty to the person who pays for hunting and fishing licenses and permits that the money in that fund shall not be used for any purpose other than as provided in Chapter 17 NMSA 1978.

B. The state game commission shall have authority to:

(1) establish and, through the director of the department of game and fish, to operate fish hatcheries for the purpose of stocking public waters of the state and to furnish fish fry and fingerlings to stock private waters, receipts from such sources to go into the game protection fund;

(2) declare closed seasons in any specified locality and on any species of game or fish threatened with undue depletion from any cause;

(3) establish game refuges for the purpose of providing safe sanctuaries in which game may breed and replenish adjacent hunting ranges, it being the purpose of this provision to establish small refuges rather than large preserves or to close large areas to hunting;

(4) purchase lands for game refuges where suitable public lands do not exist, to purchase lands for fish hatcheries and to purchase lands to be maintained perpetually as public hunting grounds, particularly lands suitable for waterfowl hunting, all such lands to be paid for from the game protection fund;

(5) receive by gift or bequest, in the name and on behalf of the state, lands suitable for game refuges, hunting grounds, fish hatcheries or for any other purpose necessary to carry out the provisions of Chapter 17 NMSA 1978;

(6) apply for and accept any state, federal or private funds, grants or donations from any source for game and fish programs and projects;

(7) designate certain areas as rest grounds for migratory birds, in which hunting shall be forbidden at all times or at such times as the state game commission shall provide, it being the purpose of this provision not to interfere unduly with the hunting of waterfowl but to provide havens in which they can rest and feed without molestation;

(8) close any public stream or lake or portion thereof to fishing when such action is necessary to protect a recently stocked water, to protect spawning waters or to prevent undue depletion of the fish;

(9) propagate, capture, purchase, transport or sell any species of game or fish needed for restocking any lands or streams of the state;

(10) after reasonable notice and hearing, suspend or revoke any license or permit issued pursuant to the provisions of Chapter 17 NMSA 1978 and withhold license privileges from any person procuring a license through misrepresentation, violating any provisions of Chapter 17 NMSA 1978 or hunting without a proper license;

(11) adopt rules establishing procedures that provide reasonable notice and a hearing before the state game commission for the suspension, revocation or withholding of license privileges for a definite period of time for a person charged with violating the provisions of Chapter 17 NMSA 1978, subject to such judicial review as may be provided by law;

(12) conduct studies of programs for the management of endangered and nongame species of wildlife;

(13) establish licenses, permits and certificates not otherwise provided for in Section 17-3-13 NMSA 1978 and charge and collect just and reasonable fees for them; provided the fees shall not exceed the costs of administration associated with the licenses, permits or certificates;

(14) permit, regulate or prohibit the commercial taking or capturing of native, free-ranging amphibians or reptiles not specifically protected by law, except for rattlesnake roundups, collection of fish bait and lizard races;

(15) adopt rules to control, eradicate or prevent the spread of a contagious disease, pest or parasite, including chronic wasting disease, to or among game animals. The rules shall include provisions for:

(a) notification to the department of game and fish of the diagnosis or suspected presence of a contagious disease;

(b) examination by the state veterinarian or the state veterinarian's designee of suspected infected game animals;

(c) quarantine, treatment or destruction of an infected game animal;

(d) disinfection and isolation of a licensed private park where an infected game animal has been; and

(e) indemnification and destruction of a protected game animal;

(16) as necessary, designate areas of the state in which bear-proof garbage containers are required on public and private lands to reduce potential human-bear interactions; and

(17) pursuant to appropriation by the legislature, expend money from the game protection fund and the habitat management fund for the improvement, maintenance, development and operation of property for fish and wildlife habitat management.

C. The director of the department of game and fish shall exercise all the powers and duties conferred upon the state game and fish warden by all previous statutes now in force not in conflict with Chapter 17 NMSA 1978.

D. The state game commission shall have authority to prohibit all hunting in periods of extreme forest fire danger, at such times and places as may be necessary to reduce the danger of destructive forest fires.

E. The hunting, pursuing, capturing, killing or wounding of any game animals, birds or fish in or upon any game refuge, rest ground or closed water or closed area or during any closed season established or proclaimed by the state game commission in accordance with the authority conferred in Chapter 17 NMSA 1978 constitutes a misdemeanor and shall be punishable as prescribed in Chapter 17 NMSA 1978."

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Senate Bill 73

Approved April 3, 2013

## **LAWS 2013, CHAPTER 136**

AN ACT

RELATING TO STATE PARKS; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978 TO PROVIDE FOR PENALTIES UNDER THE BOAT ACT; PROVIDING FOR PENALTY ASSESSMENT MISDEMEANORS IN STATE PARKS.

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

### **Chapter 136 Section 1 Laws 2013**

SECTION 1. A new section of Chapter 16, Article 2 NMSA 1978 is enacted to read:



"STATE PARKS DIVISION PENALTY ASSESSMENT MISDEMEANORS--  
DEFINITION--SCHEDULE OF ASSESSMENTS.--

A. As used in Chapter 16, Article 2 NMSA 1978, "penalty assessment misdemeanor" means a violation of any rule of the state parks division of the energy, minerals and natural resources department promulgated pursuant to Chapter 16, Article 2 NMSA 1978.

B. The term "penalty assessment misdemeanor" does not include a violation that has caused or contributed to the cause of an accident resulting in injury or death to a person or disappearance of a person, nor does it include a violation of Section 16-2-32 NMSA 1978.

C. Whenever a person is arrested for violation of a penalty assessment misdemeanor, the arresting officer shall advise the person of the option either to accept the penalty assessment and pay it to the court or to appear in court. The arresting officer, using a uniform non-traffic citation, shall complete the information section, prepare the penalty assessment and prepare a notice to appear in court specifying the time and place to appear. The arresting officer shall have the person sign the citation as a promise either to pay the penalty assessment as prescribed or to appear in court as specified, give a copy of the citation to the person and release the person from custody. An officer shall not accept custody of payment of any penalty assessment.

D. The arresting officer may issue a warning notice, but shall fill in the information section of the citation and give a copy to the arrested person after requiring a signature on the warning notice as an acknowledgment of receipt. No warning notice issued under this section shall be used as evidence of conviction for purposes of Subsection L of this section.

E. In order to secure release, the arrested person must give a written promise to appear in court or to pay the penalty assessment prescribed or to acknowledge receipt of a warning notice.

F. The magistrate court or metropolitan court in the county where the alleged violation occurred has jurisdiction for any case arising from a penalty assessment misdemeanor issued for violation of a rule of the state parks division promulgated pursuant to Chapter 16, Article 2 NMSA 1978.

G. A penalty assessment citation issued by a law enforcement officer shall be submitted to the appropriate magistrate or metropolitan court within three business days of issuance. If the citation is not submitted within three business days, it may be dismissed with prejudice.

H. It is a misdemeanor for any person to violate a written promise to pay the penalty assessment or to appear in court given to an officer upon issuance of a citation regardless of the disposition of the charge for which the citation was issued.

I. A citation with a written promise to appear in court or to pay the penalty assessment is a summons. If a person fails to appear or to pay the penalty assessment by the appearance date, a warrant for failure to appear may be issued.

J. A written promise to appear in court may be complied with by appearance of counsel.

K. When an alleged violator of a penalty assessment misdemeanor elects to appear in court rather than to pay the penalty assessment to the court, no fine imposed upon later conviction shall exceed the penalty assessment established for the particular penalty assessment misdemeanor.

L. The penalty assessment for a first violation of any rule of the state parks division promulgated to Chapter 16, Article 2 NMSA 1978 is thirty dollars (\$30.00). This penalty assessment is in addition to any magistrate or metropolitan court costs as provided in Subsection B of Section 35-6-4 NMSA 1978. Upon a second conviction or acceptance of a notice of penalty assessment for violation of any rule of the state parks division promulgated pursuant to Chapter 16, Article 2 NMSA 1978, the penalty assessment shall be fifty dollars (\$50.00). Upon a third or subsequent conviction or acceptance of a notice of penalty assessment, the penalty assessment shall be one hundred fifty dollars (\$150)."

## **Chapter 136 Section 2 Laws 2013**

SECTION 2. Section 16-2-32 NMSA 1978 (being Laws 1935, Chapter 57, Section 19, as amended) is amended to read:

"16-2-32. CRIMINAL OFFENSES--PENALTY.--A person who commits any of the following acts is guilty of a petty misdemeanor and shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978:

A. cut, break, injure, destroy, take or remove a tree, shrub, timber, plant or natural object in any state park and recreation area, except in areas designated by the secretary and permitted by rules adopted by the secretary. Such rules shall only permit the removal of a tree, shrub, timber, plant or natural object for scientific study or for noncommercial use by an individual as a souvenir. The quantity of material authorized for removal from any area shall be strictly regulated by park personnel in order to minimize resource damage;

B. kill, cause to be killed or pursue with intent to kill a bird or animal in a state park and recreation area, except in areas designated by the secretary and except in conformity with the provisions of general law and the rules of the state game commission;

C. take a fish from the waters of a state park and recreation area, except in conformity with the provisions of general law and the rules of the state game commission;

D. willfully mutilate, injure, deface or destroy any guidepost, notice, tablet, fence, enclosure or work that is for the protection or ornamentation of a state park and recreation area;

E. light a fire in a state park and recreation area, except in those places authorized for fires by the secretary, or willfully or carelessly permit any fire that is authorized and that the person has lighted or caused to be lighted or under the person's charge to spread or extend to or burn the shrubbery, trees, timber, ornaments or improvements in a state park and recreation area or leave a campfire that the person has lighted or that has been left in the person's charge unattended by a competent person without extinguishing it;

F. place in a state park and recreation area or affix to an object in a state park and recreation area a word, character or device designed to advertise a business, profession, article, thing, exhibition, matter or event without a written license from the secretary permitting the person to do it; or

G. violate a rule adopted by the secretary pursuant to the provisions of Chapter 16, Article 2 NMSA 1978 when the violation has caused or contributed to the cause of an accident resulting in injury or death to a person or disappearance of a person."

### **Chapter 136 Section 3 Laws 2013**

SECTION 3. Section 66-12-23 NMSA 1978 (being Laws 1963, Chapter 45, Section 9, as amended) is amended to read:

"66-12-23. PENALTIES.--

A. Except for penalty provisions provided in Subsections B through M of this section, a person who violates a provision of the Boat Act or a rule of the state parks division of the energy, minerals and natural resources department promulgated pursuant to that act is guilty of a petty misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

B. As used in Chapter 66, Article 12 NMSA 1978, "penalty assessment misdemeanor" means a violation of Section 66-12-7, 66-12-7.1, 66-12-10 or 66-12-14 NMSA 1978 or a rule of the division promulgated pursuant to those sections.

C. The term "penalty assessment misdemeanor" does not include a violation that has caused or contributed to the cause of an accident resulting in injury or death to a person or disappearance of a person.

D. Whenever a person is arrested for violation of a penalty assessment misdemeanor, the arresting officer shall advise the person of the option either to accept the penalty assessment and pay it to the court or to appear in court. The arresting officer, using a uniform non-traffic citation, shall complete the information section, prepare the penalty assessment and prepare a notice to appear in court specifying the time and place to appear. The arresting officer shall have the person sign the citation as a promise either to pay the penalty assessment as prescribed or to appear in court as specified, give a copy of the citation to the person and release the person from custody. An officer shall not accept custody of payment of any penalty assessment.

E. The arresting officer may issue a warning notice, but shall fill in the information section of the citation and give a copy to the arrested person after requiring a signature on the warning notice as an acknowledgment of receipt. No warning notice issued under this section shall be used as evidence of conviction for purposes of Subsection M of this section.

F. In order to secure release, the arrested person must give a written promise to appear in court or to pay the penalty assessment prescribed or to acknowledge receipt of a warning notice.

G. The magistrate court or metropolitan court in the county where the alleged violation occurred has jurisdiction for any case arising from a penalty assessment misdemeanor issued for violation of Section 66-12-7, 66-12-7.1, 66-12-10 or 66-12-14 NMSA 1978 or a rule of the division promulgated pursuant to those sections.

H. A penalty assessment citation issued by a law enforcement officer shall be submitted to the appropriate magistrate or metropolitan court within three business days of issuance. If the citation is not submitted within three business days, it may be dismissed with prejudice.

I. It is a misdemeanor for any person to violate a written promise to pay the penalty assessment or to appear in court given to an officer upon issuance of a citation regardless of the disposition of the charge for which the citation was issued.

J. A citation with a written promise to appear in court or to pay the penalty assessment is a summons. If a person fails to appear or to pay the penalty assessment by the appearance date, a warrant for failure to appear may be issued.

K. A written promise to appear in court may be complied with by appearance of counsel.

L. When an alleged violator of a penalty assessment misdemeanor elects to appear in court rather than to pay the penalty assessment to the court, no fine imposed upon later conviction shall exceed the penalty assessment established for the particular penalty assessment misdemeanor.

M. The penalty assessment for a first violation of Section 66-12-7, 66-12-7.1, 66-12-10 or 66-12-14 NMSA 1978 or any rule of the division promulgated pursuant to those sections is thirty dollars (\$30.00). This penalty assessment is in addition to any magistrate or metropolitan court costs as provided in Subsection B of Section 35-6-4 NMSA 1978. Upon a second conviction or acceptance of a notice of penalty assessment for violation of Section 66-12-7, 66-12-7.1, 66-12-10 or 66-12-14 NMSA 1978 or any rule of the division promulgated pursuant to those sections, the penalty assessment shall be fifty dollars (\$50.00). Upon a third or subsequent conviction or acceptance of a notice of penalty assessment, the penalty assessment shall be one hundred fifty dollars (\$150)."

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SCONC/Senate Bill 94

Approved April 3, 2013

## **LAWS 2013, CHAPTER 137**

AN ACT

RELATING TO SECURED TRANSACTIONS; AMENDING THE UNIFORM COMMERCIAL CODE; AMENDING AND ADDING DEFINITIONS; CLARIFYING THE APPLICABILITY OF THAT ACT TO A REMITTANCE TRANSFER AS DEFINED IN THE FEDERAL ELECTRONIC FUND TRANSFER ACT OF 1978; CLARIFYING WHEN A SECURED PARTY HAS CONTROL OF ELECTRONIC CHATTEL PAPER; CLARIFYING THE EFFECT ON FINANCING STATEMENTS BY A CHANGE IN THE GOVERNING LAW; CLARIFYING FILING RULES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

### **Chapter 137 Section 1 Laws 2013**

SECTION 1. Section 14-16-3 NMSA 1978 (being Laws 2001, Chapter 131, Section 3, as amended) is amended to read:

"14-16-3. SCOPE.--

A. Except as otherwise provided in Subsection B of this section, the Uniform Electronic Transactions Act applies to electronic records and electronic signatures relating to a transaction.

B. The Uniform Electronic Transactions Act does not apply to:

(1) a transaction to the extent it is governed by:

(a) a law governing the creation and execution of wills, codicils or testamentary trusts;

(b) the Uniform Commercial Code, other than Chapter 55, Articles 2 and 2A NMSA 1978; or

(c) court orders, notices or official court documents, including briefs, pleadings and other records, required to be executed in connection with court proceedings;

(2) a notice concerning:

(a) the cancellation or termination of utility services, including water, gas, heat or power services;

(b) default, acceleration, repossession, foreclosure, eviction or the right to cure, under a credit agreement secured by or a rental agreement for a primary residence of an individual; or

(c) the cancellation or termination of health insurance or benefits or life insurance or benefits, but not including annuities; or

(3) any document required to accompany any transportation or handling of hazardous materials, pesticides or other toxic or dangerous materials.

C. The Uniform Electronic Transactions Act applies to an electronic record or electronic signature otherwise excluded from the application of that act under Subsection B of this section to the extent it is governed by a law other than those specified in Subsection B of this section.

D. A transaction subject to the Uniform Electronic Transactions Act is also subject to other applicable substantive law."

## **Chapter 137 Section 2 Laws 2013**

SECTION 2. Section 55-4A-108 NMSA 1978 (being Laws 1992, Chapter 114, Section 204) is amended to read:

"55-4A-108. RELATIONSHIP TO ELECTRONIC FUND TRANSFER ACT.--

(a) Except as provided in Subsection (b) of this section, this article does not apply to a funds transfer any part of which is governed by the Electronic Fund Transfer Act of 1978 (Title XX, Public Law 95-630, 92 Stat. 3728, 15 U.S.C. Section 1693 et seq.) as amended from time to time.

(b) This article applies to a funds transfer that is a remittance transfer as defined in the Electronic Fund Transfer Act of 1978 (15 U.S.C. Section 1693o-1) as amended from time to time, unless the remittance transfer is an electronic fund transfer as defined in the Electronic Fund Transfer Act of 1978 (15 U.S.C. Section 1693a) as amended from time to time.

(c) In a funds transfer to which this article applies, in the event of an inconsistency between an applicable provision of this article and an applicable provision of the Electronic Fund Transfer Act of 1978 (15 U.S.C. Section 1693 et seq.) as amended from time to time, the provisions of the Electronic Fund Transfer Act of 1978 (15 U.S.C. Section 1693 et seq.) as amended from time to time, governs to the extent of the inconsistency."

### **Chapter 137 Section 3 Laws 2013**

SECTION 3. 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) [Reserved];

(44) "goods" means all things that are movable when a security interest attaches and:

(A) includes:

- (i) fixtures;
- (ii) standing timber that is to be cut and removed under a conveyance or contract for sale;
- (iii) the unborn young of animals;
- (iv) crops grown, growing or to be grown, even if the crops are produced on trees, vines or bushes;
- (v) manufactured homes; and
- (vi) a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if the program is associated with the goods in such a manner that it customarily is considered part of the goods, or by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods; but

(B) does not include:

- (i) a computer program embedded in goods that consist solely of the medium in which the program is embedded; or
- (ii) accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money or oil, gas or other minerals before extraction;

(45) "governmental unit" means a subdivision, agency, department, county, parish, municipality or other unit of the government of the United States, a state or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States;

(46) "health-care-insurance receivable" means an interest in or claim under a policy of insurance that is a right to payment of a monetary obligation for health care goods or services provided or to be provided;

(47) "instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment. The term does not include:

(A) investment property;

(B) letters of credit; 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 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;

(68) "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;

(69) "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;

(70) "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;

(71) "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;

(72) "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;

(73) "security agreement" means an agreement that creates or provides for a security interest;

(74) "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;

(75) "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;

(76) "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;

(77) "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;

(78) "tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium;

(79) "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

(80) "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" Section 55-8-102 NMSA 1978;  
"security entitlement" Section 55-8-102 NMSA 1978; and  
"uncertificated security" Section 55-8-102 NMSA 1978.

(c) Chapter 12, Article 2A and Chapter 55, Article 1 NMSA 1978 contain general definitions and principles of construction and interpretation applicable throughout Chapter 55, Article 9 NMSA 1978."

## **Chapter 137 Section 4 Laws 2013**

SECTION 4. Section 55-9-105 NMSA 1978 (being Laws 2001, Chapter 130, Section 5) is amended to read:

"55-9-105. CONTROL OF ELECTRONIC CHATTEL PAPER.--

(a) A secured party has control of electronic chattel paper if a system employed for evidencing the transfer of interests in the chattel paper reliably establishes the secured party as the person to which the chattel paper was assigned.

(b) A system satisfies Subsection (a) of this section if the record or records comprising the chattel paper are created, stored and assigned in such a manner that:

(1) a single authoritative copy of the record or records exists that is unique, identifiable and, except as otherwise provided in Paragraphs (4) through (6) of this subsection, unalterable;

(2) the authoritative copy identifies the secured party as the assignee of the record or records;

(3) the authoritative copy is communicated to and maintained by the secured party or its designated custodian;

(4) copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the secured party;

(5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) any amendment of the authoritative copy is readily identifiable as authorized or unauthorized."

## **Chapter 137 Section 5 Laws 2013**

SECTION 5. Section 55-9-307 NMSA 1978 (being Laws 2001, Chapter 139, Section 27) is amended to read:

"55-9-307. LOCATION OF DEBTOR.--

(a) In this section, "place of business" means a place where a debtor conducts its affairs.

(b) Except as otherwise provided in this section, the following rules determine a debtor's location:

(1) a debtor who is an individual is located at the individual's principal residence;

(2) a debtor that is an organization and has only one place of business is located at its place of business; and

(3) a debtor that is an organization and has more than one place of business is located at its chief executive office.



(c) Subsection (b) of this section applies only if a debtor's residence, place of business or chief executive office, as applicable, is located in a jurisdiction whose law generally requires information concerning the existence of a nonpossessory security interest to be made generally available in a filing, recording or registration system as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. If Subsection (b) of this section does not apply, the debtor is located in the District of Columbia.

(d) A person that ceases to exist, have a residence or have a place of business continues to be located in the jurisdiction specified by Subsections (b) and (c) of this section.

(e) A registered organization that is organized under the law of a state is located in that state.

(f) Except as otherwise provided in Subsection (i) of this section, a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a state are located:

(1) in the state that the law of the United States designates if the law designates a state of location;

(2) in the state that the registered organization, branch or agency designates if the law of the United States authorizes the registered organization, branch or agency to designate its state of location, including by designating its main office, home office or other comparable office; or

(3) in the District of Columbia if neither Paragraph (1) nor Paragraph (2) of this subsection applies.

(g) A registered organization continues to be located in the jurisdiction specified by Subsection (e) or (f) of this section notwithstanding:

(1) the suspension, revocation, forfeiture or lapse of the registered organization's status as such in its jurisdiction of organization; or

(2) the dissolution, winding up or cancellation of the existence of the registered organization.

(h) The United States is located in the District of Columbia.

(i) A branch or agency of a bank that is not organized under the law of the United States or a state is located in the state in which the branch or agency is licensed if all branches and agencies of the bank are licensed in only one state.

(j) A foreign air carrier under the Federal Aviation Act of 1958, as amended, is located at the designated office of the agent upon which service of process may be made on behalf of the carrier.

(k) This section applies only for purposes of Sections 55-9-301 through 55-9-342 NMSA 1978."

## **Chapter 137 Section 6 Laws 2013**

SECTION 6. Section 55-9-311 NMSA 1978 (being Laws 2001, Chapter 139, Section 31) is amended to read:

"55-9-311. PERFECTION OF SECURITY INTERESTS IN PROPERTY SUBJECT TO CERTAIN STATUTES, REGULATIONS AND TREATIES.--

(a) Except as otherwise provided in Subsection (d) of this section, the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(1) a statute, regulation or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt Subsection (a) of Section 55-9-310 NMSA 1978;

(2) the provisions of Chapter 66 NMSA 1978; or

(3) a statute of another jurisdiction that provides for a security interest to be indicated on a certificate of title as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

(b) Compliance with the requirements of a statute, regulation or treaty described in Subsection (a) of this section for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under Chapter 55, Article 9 NMSA 1978. Except as otherwise provided in Subsection (d) of this section and in Section 55-9-313 and Subsections (d) and (e) of Section 55-9-316 NMSA 1978 for goods covered by a certificate of title, a security interest in property subject to a statute, regulation or treaty described in Subsection (a) of this section may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(c) Except as otherwise provided in Subsection (d) of this section and Subsections (d) and (e) of Section 55-9-316 NMSA 1978, duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation or treaty described in Subsection (a) of this section are governed by the statute, regulation or treaty. In other respects, the security interest is subject to Chapter 55, Article 9 NMSA 1978.

(d) During any period in which collateral subject to a statute specified in Paragraph (2) of Subsection (a) of this section is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person."

## **Chapter 137 Section 7 Laws 2013**

SECTION 7. Section 55-9-316 NMSA 1978 (being Laws 2001, Chapter 139, Section 36) is amended to read:

### "55-9-316. EFFECT OF CHANGE IN GOVERNING LAW.--

(a) A security interest perfected pursuant to the law of the jurisdiction designated in Subsection (1) of Section 55-9-301 or Subsection (c) of Section 55-9-305 NMSA 1978 remains perfected until the earliest of:

(1) the time perfection would have ceased under the law of that jurisdiction;

(2) the expiration of four months after a change of the debtor's location to another jurisdiction; or

(3) the expiration of one year after a transfer of collateral to a person that thereby becomes a debtor and is located in another jurisdiction.

(b) If a security interest described in Subsection (a) of this section becomes perfected under the law of the other jurisdiction before the earliest time or event described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(c) A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously perfected if:

(1) the collateral is located in one jurisdiction and subject to a security interest perfected under the law of that jurisdiction;

(2) thereafter the collateral is brought into another jurisdiction; and

(3) upon entry into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

(d) Except as otherwise provided in Subsection (e) of this section, a security interest in goods covered by a certificate of title that is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this state remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

(e) A security interest described in Subsection (d) of this section becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for perfection under Subsection (b) of Section 55-9-311 or Section 55-9-313 NMSA 1978 are not satisfied before the earlier of:

(1) the time the security interest would have become unperfected under the law of the other jurisdiction had the goods not become covered by a certificate of title from this state; or

(2) the expiration of four months after the goods had become so covered.

(f) A security interest in deposit accounts, letter-of-credit rights or investment property that is perfected under the law of the bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

(1) the time the security interest would have become unperfected under the law of that jurisdiction; or

(2) the expiration of four months after a change of the applicable jurisdiction to another jurisdiction.

(g) If a security interest described in Subsection (f) of this section becomes perfected under the law of the other jurisdiction before the earlier of the time or the end of the period described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(h) The following rules apply to collateral to which a security interest attaches within four months after the debtor changes its location to another jurisdiction:

(1) a financing statement filed before the change pursuant to the law of the jurisdiction designated in Paragraph (1) of Section 55-9-301 or Subsection (c) of Section 55-9-305 NMSA 1978 is effective to perfect a security interest in the collateral

if the financing statement would have been effective to perfect a security interest in the collateral had the debtor not changed its location; and

(2) if a security interest perfected by a financing statement that is effective under Paragraph (1) of this subsection becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in Paragraph (1) of Section 55-9-301 or Subsection (c) of Section 55-9-305 NMSA 1978 or the expiration of the four-month period, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(i) If a financing statement naming an original debtor is filed pursuant to the law of the jurisdiction designated in Paragraph (1) of Section 55-9-301 or Subsection (c) of Section 55-9-305 NMSA 1978 and the new debtor is located in another jurisdiction, the following rules apply:

(1) the financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within four months after, the new debtor becomes bound under Subsection (d) of Section 55-9-203 NMSA 1978 if the financing statement would have been effective to perfect a security interest in the collateral had the collateral been acquired by the original debtor; and

(2) a security interest perfected by the financing statement that becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in Paragraph (1) of Section 55-9-301 or Subsection (c) of Section 55-9-305 NMSA 1978 or the expiration of the four-month period remains perfected thereafter. A security interest that is perfected by the financing statement but that does not become perfected under the law of the other jurisdiction before the earlier time or event becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value."

## **Chapter 137 Section 8 Laws 2013**

SECTION 8. Section 55-9-317 NMSA 1978 (being Laws 2001, Chapter 139, Section 37, as amended) is amended to read:

"55-9-317. INTERESTS THAT TAKE PRIORITY OVER OR TAKE FREE OF SECURITY INTEREST OR AGRICULTURAL LIEN.--

(a) A security interest or agricultural lien is subordinate to the rights of:

(1) a person entitled to priority under Section 55-9-322 NMSA 1978;  
and

(2) except as otherwise provided in Subsection (e) of this section, a person that becomes a lien creditor before the earlier of the time:

(A) the security interest or agricultural lien is perfected; or

(B) one of the conditions specified in Paragraph (3) of Subsection (b) of Section 55-9-203 NMSA 1978 is met and a financing statement covering the collateral is filed.

(b) Except as otherwise provided in Subsection (e) of this section, a buyer, other than a secured party, of tangible chattel paper, tangible documents, goods, instruments or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(c) Except as otherwise provided in Subsection (e) of this section, a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) A licensee of a general intangible or a buyer, other than a secured party, of collateral other than tangible chattel paper, tangible documents, goods, instruments or a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(e) Except as otherwise provided in Sections 55-9-320 and 55-9-321 NMSA 1978, if a person files a financing statement with respect to a purchase-money security interest before or within twenty days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee or lien creditor that arise between the time the security interest attaches and the time of filing."

## **Chapter 137 Section 9 Laws 2013**

SECTION 9. Section 55-9-326 NMSA 1978 (being Laws 2001, Chapter 139, Section 46) is amended to read:

"55-9-326. PRIORITY OF SECURITY INTERESTS CREATED BY NEW DEBTOR.--

(a) Subject to Subsection (b) of this section, a security interest that is created by a new debtor in collateral in which the new debtor has or acquires rights and is perfected solely by a filed financing statement that would be ineffective to perfect the security interest but for the application of Paragraph (1) of Subsection (i) of Section 55-9-316 or Section 55-9-508 NMSA 1978 is subordinate to a security interest in the same collateral that is perfected other than by such a filed financing statement.

(b) The other provisions of Sections 55-9-301 through 55-9-342 NMSA 1978 determine the priority among conflicting security interests in the same collateral perfected by filed financing statements described in Subsection (a) of this section. However, if the security agreements to which a new debtor became bound as debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor having become bound."

## **Chapter 137 Section 10 Laws 2013**

SECTION 10. Section 55-9-406 NMSA 1978 (being Laws 2001, Chapter 139, Section 68) is amended to read:

"55-9-406. DISCHARGE OF ACCOUNT DEBTOR--NOTIFICATION OF ASSIGNMENT--IDENTIFICATION AND PROOF OF ASSIGNMENT--RESTRICTIONS ON ASSIGNMENT OF ACCOUNTS, CHATTEL PAPER, PAYMENT INTANGIBLES AND PROMISSORY NOTES INEFFECTIVE.--

(a) Subject to Subsections (b) through (i) of this section, an account debtor on an account, chattel paper or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(b) Subject to Subsection (h) of this section, notification is ineffective under Subsection (a) of this section:

(1) if it does not reasonably identify the rights assigned;

(2) to the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than Chapter 55, Article 9 NMSA 1978; or

(3) at the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:

(A) only a portion of the account, chattel paper or payment intangible has been assigned to that assignee;

(B) a portion has been assigned to another assignee; or

(C) the account debtor knows that the assignment to that assignee is limited.

(c) Subject to Subsection (h) of this section, if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under Subsection (a) of this section.

(d) Except as otherwise provided in Subsection (e) of this section and Sections 55-2A-303 and 55-9-407 NMSA 1978, and subject to Subsection (h) of this section, a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

(1) prohibits, restricts or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection or enforcement of a security interest in, the account, chattel paper, payment intangible or promissory note; or

(2) provides that the assignment or transfer or the creation, attachment, perfection or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination or remedy under the account, chattel paper, payment intangible or promissory note.

(e) Subsection (d) of this section does not apply to the sale of a payment intangible or promissory note, other than a sale pursuant to a disposition under Section 55-9-610 NMSA 1978 or an acceptance of collateral under Section 55-9-620 NMSA 1978.

(f) Except as otherwise provided in Sections 55-2A-303 and 55-9-407 NMSA 1978 and subject to Subsections (h) and (i) of this section, a rule of law, statute or regulation that prohibits, restricts or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute or regulation:

(1) prohibits, restricts or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection or enforcement of a security interest in the account or chattel paper; or

(2) provides that the assignment or transfer or the creation, attachment, perfection or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination or remedy under the account or chattel paper.

(g) Subject to Subsection (h) of this section, an account debtor may not waive or vary its option under Paragraph (3) of Subsection (b) of this section.



(h) This section is subject to law other than Chapter 55, Article 9 NMSA 1978 that establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family or household purposes.

(i) This section does not apply to an assignment of a health-care-insurance receivable.

(j) This section is subject to laws other than Chapter 55, Article 9 NMSA 1978 to the extent that those laws prohibit or restrict the assignment, transfer of or creation of a security interest in benefits, compensation, any other account or chattel paper."

## **Chapter 137 Section 11 Laws 2013**

SECTION 11. Section 55-9-408 NMSA 1978 (being Laws 2001, Chapter 139, Section 70) is amended to read:

"55-9-408. RESTRICTIONS ON ASSIGNMENT OF PROMISSORY NOTES, HEALTH-CARE-INSURANCE RECEIVABLES AND CERTAIN GENERAL INTANGIBLES INEFFECTIVE.--

(a) Except as otherwise provided in Subsection (b) of this section, a term in a promissory note or in an agreement between an account debtor and a debtor that relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license or franchise, and that prohibits, restricts or requires the consent of the person obligated on the promissory note or the account debtor to the assignment or transfer of, or creation, attachment or perfection of a security interest in, the promissory note, health-care-insurance receivable or general intangible is ineffective to the extent that the term:

(1) would impair the creation, attachment or perfection of a security interest; or

(2) provides that the assignment or transfer or the creation, attachment or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination or remedy under the promissory note, health-care-insurance receivable or general intangible.

(b) Subsection (a) of this section applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note other than a sale pursuant to a disposition under Section 55-9-610 NMSA 1978 or an acceptance of collateral under Section 55-9-620 NMSA 1978.

(c) A rule of law, statute or regulation that prohibits, restricts or requires the consent of a government, governmental body or official, person obligated on a

promissory note or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable or general intangible, including a contract, permit, license or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute or regulation:

(1) would impair the creation, attachment or perfection of a security interest; or

(2) provides that the assignment or transfer or the creation, attachment or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination or remedy under the promissory note, health-care-insurance receivable or general intangible.

(d) To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor that relates to a health-care-insurance receivable or general intangible or a rule of law, statute or regulation described in Subsection (c) of this section would be effective under law other than Chapter 55, Article 9 NMSA 1978 but is ineffective under Subsection (a) or (c) of this section, the creation, attachment or perfection of a security interest in the promissory note, health-care-insurance receivable or general intangible:

(1) is not enforceable against the person obligated on the promissory note or the account debtor;

(2) does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

(3) does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party or accept payment or performance from the secured party;

(4) does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable or general intangible;

(5) does not entitle the secured party to use, assign, possess or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and

(6) does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable or general intangible. The provisions of this section shall prevail over an inconsistent provision of an existing or future statute or rule of this state, unless the inconsistent provision is set forth in a

statute of this state that refers expressly to this section and states that the inconsistent provision shall prevail over the provisions of this section."

## **Chapter 137 Section 12 Laws 2013**

SECTION 12. Section 55-9-502 NMSA 1978 (being Laws 2001, Chapter 139, Section 73) is amended to read:

"55-9-502. CONTENTS OF FINANCING STATEMENT--RECORD OF MORTGAGE AS FINANCING STATEMENT--TIME OF FILING FINANCING STATEMENT.--

(a) Subject to Subsection (b) of this section, a financing statement is sufficient only if it:

(1) provides the name of the debtor;

(2) provides the name of the secured party or a representative of the secured party; and

(3) indicates the collateral covered by the financing statement.

(b) Except as otherwise provided in Subsection (b) of Section 55-9-501 NMSA 1978, to be sufficient a financing statement that covers as-extracted collateral or timber to be cut, or that is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy Subsection (a) of this section and also:

(1) indicate that it covers this type of collateral;

(2) indicate that it is to be filed for record in the real property records;

(3) provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage pursuant to the laws of this state if the description were contained in a record of the mortgage of the real property; and

(4) if the debtor does not have an interest of record in the real property, provide the name of a record owner.

(c) A record of a mortgage is effective, from the date it is filed for record, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

(1) the record indicates the goods or accounts that it covers;

(2) the goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;

(3) the record satisfies the requirements for a financing statement in this section but:

(A) the record need not indicate that it is to be filed for record in the real property records; and

(B) the record sufficiently provides the name of a debtor who is an individual if it provides the individual name of the debtor or the surname and first personal name of the debtor, even if the debtor is an individual to whom Paragraph (4) of Subsection (a) of Section 55-9-503 NMSA 1978 applies; and

(4) the record is recorded.

(d) A financing statement may be filed before a security agreement is made or a security interest otherwise attaches."

## **Chapter 137 Section 13 Laws 2013**

SECTION 13. Section 55-9-503 NMSA 1978 (being Laws 2001, Chapter 139, Section 74) is amended to read:

"55-9-503. NAME OF DEBTOR AND SECURED PARTY.--

(a) A financing statement sufficiently provides the name of the debtor:

(1) except as otherwise provided in Paragraph (3) of this section, if the debtor is a registered organization or the collateral is held in a trust that is a registered organization, only if the financing statement provides the name that is stated to be the registered organization's name on the public organic record most recently filed with or issued or enacted by the registered organization's jurisdiction of organization that purports to state, amend or restate the registered organization's name;

(2) subject to Subsection (f) of this section, if the collateral is being administered by the personal representative of a decedent, only if the financing statement provides, as the name of the debtor, the name of the decedent and, in a separate part of the financing statement, indicates that the collateral is being administered by a personal representative;

(3) if the collateral is held in a trust that is not a registered organization, only if the financing statement:

(A) provides, as the name of the debtor:

(i) if the organic record of the trust specifies a name for the trust, the name specified; or

(ii) if the organic record of the trust does not specify a name for the trust, the name of the settlor or testator; and

(B) in a separate part of the financing statement:

(i) if the name is provided in accordance with Subparagraph (A)(i) of this paragraph, indicates that the collateral is held in a trust; or

(ii) if the name is provided in accordance with Subparagraph (A)(ii) of this paragraph, provides additional information sufficient to distinguish the trust from other trusts having one or more of the same settlors or the same testator and indicates that the collateral is held in a trust, unless the additional information so indicates;

(4) subject to Subsection (g) of this section, if the debtor is an individual to whom this state has issued a driver's license that has not expired, only if the financing statement provides the name of the individual indicated on the driver's license;

(5) if the debtor is an individual to whom Paragraph (4) of this subsection does not apply, only if the financing statement provides the individual name of the debtor or the surname and first personal name of the debtor; and

(6) in other cases:

(A) if the debtor has a name, only if the financing statement provides the organizational name of the debtor; and

(B) if the debtor does not have a name, only if it provides the names of the partners, members, associates or other persons comprising the debtor in a manner such that each name provided would be sufficient if the person named were the debtor.

(b) A financing statement that provides the name of the debtor in accordance with Subsection (a) of this section is not rendered ineffective by the absence of:

(1) a trade name or other name of the debtor; or

(2) unless required under Subparagraph (B) of Paragraph (6) of Subsection (a) of this section, names of partners, members, associates or other persons comprising the debtor.

(c) A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.

(d) Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.

(e) A financing statement may provide the name of more than one debtor and the name of more than one secured party.

(f) The name of the decedent indicated on the order appointing the personal representative of the decedent issued by the court having jurisdiction over the collateral is sufficient as the name of the decedent under Paragraph (2) of Subsection (a) of this section.

(g) If this state has issued to an individual more than one driver's license of a kind described in Paragraph (4) of Subsection (a) of this section, the one that was issued most recently is the one to which Paragraph (4) of Subsection (a) of this section refers.

(h) As used in this section, "name of the settlor or testator" means:

(1) if the settlor is a registered organization, the name that is stated to be the settlor's name on the public organic record most recently filed with or issued or enacted by the settlor's jurisdiction of organization that purports to state, amend or restate the settlor's name; or

(2) in other cases, the name of the settlor or testator indicated in the trust's organic record."

## **Chapter 137 Section 14 Laws 2013**

SECTION 14. Section 55-9-507 NMSA 1978 (being Laws 2001, Chapter 139, Section 78) is amended to read:

"55-9-507. EFFECT OF CERTAIN EVENTS ON EFFECTIVENESS OF FINANCING STATEMENT.--

(a) A filed financing statement remains effective with respect to collateral that is sold, exchanged, leased, licensed or otherwise disposed of and in which a security interest or agricultural lien continues, even if the secured party knows of or consents to the disposition.

(b) Except as otherwise provided in Subsection (c) of this section and Section 55-9-508 NMSA 1978, a financing statement is not rendered ineffective if, after

the financing statement is filed, the information provided in the financing statement becomes seriously misleading under Section 55-9-506 NMSA 1978.

(c) If the name that a filed financing statement provides for a debtor becomes insufficient as the name of the debtor under Subsection (a) of Section 55-9-503 NMSA 1978 such that the financing statement becomes seriously misleading under Section 55-9-506 NMSA 1978:

(1) the financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within four months after, the filed financing statement becomes seriously misleading; and

(2) the financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the filed financing statement becomes seriously misleading, unless an amendment to the financing statement that renders the financing statement not seriously misleading is filed within four months after the financing statement became seriously misleading."

## **Chapter 137 Section 15 Laws 2013**

SECTION 15. Section 55-9-515 NMSA 1978 (being Laws 2001, Chapter 139, Section 86, as amended) is amended to read:

"55-9-515. DURATION AND EFFECTIVENESS OF FINANCING STATEMENT--  
EFFECT OF LAPSED FINANCING STATEMENT.--

(a) Except as otherwise provided in Subsections (b), (e), (f) and (g) of this section, a filed financing statement is effective for a period of five years after the date of filing.

(b) Except as otherwise provided in Subsections (e), (f) and (g) of this section, an initial financing statement filed in connection with a manufactured-home transaction is effective for a period of thirty years after the date of filing if it indicates that it is filed in connection with a manufactured-home transaction.

(c) The effectiveness of a filed financing statement lapses on the expiration of the period of its effectiveness unless before the lapse a continuation statement is filed pursuant to Subsection (d) of this section. Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected unless the security interest is perfected otherwise. If the security interest or agricultural lien becomes unperfected upon lapse, it is deemed never to have been perfected as against a purchaser of the collateral for value.

(d) A continuation statement may be filed only within six months before the expiration of the five-year period specified in Subsection (a) of this section or the thirty-year period specified in Subsection (b) of this section, whichever is applicable.

(e) Except as otherwise provided in Section 55-9-510 NMSA 1978, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of five years commencing on the day on which the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the five-year period, the financing statement lapses in the same manner as provided in Subsection (c) of this section, unless, before the lapse, another continuation statement is filed pursuant to Subsection (d) of this section. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.

(f) If a debtor is a transmitting utility and a filed initial financing statement so indicates, the financing statement is effective until a termination statement is filed. The filing officer may require proof of the debtor's authority to operate as a transmitting utility as a condition of filing the financing statement or an amendment.

(g) A record of a mortgage that is effective as a financing statement filed as a fixture filing under Subsection (c) of Section 55-9-502 NMSA 1978 remains effective as a financing statement filed as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property."

## **Chapter 137 Section 16 Laws 2013**

SECTION 16. Section 55-9-516 NMSA 1978 (being Laws 2001, Chapter 139, Section 87) is amended to read:

"55-9-516. WHAT CONSTITUTES FILING--EFFECTIVENESS OF FILING.--

(a) Except as otherwise provided in Subsection (b) of this section, communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.

(b) Filing does not occur with respect to a record that the secretary of state refuses to accept because:

(1) the record is not communicated by a method or medium of communication authorized by the filing office;

(2) an amount equal to or greater than the applicable filing fee is not tendered;

(3) the filing office is unable to index the record because:



(A) in the case of an initial financing statement, the record does not provide a name for the debtor;

(B) in the case of an amendment or information statement, the record:

(i) does not identify the initial financing statement as required by Section 55-9-512 or 55-9-518 NMSA 1978, as applicable; or

(ii) identifies an initial financing statement whose effectiveness has lapsed under Section 55-9-515 NMSA 1978;

(C) in the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual that was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's surname; or

(D) in the case of a record filed or recorded in the filing office described in Paragraph (1) of Subsection (a) of Section 55-9-501 NMSA 1978, the record does not provide a sufficient description of the real property to which it relates;

(4) in the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;

(5) in the case of an initial financing statement or an amendment that provides a name of a debtor that was not previously provided in the financing statement to which the amendment relates, the record does not:

(A) provide a mailing address for the debtor; or

(B) indicate whether the name provided as the name of the debtor is the name of an individual or an organization;

(6) in the case of an assignment reflected in an initial financing statement under Subsection (a) of Section 55-9-514 NMSA 1978 or an amendment filed under Subsection (b) of Section 55-9-514 NMSA 1978, the record does not provide a name and mailing address for the assignee; or

(7) in the case of a continuation statement, the record is not filed within the six-month period prescribed by Subsection (d) of Section 55-9-515 NMSA 1978.

(c) For purposes of Subsection (b) of this section:

(1) a record does not provide information if the secretary of state is unable to read or decipher the information; and

(2) a record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by Section 55-9-512, 55-9-514 or 55-9-518 NMSA 1978, is an initial financing statement.

(d) A record that is communicated to the filing office with tender of the filing fee, but that the secretary of state refuses to accept for a reason other than one set forth in Subsection (b) of this section, is effective as a filed record except as against a purchaser of the collateral that gives value in reasonable reliance upon the absence of the record from the files."

### **Chapter 137 Section 17 Laws 2013**

SECTION 17. Section 55-9-518 NMSA 1978 (being Laws 2001, Chapter 139, Section 89) is amended to read:

"55-9-518. CLAIM CONCERNING INACCURATE OR WRONGFULLY FILED RECORD.--

(a) A person may file in the filing office an information statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

(b) An information statement under Subsection (a) of this section must:

(1) identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;

(2) indicate that it is an information statement; and

(3) provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

(c) A person may file in the filing office an information statement with respect to a record filed there if the person is a secured party of record with respect to the financing statement to which the record relates and believes that the person that filed the record was not entitled to do so under Subsection (d) of Section 55-9-509 NMSA 1978.

(d) An information statement under Subsection (c) of this section must:

(1) identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;

(2) indicate that it is an information statement; and

(3) provide the basis for the person's belief that the person that filed the record was not entitled to do so under Subsection (d) of Section 55-9-509 NMSA 1978.

(e) The filing of an information statement does not affect the effectiveness of an initial financing statement or other filed record."

### **Chapter 137 Section 18 Laws 2013**

SECTION 18. Section 55-9-521 NMSA 1978 (being Laws 2001, Chapter 139, Section 92) is repealed and a new Section 55-9-521 NMSA 1978 is enacted to read:

"55-9-521. FORM OF FINANCING STATEMENT AND AMENDMENT--  
RECORDS.--

(a) A filing office that accepts written records may not refuse to accept a written initial financing statement that is in the following form and format, except for a reason set forth in Subsection (b) of Section 55-9-516 NMSA 1978:

"UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)

\_\_\_\_\_

B. E-MAIL CONTACT AT FILER (optional)

\_\_\_\_\_

C. SEND ACKNOWLEDGMENT TO: (Name and Address)

\_\_\_\_\_

THE ABOVE SPACE IS

\_\_\_\_\_

FOR FILING

\_\_\_\_\_

OFFICE USE ONLY

1. DEBTOR'S NAME: Provide only one Debtor name (1a or 1b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name), if any part of the

Individual Debtor's name will not fit in line 1b, leave all of item 1 blank, check here and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

1a. ORGANIZATION'S NAME

---

—

OR 1b. INDIVIDUAL'S SURNAME

---

—

FIRST PERSONAL NAME

---

—

ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

---

—

1c. MAILING ADDRESS

---

—

CITY

STATE

POSTAL CODE

COUNTRY

---

—

2. DEBTOR'S NAME: Provide only one Debtor name (2a or 2b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name), if any part of the Individual Debtor's name will not fit in line 2b, leave all of item 2 blank, check here [ ] and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

2a. ORGANIZATION'S NAME

---

—

OR 2b. INDIVIDUAL'S SURNAME

---

FIRST PERSONAL NAME

---

ADDITIONAL NAME(S)/INITIALS(S)

SUFFIX

---

2c. MAILING ADDRESS

---

CITY

STATE

POSTAL CODE

COUNTRY

---

3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY) Provide only one Secured Party name (3a or 3b)

3a. ORGANIZATION'S NAME

---

OR  
3b. INDIVIDUAL'S SURNAME

---

FIRST PERSONAL NAME

---

ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

---

3c. MAILING ADDRESS

---

CITY            STATE            POSTAL CODE            COUNTRY

---

4. COLLATERAL: This financing statement covers the following collateral

---

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---

---

5. Check only if applicable and check only one box.

Collateral is

held in a Trust (see UCC1Ad, item 17 and instructions)

being administered by a Decedent's Personal Representative

6a. Check only if applicable and check only one box.

Public-Finance Transaction

Manufactured-Home Transaction

A Debtor is a Transmitting Utility

6b. Check only if applicable and check only one box.

Agricultural Lien

Non-UCC Filing

7. ALTERNATIVE DESIGNATION (if applicable)

Lessee/Lessor

Consignee/Consignor

Seller/Buyer

Bailee/Bailor

Licensee/Licensor

8. OPTIONAL FILER REFERENCE DATA:

\_\_\_\_\_

UCC FINANCING STATEMENT (Form UCC1)(Rev. 04/20/11)

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS

9. NAME OF FIRST DEBTOR: Same as line 1a or 1b on Financing Statement; if line 1b was left blank because Individual Debtor name did not fit, check here \_\_\_\_\_

9a. ORGANIZATION'S NAME

\_\_\_\_\_

\_\_\_\_\_

9b. INDIVIDUAL'S SURNAME

\_\_\_\_\_

FIRST PERSONAL NAME

\_\_\_\_\_

ADDITIONAL NAME(S)/INITIAL(S) SUFFIX

\_\_\_\_\_

THE ABOVE SPACE IS

FOR FILING

OFFICE USE ONLY

10. DEBTOR'S NAME: Provide (10a or 10b) only one additional Debtor name or Debtor name that did not fit in line 1b or 2b of the Financing Statement (Form UCC1)(use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name) and enter the mailing address in line 10c

10a. ORGANIZATION'S NAME

\_\_\_\_\_

OR

10b. INDIVIDUAL'S SURNAME

\_\_\_\_\_

FIRST PERSONAL NAME

\_\_\_\_\_

\_\_\_\_\_

ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

\_\_\_\_\_

\_\_\_\_\_

10c. MAILING ADDRESS

\_\_\_\_\_

\_\_\_\_\_

CITY

STATE

POSTAL CODE

COUNTRY

\_\_\_\_\_

\_\_\_\_\_

11. \_\_\_ ADDITIONAL SECURED PARTY'S NAME or

11b) \_\_\_ ASSIGNOR SECURED PARTY'S NAME: Provide only one name (11a or

11a. ORGANIZATION'S NAME

\_\_\_\_\_

\_\_\_\_\_

OR

11b. INDIVIDUAL'S SURNAME

\_\_\_\_\_

\_\_\_\_\_

FIRST PERSONAL NAME

\_\_\_\_\_

\_\_\_\_\_

ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX



\_\_\_\_\_  
\_\_\_\_\_  
11c. MAILING ADDRESS

\_\_\_\_\_  
\_\_\_\_\_  
CITY STATE POSTAL CODE COUNTRY  
\_\_\_\_\_

\_\_\_\_\_  
12. ADDITIONAL SPACE FOR ITEM 4 (Collateral):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
13. \_\_\_ This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS (if applicable)

14. This FINANCING STATEMENT:

\_\_\_ covers timber to be cut

\_\_\_ covers as-extracted collateral

\_\_\_ is filed as a fixture filing

15. Name and address of a RECORD OWNER of real estate described in item 16 (if Debtor does not have a record interest):

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

16. Description of real estate:

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

17. MISCELLANEOUS:

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

UCC FINANCING STATEMENT ADDENDUM (Form UCC1Ad)(Rev. 04/20/11)".

(b) A filing office that accepts written records may not refuse to accept a written record in the following form and format except for a reason set forth in Subsection (b) of Section 55-9-516 NMSA 1978:

"UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)

\_\_\_\_\_

B. E-MAIL CONTACT AT FILER (optional)

\_\_\_\_\_

C. SEND ACKNOWLEDGMENT TO: (Name and Address)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

THE ABOVE SPACE IS

FOR FILING

OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE NUMBER

---

1b. \_\_\_ This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS

Filer: attach Amendment Addendum (Form UCC3Ad) and provide Debtor's name in item 13

2. \_\_\_ TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement.
3. \_\_\_ ASSIGNMENT (full or partial): Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c and name of Assignor in item 9. For partial assignment, complete items 7 and 9 and also indicate affected collateral in item 8.
4. \_\_\_ CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

5. PARTY INFORMATION CHANGE:

Check one of these two boxes:

This change affects \_\_\_ Debtor or \_\_\_ Secured Party of record

AND Check one of these three boxes to:

\_\_\_ CHANGE name and/or address: Complete item 6a or 6b; and item 7a or 7b and item 7c

\_\_\_ ADD name: Complete item 7a or 7b, and item 7c

\_\_\_ DELETE name: Give record name to be deleted in item 6a or 6b

6. CURRENT RECORD INFORMATION: Complete for Party Information Change - provide only one name (6a or 6b)

6a. ORGANIZATION'S NAME

---

6b. INDIVIDUAL'S SURNAME

---

OR

FIRST PERSONAL NAME

---

ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

---

7. CHANGED OR ADDED INFORMATION: Complete for Assignment or Party Information Change - provide only one name (7a or 7b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name)

7a. ORGANIZATION'S NAME

---

7b. INDIVIDUAL'S SURNAME

---

FIRST PERSONAL NAME

---

ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

---

7c. MAILING ADDRESS

---

CITY

STATE

POSTAL CODE

COUNTRY

---

8.  COLLATERAL CHANGE: Also check one of these four boxes:

ADD collateral  DELETE collateral

\_\_\_ RESTATE covered collateral \_\_\_ ASSIGN collateral

Indicate collateral: \_\_\_\_\_

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT:  
Provide only one name (9a or 9b) (name of Assignor, if this is an Assignment)

If this is an Amendment authorized by a DEBTOR, check here \_\_\_ and provide name of authorizing Debtor

- 9a. ORGANIZATION'S NAME

\_\_\_\_\_

- 9b. INDIVIDUAL'S SURNAME

\_\_\_\_\_

FIRST PERSONAL NAME

\_\_\_\_\_

ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

\_\_\_\_\_

10. OPTIONAL FILER REFERENCE DATA:

\_\_\_\_\_

UCC FINANCING STATEMENT AMENDMENT ADDENDUM

FOLLOW INSTRUCTIONS

11. INITIAL FINANCING STATEMENT FILE NUMBER: Same as item 1a on Amendment form

\_\_\_\_\_

12. NAME OF PARTY AUTHORIZING THIS AMENDMENT: Same as item 9 on Amendment form

- 12a. ORGANIZATION'S NAME

\_\_\_\_\_

OR

OR

12b. INDIVIDUAL'S SURNAME

\_\_\_\_\_

FIRST PERSONAL NAME

\_\_\_\_\_

ADDITIONAL NAME(S)/INITIAL(S) SUFFIX

\_\_\_\_\_

THE ABOVE SPACE IS

\_\_\_\_\_

FOR FILING

\_\_\_\_\_

OFFICE USE ONLY

13. Name of DEBTOR on related financing statement (Name of a current Debtor of record required for indexing purposes only in some filing offices — see Instruction item 13). Provide only one Debtor name (13a or 13b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name). See instructions if name does not fit.

13a. ORGANIZATION'S NAME

\_\_\_\_\_

OR

13b. INDIVIDUAL'S SURNAME

\_\_\_\_\_

FIRST PERSONAL NAME

\_\_\_\_\_

ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

\_\_\_\_\_

14. ADDITIONAL SPACE FOR ITEM 8 (Collateral):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

15. This FINANCING STATEMENT AMENDMENT:

\_\_\_ covers timber to be cut, \_\_\_ covers as-extracted collateral, \_\_\_ is filed as a fixture filing

16. Name and address of a RECORD OWNER of real estate described in item 17 (if Debtor does not have a record interest):

---

---

---

17. Description of real estate:

---

---

---

18. MISCELLANEOUS

---

UCC FINANCING STATEMENT AMENDMENT ADDENDUM

(Form UCC3Ad) (Rev 04/20/11)"."

**Chapter 137 Section 19 Laws 2013**

SECTION 19. Section 55-9-607 NMSA 1978 (being Laws 2001, Chapter 139, Section 104) is amended to read:

"55-9-607. COLLECTION AND ENFORCEMENT BY SECURED PARTY.--

(a) If so agreed, and in any event after default, a secured party:

(1) may notify an account debtor or other person obligated on collateral to make payment or otherwise render performance to or for the benefit of the secured party;

(2) may take any proceeds to which the secured party is entitled under Section 55-9-315 NMSA 1978;

(3) may enforce the obligations of an account debtor or other person obligated on collateral and exercise the rights of the debtor with respect to the

obligation of the account debtor or other person obligated on collateral to make payment or otherwise render performance to the debtor, and with respect to any property that secures the obligations of the account debtor or other person obligated on the collateral;

(4) if it holds a security interest in a deposit account perfected by control under Paragraph (1) of Subsection (a) of Section 55-9-104 NMSA 1978, may apply the balance of the deposit account to the obligation secured by the deposit account; and

(5) if it holds a security interest in a deposit account perfected by control under Paragraph (2) or (3) of Subsection (a) of Section 55-9-104 NMSA 1978, may instruct the bank to pay the balance of the deposit account to or for the benefit of the secured party.

(b) If necessary to enable a secured party to exercise under Paragraph (3) of Subsection (a) of this section the right of a debtor to enforce a mortgage nonjudicially, the secured party may record in the office in which a record of the mortgage is recorded:

(1) a copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage; and

(2) the secured party's sworn affidavit in recordable form stating that:

(A) a default has occurred with respect to the obligation secured by the mortgage; and

(B) the secured party is entitled to enforce the mortgage nonjudicially.

(c) A secured party shall proceed in a commercially reasonable manner if the secured party:

(1) undertakes to collect from or enforce an obligation of an account debtor or other person obligated on collateral; and

(2) is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor or a secondary obligor.

(d) A secured party may deduct from the collections made pursuant to Subsection (c) of this section reasonable expenses of collection and enforcement, including reasonable attorney fees and legal expenses incurred by the secured party.

(e) This section does not determine whether an account debtor, bank or other person obligated on collateral owes a duty to a secured party."



## **Chapter 137 Section 20 Laws 2013**

SECTION 20. A new Section 55-9-801 NMSA 1978 is enacted to read:

"55-9-801. EFFECTIVE DATE.--The effective date of the provisions of this 2013 act is July 1, 2013."

## **Chapter 137 Section 21 Laws 2013**

SECTION 21. A new Section 55-9-802 NMSA 1978 is enacted to read:

"55-9-802. APPLICABILITY.--

(a) Except as otherwise provided in this part, this 2013 act applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before this 2013 act takes effect.

(b) This 2013 act does not affect an action, case or proceeding commenced before this 2013 act takes effect."

## **Chapter 137 Section 22 Laws 2013**

SECTION 22. A new Section 55-9-803 NMSA 1978 is enacted to read:

"55-9-803. SECURITY INTEREST PERFECTED BEFORE EFFECTIVE DATE.--

(a) A security interest that is a perfected security interest immediately before this 2013 act takes effect is a perfected security interest under Chapter 55, Article 9 NMSA 1978, as amended by this 2013 act, if, when this 2013 act takes effect, the applicable requirements for attachment and perfection under Chapter 55, Article 9 NMSA 1978, as amended by this 2013 act, are satisfied without further action.

(b) Except as otherwise provided in Section 55-9-805 NMSA 1978, if, immediately before this 2013 act takes effect, a security interest is a perfected security interest but the applicable requirements for perfection under Chapter 55, Article 9 NMSA 1978, as amended by this 2013 act, are not satisfied when this act takes effect, the security interest remains perfected thereafter only if the applicable requirements for perfection under Chapter 55, Article 9 NMSA 1978, as amended by this 2013 act, are satisfied within one year after this 2013 act takes effect."

## **Chapter 137 Section 23 Laws 2013**

SECTION 23. A new Section 55-9-804 NMSA 1978 is enacted to read:

"55-9-804. SECURITY INTEREST UNPERFECTED BEFORE EFFECTIVE DATE.--A security interest that is an unperfected security interest immediately before this 2013 act takes effect becomes a perfected security interest:

(a) without further action, when this 2013 act takes effect, if the applicable requirements for perfection under Chapter 55, Article 9 NMSA 1978, as amended by this 2013 act, are satisfied before or at that time; or

(b) when the applicable requirements for perfection are satisfied if the requirements are satisfied after that time."

## **Chapter 137 Section 24 Laws 2013**

SECTION 24. A new Section 55-9-805 NMSA 1978 is enacted to read:

"55-9-805. EFFECTIVENESS OF ACTION TAKEN BEFORE EFFECTIVE DATE.--

(a) The filing of a financing statement before this 2013 act takes effect is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under Chapter 55, Article 9 NMSA 1978, as amended by this 2013 act.

(b) This 2013 act does not render ineffective an effective financing statement that, before this 2013 act takes effect, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in Chapter 55, Article 9 NMSA 1978 as it existed before amendment. However, except as otherwise provided in Subsections (c) and (d) of this section and Section 55-9-806 NMSA 1978, the financing statement ceases to be effective:

(1) if the financing statement is filed in this state at the time the financing statement would have ceased to be effective had this 2013 act not taken effect; or

(2) if the financing statement is filed in another jurisdiction, at the earlier of:

(A) the time the financing statement would have ceased to be effective under the law of that jurisdiction; or

(B) June 30, 2018.

(c) The filing of a continuation statement after this 2013 act takes effect does not continue the effectiveness of a financing statement filed before this 2013 act takes effect. However, upon the timely filing of a continuation statement after this 2013 act takes effect, and in accordance with the law of the jurisdiction governing perfection

as provided in Chapter 55, Article 9 NMSA 1978, as amended by this 2013 act, the effectiveness of a financing statement filed in the same office in that jurisdiction before this 2013 act takes effect continues for the period provided by the law of that jurisdiction.

(d) Subparagraph (B) of Paragraph (2) of Subsection (b) of this section applies to a financing statement that, before this 2013 act takes effect, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in Chapter 55, Article 9 NMSA 1978, as it existed before amendment, only to the extent that Chapter 55, Article 9 NMSA 1978, as amended by this 2013 act, provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(e) A financing statement that includes a financing statement filed before this 2013 act takes effect and a continuation statement filed after this 2013 act takes effect is effective only to the extent that it satisfies the requirements of Part 5, as amended by this 2013 act, for an initial financing statement. A financing statement that indicates that the debtor is a decedent's estate indicates that the collateral is being administered by a personal representative within the meaning of Paragraph (2) of Subsection (a) of Section 55-9-503 NMSA 1978, as amended by this 2013 act. A financing statement that indicates that the debtor is a trust, or is a trustee acting with respect to property held in trust, indicates that the collateral is held in a trust within the meaning of Paragraph (3) of Subsection (a) of Section 55-9-503 NMSA 1978, as amended by this 2013 act."

## **Chapter 137 Section 25 Laws 2013**

SECTION 25. A new Section 55-9-806 NMSA 1978 is enacted to read:

"55-9-806. WHEN INITIAL FINANCING STATEMENT SUFFICES TO CONTINUE EFFECTIVENESS OF FINANCING STATEMENT.--

(a) The filing of an initial financing statement in the office specified in Section 55-9-501 NMSA 1978 continues the effectiveness of a financing statement filed before this 2013 act takes effect if:

(1) the filing of an initial financing statement in that office would be effective to perfect a security interest under Chapter 55, Article 9 NMSA 1978, as amended by this 2013 act;

(2) the pre-effective-date financing statement was filed in an office in another state; and

(3) the initial financing statement satisfies Subsection (c) of this section.

(b) The filing of an initial financing statement under Subsection (a) of this section continues the effectiveness of the pre-effective-date financing statement:

(1) if the initial financing statement is filed before this 2013 act takes effect, for the period provided in unamended Section 55-9-515 NMSA 1978 with respect to an initial financing statement; and

(2) if the initial financing statement is filed after this 2013 act takes effect, for the period provided in Section 55-9-515 NMSA 1978, as amended by this 2013 act, with respect to an initial financing statement.

(c) To be effective for purposes of Subsection (a) of this section, an initial financing statement must:

(1) satisfy the requirements of Part 5, as amended by this 2013 act, for an initial financing statement;

(2) identify the pre-effective-date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and

(3) indicate that the pre-effective-date financing statement remains effective."

## **Chapter 137 Section 26 Laws 2013**

SECTION 26. A new Section 55-9-807 NMSA 1978 is enacted to read:

"55-9-807. AMENDMENT OF PRE-EFFECTIVE-DATE FINANCING STATEMENT.--

(a) As used in this section, "pre-effective-date financing statement" means a financing statement filed before this 2013 act takes effect.

(b) After this 2013 act takes effect, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a pre-effective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in Chapter 55, Article 9 NMSA 1978, as amended by this 2013 act. However, the effectiveness of a pre-effective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(c) Except as otherwise provided in Subsection (d) of this section, if the law of this state governs perfection of a security interest, the information in a

pre-effective-date financing statement may be amended after this 2013 act takes effect only if:

(1) the pre-effective-date financing statement and an amendment are filed in the office specified in Section 55-9-501 NMSA 1978;

(2) an amendment is filed in the office specified in Section 55-9-501 NMSA 1978 concurrently with, or after the filing in that office of, an initial financing statement that satisfies Subsection (c) of Section 55-9-806 NMSA 1978; or

(3) an initial financing statement that provides the information as amended and that satisfies Subsection (c) of Section 55-9-806 NMSA 1978, is filed in the office specified in Section 55-9-501 NMSA 1978.

(d) If the law of this state governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be continued only pursuant to Subsections (c) and (e) of Section 55-9-805 or Section 55-9-806 NMSA 1978.

(e) Whether or not the law of this state governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement filed in this state may be terminated after this 2013 act takes effect by filing a termination statement in the office in which the

pre-effective-date financing statement is filed, unless an initial financing statement that satisfies Subsection (c) of Section 55-9-806 NMSA 1978 has been filed in the office specified by the law of the jurisdiction governing perfection as provided in Chapter 55, Article 9 NMSA 1978, as amended by this 2013 act as the office in which to file a financing statement."

## **Chapter 137 Section 27 Laws 2013**

SECTION 27. A new Section 55-9-808 NMSA 1978 is enacted to read:

"55-9-808. PERSON ENTITLED TO FILE INITIAL FINANCING STATEMENT OR CONTINUATION STATEMENT.--A person may file an initial financing statement or a continuation statement under this part if:

(a) the secured party of record authorizes the filing; and

(b) the filing is necessary under this part:

(1) to continue the effectiveness of a financing statement filed before this 2013 act takes effect; or

(2) to perfect or continue the perfection of a security interest."

## **Chapter 137 Section 28 Laws 2013**

SECTION 28. A new Section 55-9-809 NMSA 1978 is enacted to read:

"55-9-809. PRIORITY.--This 2013 act determines the priority of conflicting claims to collateral. However, if the relative priorities of the claims are established before this 2013 act takes effect, Chapter 55, Article 9 NMSA 1978, as it existed before amendment, determines priority."

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Senate Bill 146, aa

Approved April 3, 2013

## **LAWS 2013, CHAPTER 138**

AN ACT

RELATING TO HEALTH INSURANCE; ENACTING SECTIONS OF THE HEALTH CARE PURCHASING ACT, THE NEW MEXICO INSURANCE CODE, THE HEALTH MAINTENANCE ORGANIZATION LAW AND THE NONPROFIT HEALTH CARE PLAN LAW TO PROHIBIT CERTAIN FORMULARY CHANGES AND TO REQUIRE WRITTEN NOTICE TO AFFECTED ENROLLEES BEFORE MAKING CERTAIN MODIFICATIONS TO THE FORMULARY; PROVIDING FOR CONTINGENT APPLICABILITY.

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

## **Chapter 138 Section 1 Laws 2013**

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

"PRESCRIPTION DRUGS--PROHIBITED FORMULARY CHANGES--NOTICE REQUIREMENTS.--

A. As of January 1, 2014, group health coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act that provides coverage for prescription drugs categorized or tiered for purposes of cost-sharing through deductibles or coinsurance obligations shall not make any of the following changes to coverage for a prescription drug within one hundred twenty days of any previous change to coverage for that prescription drug, unless a generic version of the prescription drug is available:

(1) reclassify a drug to a higher tier of the formulary;

(2) reclassify a drug from a preferred classification to a non-preferred classification, unless that reclassification results in the drug moving to a lower tier of the formulary;

(3) increase the cost-sharing, copayment, deductible or co-insurance charges for a drug;

(4) remove a drug from the formulary;

(5) establish a prior authorization requirement;

(6) impose or modify a drug's quantity limit; or

(7) impose a step-therapy restriction.

B. The administrator for the group health coverage shall give the affected enrollee at least sixty days' advance written notice of the impending change when it is determined that one of the following modifications will be made to a formulary:

(1) reclassification of a drug to a higher tier of the formulary;

(2) reclassification of a drug from a preferred classification to a non-preferred classification, unless that reclassification results in the drug moving to a lower tier of the formulary;

(3) an increase in the cost-sharing, copayment, deductible or coinsurance charges for a drug;

(4) removal of a drug from the formulary;

(5) addition of a prior authorization requirement;

(6) imposition or modification of a drug's quantity limit; or

(7) imposition of a step-therapy restriction for a drug.

C. Notwithstanding the provisions of Subsections A and B of this section, the administrator for group health coverage may immediately and without prior notice remove a drug from the formulary if the drug:

(1) is deemed unsafe by the federal food and drug administration;  
or

(2) has been removed from the market for any reason.

D. The administrator for group health coverage prescription drug benefits shall provide to each affected enrollee the following information in plain language regarding prescription drug benefits:

(1) notice that the group health plan uses one or more drug formularies;

(2) an explanation of what the drug formulary is;

(3) a statement regarding the method the group health plan uses to determine the prescription drugs to be included in or excluded from a drug formulary; and

(4) a statement of how often the group health plan administrator reviews the contents of each drug formulary.

E. As used in this section:

(1) "formulary" means the list of prescription drugs covered by group health coverage; and

(2) "step therapy" means a protocol that establishes the specific sequence in which prescription drugs for a specified medical condition and medically appropriate for a particular patient are to be prescribed."

## **Chapter 138 Section 2 Laws 2013**

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

"PRESCRIPTION DRUGS--PROHIBITED FORMULARY CHANGES--NOTICE REQUIREMENTS.--

A. As of January 1, 2014, 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 and that provides prescription drug benefits categorized or tiered for purposes of cost-sharing through deductibles or coinsurance obligations shall not make any of the following changes to coverage for a prescription drug within one hundred twenty days of any previous change to coverage for that prescription drug, unless a generic version of the prescription drug is available:

(1) reclassify a drug to a higher tier of the formulary;

(2) reclassify a drug from a preferred classification to a non-preferred classification, unless that reclassification results in the drug moving to a lower tier of the formulary;



(3) increase the cost-sharing, copayment, deductible or coinsurance charges for a drug;

(4) remove a drug from the formulary;

(5) establish a prior authorization requirement;

(6) impose or modify a drug's quantity limit; or

(7) impose a step-therapy restriction.

B. The insurer shall give the affected insured at least sixty days' advance written notice of the impending change when it is determined that one of the following modifications will be made to a formulary:

(1) reclassification of a drug to a higher tier of the formulary;

(2) reclassification of a drug from a preferred classification to a non-preferred classification, unless that reclassification results in the drug moving to a lower tier of the formulary;

(3) an increase in the cost-sharing, copayment, deductible or coinsurance charges for a drug;

(4) removal of a drug from the formulary;

(5) addition of a prior authorization requirement;

(6) imposition or modification of a drug's quantity limit; or

(7) imposition of a step-therapy restriction for a drug.

C. Notwithstanding the provisions of Subsections A and B of this section, the insurer may immediately and without prior notice remove a drug from the formulary if the drug:

or

(1) is deemed unsafe by the federal food and drug administration;

(2) has been removed from the market for any reason.

D. The insurer shall provide to each affected insured the following information in plain language regarding prescription drug benefits:

(1) notice that the insurer uses one or more drug formularies;

(2) an explanation of what the drug formulary is;

(3) a statement regarding the method the insurer uses to determine the prescription drugs to be included in or excluded from a drug formulary; and

(4) a statement of how often the insurer reviews the contents of each drug formulary.

E. As used in this section:

(1) "formulary" means the list of prescription drugs covered by a policy, plan or certificate of health insurance; and

(2) "step therapy" means a protocol that establishes the specific sequence in which prescription drugs for a specified medical condition and medically appropriate for a particular patient are to be prescribed."

### **Chapter 138 Section 3 Laws 2013**

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

"PRESCRIPTION DRUGS--PROHIBITED FORMULARY CHANGES--NOTICE REQUIREMENTS.--

A. As of January 1, 2014, 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 and that provides prescription drug benefits categorized or tiered for purposes of cost-sharing through deductibles or coinsurance obligations shall not make any of the following changes to coverage for a prescription drug within one hundred twenty days of any previous change to coverage for that prescription drug, unless a generic version of the prescription drug is available:

(1) reclassify a drug to a higher tier of the formulary;

(2) reclassify a drug from a preferred classification to a non-preferred classification, unless that reclassification results in the drug moving to a lower tier of the formulary;

(3) increase the cost-sharing, copayment, deductible or co-insurance charges for a drug;

(4) remove a drug from the formulary;

(5) establish a prior authorization requirement;

- (6) impose or modify a drug's quantity limit; or
- (7) impose a step-therapy restriction.

B. The insurer shall give the affected insured at least sixty days' advance written notice of the impending change when it is determined that one of the following modifications will be made to a formulary:

- (1) reclassification of a drug to a higher tier of the formulary;
- (2) reclassification of a drug from a preferred classification to a non-preferred classification, unless that reclassification results in the drug moving to a lower tier of the formulary;
- (3) an increase in the cost-sharing, copayment, deductible or coinsurance charges for a drug;
- (4) removal of a drug from the formulary;
- (5) addition of a prior authorization requirement;
- (6) imposition or modification of a drug's quantity limit; or
- (7) imposition of a step-therapy restriction for a drug.

C. Notwithstanding the provisions of Subsections A and B of this section, the insurer may immediately and without prior notice remove a drug from the formulary if the drug:

- (1) is deemed unsafe by the federal food and drug administration;
- or
- (2) has been removed from the market for any reason.

D. The insurer shall provide to each affected insured the following information in plain language regarding prescription drug benefits:

- (1) notice that the insurer uses one or more drug formularies;
- (2) an explanation of what the drug formulary is;
- (3) a statement regarding the method the insurer uses to determine the prescription drugs to be included in or excluded from a drug formulary; and
- (4) a statement of how often the insurer reviews the contents of each drug formulary.

E. As used in this section:

(1) "formulary" means the list of prescription drugs covered by a policy, plan or certificate of health insurance; and

(2) "step therapy" means a protocol that establishes the specific sequence in which prescription drugs for a specified medical condition and medically appropriate for a particular patient are to be prescribed."

## **Chapter 138 Section 4 Laws 2013**

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

"PRESCRIPTION DRUGS--PROHIBITED FORMULARY CHANGES--NOTICE REQUIREMENTS.--

A. As of January 1, 2014, an individual or group health maintenance organization contract that is delivered, issued for delivery or renewed in this state and that provides prescription drug benefits categorized or tiered for purposes of cost-sharing through deductibles or coinsurance obligations shall not make any of the following changes to coverage for a prescription drug within one hundred twenty days of any previous change to coverage for that prescription drug, unless a generic version of the prescription drug is available:

(1) reclassify a drug to a higher tier of the formulary;

(2) reclassify a drug from a preferred classification to a non-preferred classification, unless that reclassification results in the drug moving to a lower tier of the formulary;

(3) increase the cost-sharing, copayment, deductible or coinsurance charges for a drug;

(4) remove a drug from the formulary;

(5) establish a prior authorization requirement;

(6) impose or modify a drug's quantity limit; or

(7) impose a step-therapy restriction.

B. The health maintenance organization shall give the affected subscriber at least sixty days' advance written notice of the impending change when it is determined that one of the following modifications will be made to a formulary:

(1) reclassification of a drug to a higher tier of the formulary;

(2) reclassification of a drug from a preferred classification to a non-preferred classification, unless that reclassification results in the drug moving to a lower tier of the formulary;

(3) an increase in the cost-sharing, copayment, deductible or coinsurance charges for a drug;

(4) removal of a drug from the formulary;

(5) addition of a prior authorization requirement;

(6) imposition or modification of a drug's quantity limit; or

(7) imposition of a step-therapy restriction for a drug.

C. Notwithstanding the provisions of Subsections A and B of this section, the health maintenance organization may immediately and without prior notice remove a drug from the formulary if the drug:

(1) is deemed unsafe by the federal food and drug administration;

or

(2) has been removed from the market for any reason.

D. The health maintenance organization shall provide to each affected subscriber the following information in plain language regarding prescription drug benefits:

(1) notice that the health maintenance organization uses one or more drug formularies;

(2) an explanation of what the drug formulary is;

(3) a statement regarding the method the health maintenance organization uses to determine the prescription drugs to be included in or excluded from a drug formulary; and

(4) a statement of how often the health maintenance organization reviews the contents of each drug formulary.

E. As used in this section:

(1) "formulary" means the list of prescription drugs covered pursuant to a health maintenance organization contract; and

(2) "step therapy" means a protocol that establishes the specific sequence in which prescription drugs for a specified medical condition and medically appropriate for a particular patient are to be prescribed."

## **Chapter 138 Section 5 Laws 2013**

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

### **"PRESCRIPTION DRUGS--PROHIBITED FORMULARY CHANGES--NOTICE REQUIREMENTS.--**

A. As of January 1, 2014, an individual or group health care plan that is delivered, issued for delivery or renewed in this state and that provides prescription drug benefits categorized or tiered for purposes of cost-sharing through deductibles or coinsurance obligations shall not make any of the following changes to coverage for a prescription drug within one hundred twenty days of any previous change to coverage for that prescription drug, unless a generic version of the prescription drug is available:

- (1) reclassify a drug to a higher tier of the formulary;
- (2) reclassify a drug from a preferred classification to a non-preferred classification, unless that reclassification results in the drug moving to a lower tier of the formulary;
- (3) increase the cost-sharing, copayment, deductible or coinsurance charges for a drug;
- (4) remove a drug from the formulary;
- (5) establish a prior authorization requirement;
- (6) impose or modify a drug's quantity limit; or
- (7) impose a step-therapy restriction.

B. The health care plan shall give the affected subscriber at least sixty days' advance written notice of the impending change when it is determined that one of the following modifications will be made to a formulary:

- (1) reclassification of a drug to a higher tier of the formulary;
- (2) reclassification of a drug from a preferred classification to a non-preferred classification, unless that reclassification results in the drug moving to a lower tier of the formulary;

(3) an increase in the cost-sharing, copayment, deductible or coinsurance charges for a drug;

(4) removal of a drug from the formulary;

(5) addition of a prior authorization requirement;

(6) imposition or modification of a drug's quantity limit; or

(7) imposition of a step-therapy restriction for a drug.

C. Notwithstanding the provisions of Subsections A and B of this section, the health care plan may immediately and without prior notice remove a drug from the formulary if the drug:

(1) is deemed unsafe by the federal food and drug administration;

or

(2) has been removed from the market for any reason.

D. The health care plan shall provide to each affected subscriber the following information in plain language regarding prescription drug benefits:

(1) notice that the health care plan uses one or more drug formularies;

(2) an explanation of what the drug formulary is;

(3) a statement regarding the method the health care plan uses to determine the prescription drugs to be included in or excluded from a drug formulary; and

(4) a statement of how often the health care plan reviews the contents of each drug formulary.

E. As used in this section:

(1) "formulary" means the list of prescription drugs covered by a health care plan; and

(2) "step therapy" means a protocol that establishes the specific sequence in which prescription drugs for a specified medical condition and medically appropriate for a particular patient are to be prescribed."

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SCORC/Senate Bill 156, aa

Approved April 3, 2013

## **LAWS 2013, CHAPTER 139**

AN ACT

RELATING TO LONG-TERM CARE; ENACTING A SECTION OF THE PUBLIC ASSISTANCE ACT TO REQUIRE THE HUMAN SERVICES DEPARTMENT TO ESTABLISH A QUALIFIED STATE LONG-TERM CARE INSURANCE PARTNERSHIP PROGRAM; PROVIDING FOR RULEMAKING; ENACTING A SECTION OF THE MEDICAID ESTATE RECOVERY ACT TO BAN ESTATE RECOVERY FROM THE ESTATE OF INDIVIDUALS WHO HAVE PARTICIPATED IN A QUALIFIED STATE LONG-TERM CARE INSURANCE PARTNERSHIP PROGRAM; PROVIDING FOR CERTIFICATION OF QUALIFIED LONG-TERM CARE INSURANCE PARTNERSHIP PROGRAM INSURANCE BY THE SUPERINTENDENT OF INSURANCE; PROVIDING FOR PRODUCER EDUCATION AND DISCLOSURES.

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

### **Chapter 139 Section 1 Laws 2013**

SECTION 1. Section 27-2-1 NMSA 1978 (being Laws 1973, Chapter 376, Section 1) is amended to read:

"27-2-1. SHORT TITLE.--Sections 27-2-1 through 27-2-34 NMSA 1978 may be cited as the "Public Assistance Act"."

### **Chapter 139 Section 2 Laws 2013**

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

"QUALIFIED STATE LONG-TERM CARE INSURANCE PARTNERSHIP PROGRAM--ESTABLISHMENT--RULEMAKING.--

A. Consistent with the federal act and subject to the appropriation and availability of federal and state funds, the secretary shall amend the state medicaid plan to establish a qualified state long-term care insurance partnership program pursuant to Section 1917(b) of the federal act. The program shall:

(1) provide incentives for an individual to obtain or maintain qualified insurance to cover the cost of long-term care; and



(2) provide a mechanism for an individual to qualify for medical assistance for institutional care or a medical assistance home- and community-based long-term care program on the basis of countable resources. Pursuant to the qualified state long-term care insurance partnership program:

(a) an individual who otherwise qualifies for medical assistance for institutional care or a medical assistance home- and community-based long-term care program shall qualify on the basis of countable resources when the individual is the beneficiary of a qualified insurance policy, insurance plan, certificate of insurance or rider; and

(b) for purposes of determining eligibility, the individual's total countable resources shall be reduced by an amount equal to the qualified insurance benefits that are made to or on behalf of the individual.

B. The secretary shall consult with the superintendent of insurance in the adoption and promulgation of rules regarding the implementation and operation of the qualified state long-term care partnership insurance program. These rules shall provide for reciprocity with respect to individuals who have purchased qualified insurance in another state participating in a qualified state long-term care insurance partnership program and shall provide that the amount of that individual's countable resources shall be disregarded with respect to that qualified insurance.

C. As used in this section:

(1) "qualified insurance" means an insurance policy, insurance plan, certificate of insurance or rider that the superintendent has certified as qualified long-term care partnership program insurance pursuant to Section 4 of this 2013 act; and

(2) "rider" means a long-term care coverage provision added to any type of insurance plan, insurance policy or certificate of insurance."

### **Chapter 139 Section 3 Laws 2013**

SECTION 3. Section 27-2A-4 NMSA 1978 (being Laws 1994, Chapter 87, Section 4) is amended to read:

"27-2A-4. DEPARTMENT TO SEEK RECOVERY OF MEDICAL ASSISTANCE PAYMENTS--RESTRICTION.--

A. The department shall seek recovery from the estate of an individual:

(1) for medical assistance paid on behalf of an individual who was an inpatient in a nursing facility, intermediate care facility for the mentally retarded or other medical institution if the individual was required, as a condition of receiving

services in the facility or institution pursuant to the state plan, to spend for costs of services all but a minimal amount of the individual's income required for personal needs, and with respect to whom the department determined, after opportunity for a hearing in accordance with procedures established by the department, could not reasonably have been expected to have been discharged from the facility or institution to return home; and

(2) for medical assistance payments made for nursing facility services, home- and community-based services and related hospital and prescription drug services on behalf of an individual who was fifty-five years of age or older when the individual received medical assistance.

B. In the case of an individual who has participated in the state's qualified state long-term care insurance partnership program pursuant to Section 2 of this 2013 act, the department shall seek recovery of medical assistance paid on behalf of the individual only of the value of the individual's estate that exceeds the amount that the department has disregarded from the individual's countable resources pursuant to Paragraph (2) of Subsection A of Section 2 of this 2013 act in making its eligibility determination for medical assistance for institutional care or a medical assistance home- and community-based long-term care program."

## **Chapter 139 Section 4 Laws 2013**

SECTION 4. A new section of the New Mexico Insurance Code is enacted to read:

"MEDICAID LONG-TERM CARE PARTNERSHIP PROGRAM--CERTIFICATION OF POLICIES--RULEMAKING.--

A. The superintendent shall certify an individual or group insurance policy, insurance plan or certificate of insurance to be qualified state long-term care insurance partnership program insurance when the policy, plan or certificate of insurance:

(1) covers an insured who was a resident of the state when coverage first became effective under the policy, plan or certificate;

(2) meets the definition of a qualified state long-term care insurance contract pursuant to Section 7702B(b) of the federal Internal Revenue Code of 1986;

(3) was not issued earlier than the effective date of the state plan amendment required pursuant to Section 2 of this 2013 act;

(4) as of the date of purchase:

(a) is sold to an individual who is sixty years of age or younger and provides some level of inflation protection;

(b) is sold to an individual who is between sixty-one and seventy-five years of age and provides some level of inflation protection; or

(c) is sold to an individual who is over seventy-five years of age; and

(5) meets all other applicable federal and state laws relating to qualified state long-term care insurance partnership programs.

B. The superintendent shall adopt and promulgate rules establishing the procedures pursuant to which the superintendent shall certify an individual or group insurance policy, insurance plan, certificate of insurance or rider that is delivered, issued for delivery or renewed in this state as qualified state long-term care insurance partnership program insurance.

C. The superintendent shall consult with the secretary of human services regarding the adoption of rules regarding reciprocity with respect to individuals who have purchased qualified state long-term care insurance partnership program insurance in another state participating in a qualified state long-term care insurance partnership program.

D. The superintendent shall ensure that any licensed producer that sells a policy, plan, certificate or rider pursuant to the Long-Term Care Insurance Law demonstrates an understanding of qualified state long-term care partnership program insurance and how it relates to other public and private coverage of long-term care expenses.

E. The superintendent shall establish by rule the disclosure requirements pursuant to Section 5 of this 2013 act regarding the qualified state long-term care partnership program for licensed producers that sell or offer for sale an insurance plan, insurance policy or certificate of insurance that is intended to qualify as long-term care partnership program insurance.

F. As used in this section:

(1) "licensed producer" means an agent, broker or reinsurance intermediary licensed pursuant to the applicable provisions of the Insurance Code; and

(2) "rider" means a long-term care coverage provision added to any type of insurance plan, insurance policy or certificate of insurance."

## **Chapter 139 Section 5 Laws 2013**

SECTION 5. A new section of the New Mexico Insurance Code is enacted to read:

"LICENSED PRODUCERS--QUALIFIED STATE LONG-TERM CARE PARTNERSHIP PROGRAM--DISCLOSURES.--

A. A licensed producer that sells or offers for sale an insurance plan, insurance policy, certificate of insurance or rider that is intended to qualify as qualified state long-term care partnership program insurance shall disclose the availability of qualified state long-term care insurance partnership program insurance and outline the requirements and benefits of participation in the qualified state long-term care insurance partnership program.

B. As used in this section:

(1) "licensed producer" means an agent, broker or reinsurance intermediary licensed pursuant to the applicable provisions of the Insurance Code; and

(2) "rider" means a long-term care coverage provision added to any type of insurance plan, insurance policy or certificate of insurance."

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Senate Bill 196

Approved April 3, 2013

## **LAWS 2013, CHAPTER 140**

AN ACT

RELATING TO INSURANCE; CLARIFYING CERTAIN TERMS OF TRAVEL INSURANCE; ENACTING THE PORTABLE ELECTRONICS INSURANCE ACT WITHIN THE NEW MEXICO INSURANCE CODE TO REGULATE PORTABLE ELECTRONICS INSURANCE; AMENDING SECTIONS OF THE NEW MEXICO INSURANCE CODE TO CREATE AN ADJUSTER LICENSURE EXEMPTION FOR PORTABLE ELECTRONICS INSURANCE.

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

### **Chapter 140 Section 1 Laws 2013**

SECTION 1. Section 59A-12-17 NMSA 1978 (being Laws 1984, Chapter 127, Section 218, as amended by Laws 1999, Chapter 272, Section 11 and also by Laws 1999, Chapter 289, Section 12) is amended to read:

"59A-12-17. SCOPE OF LICENSE.--

A. Except as to limited licenses identified in Section 59A-12-18 NMSA 1978 and Section 3 of this 2013 act, an agent's or broker's license shall cover the kind of insurance, or major subdivisions of life or health insurance, for which the applicant has applied and qualified, including the following:

(1) life insurance, or any or all of the following subdivisions thereof:

(a) industrial life insurance;

(b) debit insurance;

(c) credit life insurance; or

(d) variable annuity contracts;

(2) health insurance, credit health insurance or industrial health insurance, or other subdivisions thereof;

(3) property insurance;

(4) casualty insurance;

(5) surety insurance;

(6) marine and transportation insurance;

(7) vehicle insurance; or

(8) title insurance.

B. The scope of a solicitor's license is subject to Section 59A-12-14 NMSA 1978.

C. License of a broker shall cover the kind or kinds of insurance applied and qualified for, within the classifications stated in Subsection A of this section.

D. A licensee as to variable annuities or similar contracts deemed to constitute also securities, shall also possess license as a security salesman under other applicable state laws."

## **Chapter 140 Section 2 Laws 2013**

SECTION 2. Section 59A-12-18 NMSA 1978 (being Laws 1984, Chapter 127, Section 219, as amended) is amended to read:

"59A-12-18. LIMITED LICENSE.--

A. The superintendent may issue a limited agent's license to individual applicants employed full time by a vendor of merchandise or other property, or by a financial institution making consumer loans on terms with respect to which credit life insurance, credit health insurance, credit property insurance or credit involuntary unemployment insurance under individual policies is customarily required of or offered to the purchaser or borrower, covering only that credit life, credit health, credit property or credit involuntary unemployment insurance.

B. The superintendent may issue a limited agent's license to vendors in accordance with the provisions of the Portable Electronics Insurance Act. The application shall provide:

(1) the name, residence address and other information required by the superintendent for an employee or officer of the vendor that is designated by the applicant as the person responsible for the vendor's compliance with the requirements of the Portable Electronics Insurance Act. However, if the vendor derives more than fifty percent of its revenue from the sale of portable electronics insurance, the information noted above shall be provided for all officers, directors and shareholders of record having beneficial ownership of ten percent or more of any class of securities registered under the federal securities law; and

(2) the location of the applicant's home office.

C. No holder of a limited license issued pursuant to Subsection A of this section shall concurrently be otherwise licensed under the Insurance Code."

### **Chapter 140 Section 3 Laws 2013**

SECTION 3. A new section of Chapter 59A, Article 12 NMSA 1978 is enacted to read:

"LIMITED LICENSE--TRAVEL INSURANCE.--

A. The superintendent may issue a limited agent's license to applicants who are qualified to solicit or sell travel insurance.

B. A travel retailer may offer and disseminate travel insurance under the license of a limited lines travel insurance agent only if:

(1) the limited lines travel insurance agent or travel retailer provides to purchasers of travel insurance:

(a) a description of the material terms of the insurance coverage;

(b) a description of the process for filing a claim;

(c) a description of the travel insurance policy's cancellation process; and

(d) the identity and contact information of the insurer and limited lines travel insurance agent;

(2) the limited lines travel insurance agent:

(a) establishes at the time of licensure on a form prescribed by the superintendent a register of each travel retailer that offers travel insurance on behalf of the limited lines travel insurance agent;

(b) includes in the register each travel retailer's federal tax identification number and the name, address and contact information of each travel retailer and an officer or person who directs or controls the travel retailer's operations;

(c) maintains the register and updates it at least once a year;

(d) submits the register to the superintendent upon reasonable request; and

(e) certifies that each travel retailer on the register complies with federal laws;

(3) the limited lines travel insurance agent has selected a designated responsible agent who is one of its licensed individual agent employees and who is responsible for the limited lines travel insurance agent's compliance with the travel insurance laws and rules of this state;

(4) the designated responsible agent, president, secretary, treasurer and all other officers or persons who direct or control the limited lines travel insurance agent's insurance operations comply with the fingerprinting requirements for insurance agents of the resident state of the limited lines travel insurance agent;

(5) the limited lines travel insurance agent has paid all applicable insurance agent licensing fees pursuant to state law; and

(6) the limited lines travel insurance agent requires each employee and authorized representative of the travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training that the superintendent may review and that, at a minimum, contains instructions on the types of insurance offered, ethical sales practices and required disclosures to prospective customers.

C. A travel retailer that offers and disseminates travel insurance shall make available to prospective purchasers brochures or other written materials that:

(1) identify and provide the contact information of the insurer and the limited lines travel insurance agent;

(2) explain that the purchase of travel insurance is not a prerequisite to the purchase of any other product or service of the travel retailer; and

(3) explain that an unlicensed travel retailer may provide general information about the insurance offered by the travel retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance offered by the travel retailer or to evaluate the adequacy of the customer's existing insurance coverage.

D. A travel retailer's employee or authorized representative who is not licensed as an insurance agent shall not:

(1) evaluate or interpret the technical terms, benefits or conditions of the travel insurance coverage offered;

(2) evaluate or provide advice concerning a prospective purchaser's existing insurance coverage; or

(3) make representation as being a licensed insurer, licensed agent or insurance expert.

E. A travel retailer and its employees and authorized representatives whose insurance-related activities are limited to the offering and disseminating of travel insurance on behalf of and under the direction of a limited lines travel insurance agent that complies with this section may conduct and receive compensation for those activities.

F. A travel retailer may place insurance under an individual policy or under a group or master policy.

G. As the insurer designee, a limited lines travel insurance agent shall be responsible for the acts of the travel retailer and shall use reasonable means to ensure that the travel retailer complies with the provisions of this section.

H. As used in this section:

(1) "limited lines travel insurance agent" means a licensed managing general agent or third-party administrator or a licensed insurance agent;

(2) "offer and disseminate" means providing general information, including a description of coverage and price, processing applications, collecting premiums and performing other nonlicensable activities permitted by this state;



(3) "travel insurance" means insurance coverage for personal risks incident to planned travel, including the interruption or cancellation of a trip or event; the loss of baggage or personal effects; damage to accommodations or rental vehicles; or sickness, accident, disability or death during travel. "Travel insurance" excludes major medical plans that provide comprehensive medical protection for travelers on trips of six months or longer, such as for those working overseas as expatriates or deployed military personnel; and

(4) "travel retailer" means a business entity that makes, arranges or offers travel services."

## **Chapter 140 Section 4 Laws 2013**

SECTION 4. A new section of the New Mexico Insurance Code is enacted to read:

"SHORT TITLE.--Sections 4 through 10 of this act may be cited as the "Portable Electronics Insurance Act"."

## **Chapter 140 Section 5 Laws 2013**

SECTION 5. A new section of the New Mexico Insurance Code is enacted to read:

"DEFINITIONS.--As used in the Portable Electronics Insurance Act:

A. "customer" means a person who purchases portable electronics or services;

B. "enrolled customer" means a customer who elects coverage under a portable electronics insurance policy issued to a vendor of portable electronics;

C. "location" means any physical location in the state of New Mexico or any web site, call center site or similar location directed to residents of the state of New Mexico;

D. "portable electronics" means electronic devices that are portable in nature and their accessories;

E. "portable electronics insurance" means insurance providing coverage for the repair or replacement of portable electronics that may provide coverage for portable electronics against any one or more of the following causes of loss: loss, theft, inoperability due to mechanical failure, malfunction, damage or other similar causes of loss. "Portable electronics insurance" also includes any agreement whereby a person or any legal entity, in exchange for consideration paid, agrees to provide for the future

repair, replacement or provision of portable electronics. "Portable electronics insurance" does not include:

(1) a service contract governed by the Service Contract Regulation Act;

(2) a policy of insurance covering a seller's or a manufacturer's obligations under a warranty; or

(3) a homeowner's, renter's, private passenger automobile, commercial multiperil or similar policy;

F. "portable electronics transaction" means:

(1) the sale or lease of portable electronics by a vendor to a customer; or

(2) the sale of a service related to the use of portable electronics by a vendor to a customer;

G. "superintendent" means the superintendent of insurance;

H. "supervising entity" means a business entity that is a licensed insurer or insurance producer that is appointed by an insurer to supervise the administration of a portable electronics insurance program; and

I. "vendor" means a person in the business of engaging in portable electronics transactions directly or indirectly."

## **Chapter 140 Section 6 Laws 2013**

SECTION 6. A new section of the New Mexico Insurance Code is enacted to read:

### **"LICENSURE OF VENDORS.--**

A. A vendor is required to hold a limited agent's license pursuant to Section 59A-12-18 NMSA 1978 to sell or offer coverage under a policy of portable electronics insurance.

B. A limited agent's license issued to a vendor shall authorize any employee or authorized representative of the vendor to sell or offer coverage under a policy of portable electronics insurance to a customer at each location at which the vendor engages in portable electronics transactions.

C. The supervising entity shall maintain a registry of vendor locations that are authorized to sell or solicit portable electronics insurance coverage in this state. Upon request by the superintendent and with reasonable notice to the supervising entity, the registry shall be open to inspection and examination by the superintendent during regular business hours of the supervising entity.

D. Notwithstanding any other provision of law, a limited agent's license issued to a vendor shall authorize the licensee and its employees or authorized representatives to engage in those activities that are permitted by the Portable Electronics Insurance Act."

## **Chapter 140 Section 7 Laws 2013**

SECTION 7. A new section of the New Mexico Insurance Code is enacted to read:

### **"REQUIREMENTS FOR SALE OF PORTABLE ELECTRONICS INSURANCE.--**

A. At every location where portable electronics insurance is offered to customers, brochures or other written materials shall be made available to a prospective customer that:

(1) disclose that portable electronics insurance may provide a duplication of coverage already provided by a customer's homeowner's insurance policy, renter's insurance policy or other source of coverage;

(2) state that the enrollment by the customer in a portable electronics insurance program is not required in order to purchase or lease portable electronics or services;

(3) summarize the material terms of the insurance coverage, including:

(a) the identity of the insurer;

(b) the identity of the supervising entity;

(c) the amount of any applicable deductible and how it is to be paid;

(d) benefits of the coverage; and

(e) key terms and conditions of coverage, including whether portable electronics may be repaired or replaced with similar make and model reconditioned or nonoriginal manufacturer parts or equipment;

(4) summarize the process for filing a claim, including a description of how to return portable electronics, and the maximum fee applicable in the event the customer fails to comply with any equipment return requirements; and

(5) state that an enrolled customer may cancel enrollment for coverage under a portable electronics insurance policy at any time and the person paying the premium shall receive a refund of any applicable unearned premium.

B. The written materials required by this section shall not be subject to filing or approval requirements with the superintendent.

C. Portable electronics insurance may be offered on a month-to-month or other periodic basis as a group or master commercial inland marine policy issued to a vendor for its enrolled customers.

D. Eligibility and underwriting standards for customers electing to enroll in coverage shall be established for each portable electronics insurance program."

## **Chapter 140 Section 8 Laws 2013**

SECTION 8. A new section of the New Mexico Insurance Code is enacted to read:

### **"AUTHORITY OF VENDORS OF PORTABLE ELECTRONICS.--**

A. The employees and authorized representatives of vendors may sell or offer portable electronics insurance to customers and shall not be subject to licensure as insurance agents under any other provision of the Insurance Code, provided that:

(1) the vendor obtains a limited agent's license to authorize its employees or authorized representatives to sell or offer portable electronics insurance and complies with the provisions of the Portable Electronics Insurance Act;

(2) the insurer issuing the portable electronics insurance either directly supervises or appoints a supervising entity to supervise the administration of the program, including development of a training program for employees and authorized representatives of the vendors. The training:

(a) shall be delivered to employees and authorized representatives of vendors who are directly engaged in the activity of selling or offering portable electronics insurance;

(b) may be provided in electronic form, provided that the supervising entity implements a supplemental education program regarding the portable electronics insurance product that is conducted and overseen by licensed employees of the supervising entity; and

(c) shall provide to each employee and authorized representative of a vendor basic instruction about the portable electronics insurance offered to customers and the disclosures required by the Portable Electronics Insurance Act; and

(3) employees or authorized representatives of a vendor of portable electronics shall not advertise, represent or otherwise hold themselves out as nonlimited lines licensed insurance producers.

B. Notwithstanding any other provision of law, employees or authorized representatives of a vendor shall not be compensated based primarily on the number of customers enrolled for portable electronics insurance coverage but may receive compensation for activities under the limited agent's license that is incidental to their overall compensation.

C. The charges for portable electronics insurance coverage may be billed and collected by the vendor. Any charge to an enrolled customer for coverage that is not included in the cost associated with the purchase or lease of portable electronics or related services shall be separately itemized on the enrolled customer's bill. If the portable electronics insurance coverage is included with the purchase or lease of portable electronics or related services, the vendor shall clearly and conspicuously disclose to the enrolled customer that the portable electronics insurance coverage is included with the portable electronics or related services. Vendors billing and collecting such charges shall not be required to maintain such funds in a segregated account; provided that the vendor is authorized by the insurer to hold such funds in an alternative manner and remits such amounts to the supervising entity within sixty days of receipt. All funds received by a vendor from an enrolled customer for the sale of portable electronics insurance shall be considered funds held in trust by the vendor in a fiduciary capacity for the benefit of the insurer. Vendors may receive compensation for billing and collection services."

## **Chapter 140 Section 9 Laws 2013**

SECTION 9. A new section of the New Mexico Insurance Code is enacted to read:

"PENALTIES--SUSPENSION OR REVOCATION OF LICENSE.--A person who violates any provision of the Portable Electronics Insurance Act may, after notice and hearing, be subject to:

A. fines not to exceed one thousand dollars (\$1,000) per violation and not to exceed a total of ten thousand dollars (\$10,000); or

B. as the superintendent deems necessary:

(1) suspension of the privilege of transacting portable electronics insurance at specific locations where violations have occurred; or

(2) suspension or revocation of the ability of individual employees or authorized representatives of a vendor to act under the license."

## **Chapter 140 Section 10 Laws 2013**

SECTION 10. A new section of the New Mexico Insurance Code is enacted to read:

"TERMINATION OF PORTABLE ELECTRONICS INSURANCE.--  
Notwithstanding any other provision of law:

A. an insurer may terminate or otherwise change the terms and conditions of a policy of portable electronics insurance only upon providing the policyholder and enrolled customers with at least thirty days' notice;

B. if the insurer changes the terms and conditions of a policy, the insurer shall provide the vendor with a revised policy or endorsement and each enrolled customer with a revised certificate, endorsement, updated brochure or other evidence indicating that a change in the terms and conditions has occurred and shall provide a summary of material changes;

C. notwithstanding the provisions of Subsection A of this section, an insurer may terminate an enrolled customer's enrollment under a portable electronics insurance policy upon fifteen days' notice for discovery of fraud or material misrepresentation in obtaining coverage or in the presentation of a claim thereunder;

D. notwithstanding the provisions of Subsection A of this section, an insurer may immediately terminate an enrolled customer's enrollment under a portable electronics insurance policy without prior notice:

(1) for nonpayment of premium;

(2) if the enrolled customer ceases to have an active service with the vendor; or

(3) if an enrolled customer exhausts the aggregate limit of liability, if any, under the terms of the portable electronics insurance policy and the insurer sends notice of termination to the enrolled customer within thirty calendar days after exhaustion of the limit. However, if notice is not timely sent, enrollment shall continue notwithstanding the aggregate limit of liability until the insurer sends notice of termination to the enrolled customer;

E. if a portable electronics insurance policy is terminated by a policyholder, the policyholder shall mail or deliver written notice to each enrolled customer advising the enrolled customer of the termination of the policy and the effective date of termination. The written notice shall be mailed or delivered to the enrolled customer at least thirty days prior to the termination;

F. if notice or correspondence with respect to a policy of portable electronics insurance is required pursuant to this section or is otherwise required by law, it shall be in writing and sent within the notice period, if any, specified within the statute or regulation requiring the notice or correspondence. Notwithstanding any other provision of law, notices and correspondence may be sent either by mail or by electronic means as set forth in this subsection. If the notice or correspondence is mailed, it shall be sent to the vendor at the vendor's mailing address specified for such purpose and to its affected enrolled customers' last known mailing addresses on file with the insurer. The insurer or vendor shall maintain proof of mailing in a form authorized or accepted by the United States postal service or other commercial mail delivery service. If the notice or correspondence is sent by electronic means, it shall be sent to the vendor at the vendor's electronic mail address specified for such purpose and to its affected enrolled customers' last known electronic mail addresses as provided by each enrolled customer to the insurer or vendor. For purposes of this subsection, an enrolled customer's provision of an electronic mail address to the insurer or vendor shall be deemed consent to receive notices and correspondence by electronic means. The insurer or vendor shall maintain proof that the notice or correspondence was sent; and

G. notice or correspondence required by this section or otherwise required by law may be sent on behalf of an insurer or vendor by the supervising entity."

## **Chapter 140 Section 11 Laws 2013**

SECTION 11. Section 59A-13-2 NMSA 1978 (being Laws 1984, Chapter 127, Section 230, as amended) is amended to read:

"59A-13-2. DEFINITIONS.--

A. For the purposes of the Insurance Code:

(1) "adjuster" means a person that:

(a) investigates, negotiates, settles or adjusts a loss or claim arising under an insurance contract on behalf of an insurer, insured or self-insurer, for a fee, commission or other compensation; however, an adjuster acting on behalf of an insured shall not investigate, negotiate, settle or adjust a claim involving personal injury to the insured; and

(b) advises the insured of the insured's rights to settlement and the insured's rights to settle, arbitrate and litigate the dispute;

(2) "automated claims adjudication system" means a preprogrammed computer system designed for the collection, data entry, calculation and final resolution of portable electronics insurance claims that shall:

(a) only be used by a licensed independent adjuster, licensed agent or supervised individuals operating pursuant to Subsection C of Section 59A-13-3 NMSA 1978;

(b) comply with all claims payment requirements of the Insurance Code; and

(c) be certified as compliant with the Portable Electronics Insurance Act by a licensed independent adjuster who is an officer of a licensed business entity pursuant to the Insurance Code;

(3) "staff adjuster" means an adjuster individual who is a salaried employee of an insurer or affiliates of the employer insurer, representing and adjusting claims solely under policies of the employer insurer;

(4) "independent adjuster" means an adjuster who is not a staff adjuster and includes a representative and an employee of an independent adjuster; and

(5) "resident adjuster" means an adjuster who resides principally in New Mexico and who conducts business primarily in New Mexico.

B. Except as otherwise provided, "adjuster" does not include:

(1) an attorney-at-law who adjusts insurance losses or claims from time to time incidental to practice of law and who does not advertise or represent as an adjuster;

(2) a licensed agent or general agent of an authorized insurer or an employee of an agent or general agent who adjusts claims or losses under specific authority from the insurer and solely under policies issued by the insurer;

(3) an agent or employee of a life or health insurer who adjusts claims or losses under the insurer's policies or contracts to administer policies or benefits of that type;

(4) a salaried or part-time claims agent or investigator employed by a self-insured person; or

(5) an individual who, for purposes of portable electronics insurance claims, collects claim information from, or furnishes claim information to, insureds or claimants, and who conducts data entry, including entering data into an automated



claims adjudication system, provided that the individual is an employee of a licensed independent adjuster or its affiliate where no more than twenty-five such persons are under the supervision of one licensed independent adjuster or licensed agent who is exempt from licensure pursuant to Paragraph (2) of this subsection."

## **Chapter 140 Section 12 Laws 2013**

SECTION 12. Section 59A-13-3 NMSA 1978 (being Laws 1984, Chapter 127, Section 231, as amended) is amended to read:

"59A-13-3. LICENSE REQUIRED.--

A. No person shall, in this state, act as, or make any representation as being, an adjuster unless licensed as such by the superintendent under the Insurance Code.

B. No person, regardless of location, shall act as, or make any representation as being, an adjuster with respect to workers' compensation claims of claimants resident or located in New Mexico unless licensed as such by the superintendent under the Insurance Code.

C. Notwithstanding any other provision of law, a nonresident may be licensed as a nonresident independent adjuster for the purposes of portable electronics insurance if that applicant has designated another state as the applicant's home state."

## **Chapter 140 Section 13 Laws 2013**

SECTION 13. Section 59A-13-4 NMSA 1978 (being Laws 1984, Chapter 127, Section 232) 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) except as to temporary license provided for under Section 59A-13-6 NMSA 1978, has had at least one year's experience or special education or training in handling of losses or claims under insurance contracts, such experience, education and training to be of such nature and extent as to demonstrate the applicant's competence to fulfill the responsibilities of an adjuster; 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, 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 140 Section 14 Laws 2013**

SECTION 14. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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SJC/Senate Bill 206

Approved April 3, 2013

## **LAWS 2013, CHAPTER 141**

AN ACT

RELATING TO GENDER-NEUTRAL LANGUAGE IN LEGISLATIVE DOCUMENTS;  
REQUIRING THE LEGISLATIVE COUNCIL SERVICE TO USE

GENDER-NEUTRAL LANGUAGE IN CERTAIN SITUATIONS.

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

## **Chapter 141 Section 1 Laws 2013**

SECTION 1. LEGISLATIVE DOCUMENTS--GENDER-NEUTRAL LANGUAGE--  
LEGISLATIVE COUNCIL SERVICE.--

A. As used in this section:

(1) "gender-neutral" means language that does not expressly or implicitly refer to one gender to the real or apparent exclusion of the other and expressly or implicitly refers to both genders without distinguishing between them; and

(2) "gender-specific" means language that expressly or implicitly refers to one gender to the real or apparent exclusion of the other or expressly or implicitly refers to both genders and distinguishes between them.

B. Except as limited in Subsection C of this section, the legislative council service shall use gender-neutral language in drafting bills to enact, amend or revise laws and in drafting memorials, resolutions and other legislative documents; provided that gender-neutral language shall not be used if language is intended or required to be gender-specific or the intended meaning of language would otherwise be altered.

C. Whenever current laws and other published legislative documents are the subject of a legislative request to the legislative council service for amendment or revision, the legislative council service as part of its work shall replace gender-specific language with gender-neutral language where appropriate and reasonable.

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Senate Bill 232

Approved April 3, 2013

## **LAWS 2013, CHAPTER 142**

AN ACT

RELATING TO CONSTRUCTION INSPECTORS; AMENDING THE CONSTRUCTION INDUSTRIES LICENSING ACT REGARDING STATEWIDE INSPECTOR CERTIFICATION; ESTABLISHING CERTIFIED BUILDING OFFICIALS; REPEALING SECTION 60-13-43 NMSA 1978 (BEING LAWS 1967, CHAPTER 199, SECTION 51, AS AMENDED).

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

## **Chapter 142 Section 1 Laws 2013**

SECTION 1. Section 60-13-2 NMSA 1978 (being Laws 1967, Chapter 199, Section 2, as amended) is amended to read:

"60-13-2. GENERAL DEFINITIONS.--As used in the Construction Industries Licensing Act:

A. "division" means the construction industries division of the regulation and licensing department;

B. "trade bureau", "jurisdiction" and "trade bureau jurisdiction" mean the electrical bureau, the mechanical bureau, the general construction bureau or the liquefied petroleum gas bureau of the division;

C. "jurisdictional conflict" means a conflict between or among trade bureaus as to the exercise of jurisdiction over an occupation or trade for which a license is required under the provisions of the Construction Industries Licensing Act;

D. "person" includes an individual, firm, partnership, corporation, association or other organization, or any combination thereof;

E. "qualifying party" means an individual who submits to the examination for a license to be issued under the Construction Industries Licensing Act and who is responsible for the licensee's compliance with the requirements of that act and with the rules, regulations, codes and standards adopted and promulgated in accordance with that act;

F. "certificate of qualification" means a certificate issued by the division to a qualifying party;

G. "journeyman" means an individual who is properly certified by the electrical bureau or the mechanical bureau, as required by law, to engage in or work at the certified trade;

H. "apprentice" means an individual who is engaged, as the individual's principal occupation, in learning and assisting in a trade;

I. "wages" means compensation paid to an individual by an employer from which taxes are required to be withheld by federal and state law;

J. "public use" means the use or occupancy of a structure, facility or manufactured commercial unit to which the general public, as distinguished from residents or employees, has access;

K. "bid" means a written or oral offer to contract;

L. "building" means a structure built for use or occupancy by persons or property, including manufactured commercial units and modular homes or premanufactured homes designed to be placed on permanent foundations whether mounted on skids or permanent foundations or whether constructed on or off the site of location;

M. "inspection agency" means a firm, partnership, corporation, association or any combination thereof approved in accordance with regulations as having the personnel and equipment available to adequately inspect for the proper construction of manufactured commercial units, modular homes or premanufactured homes;

N. "director" means the administrative head of the division;

O. "chief" means the administrative head of a trade bureau;

P. "commission" means the construction industries commission;

Q. "manufactured commercial unit" means a movable or portable housing structure over thirty-two feet in length or over eight feet in width that is constructed to be towed on its own chassis and designed so as to be installed without a permanent foundation for use as an office or other commercial purpose and that may include one or more components that can be retracted for towing purposes and subsequently expanded for additional capacity, or two or more units separately towable but designed to be joined into one integral unit, as well as a single unit, but that does not include any movable or portable housing structure over twelve feet in width and forty feet in length that is used for nonresidential purposes. "Manufactured commercial unit" does not include modular or premanufactured homes, built to a nationally recognized standard adopted by the commission and designed to be permanently affixed to real property;

R. "code" means a body or compilation of provisions or standards adopted by the commission that govern contracting or some aspect of contracting; that provide for safety and protection of life and health; and that are published by a nationally recognized standards association;

S. "inspector" means a person certified by the division and certified by one or more trade bureaus to conduct inspections of permitted work to ensure that all work performed by a contractor or the homeowner complies with the applicable code;

T. "statewide inspector's certificate" means a certificate that enables an inspector to conduct inspections in one or more trade bureau jurisdictions for the state or any county, municipality or other political subdivision that has a certified building official in its employ; and

U. "certified building official" means an employee of any county, municipality or other political subdivision who has a broad knowledge of the construction industry, holds a current nationally recognized code organization certified building official certificate and has:

(1) been a practicing inspector or practicing contractor for at least five years; or

(2) held a management position in a construction-related company or construction organization for at least five of the past ten years."

## **Chapter 142 Section 2 Laws 2013**

SECTION 2. Section 60-13-9 NMSA 1978 (being Laws 1978, Chapter 73, Section 1, as amended) is amended to read:

"60-13-9. DIVISION--DUTIES.--The division shall:

A. approve and adopt examinations on codes and standards, business knowledge, division rules and regulations and on the Construction Industries Licensing Act recommended by the commission for all classifications of contractor's licenses;

B. issue, under the director's signature, contractor's licenses and certificates of qualification in accordance with the provisions of the Construction Industries Licensing Act;

C. submit a list of all contractor's licenses, statewide inspector's certificates and certificates of qualification issued by the division to the commission for review and approval;

D. resolve jurisdictional conflicts by assigning specific responsibility to the appropriate bureau for preparing examinations and for certifying and inspecting each occupation, trade or activity covered by the Construction Industries Licensing Act;

E. establish and collect fees authorized to be collected by the division pursuant to the Construction Industries Licensing Act;

F. adopt all building codes and minimum standards as recommended by the trade bureaus and approved by the commission so that the public welfare is protected, uniformity is promoted and conflicting provisions are avoided;

G. with approval of the superintendent of regulation and licensing, employ such personnel as the division deems necessary for the exclusive purpose of investigating violations of the Construction Industries Licensing Act, enforcing Sections 60-13-12 and 60-13-38 NMSA 1978 and instituting legal action in the name of the division to accomplish the provisions of Section 60-13-52 NMSA 1978;

H. approve, disapprove or revise the recommended budget of each trade bureau and submit the budgets of those bureaus, along with its own budget, to the regulation and licensing department;

I. approve, disapprove or revise and submit to the regulation and licensing department all requests of the trade bureaus for emergency budget transfers;

J. make an annual report to the superintendent of regulation and licensing and develop a policy manual concerning the operations of the division and the trade bureaus. The report shall also contain the division's recommendations for legislation it deems necessary to improve the licensing and technical practices of the construction and LP gas industries and to protect persons, property and agencies of the state and its political subdivisions;

K. adopt, subject to commission approval, rules and regulations necessary to carry out the provisions of the Construction Industries Licensing Act and the LPG and CNG Act;

L. maintain a complete record of all applications; all licenses issued, renewed, canceled, revoked and suspended; and all fines and penalties imposed by the division or commission and may make that information available to certified code jurisdictions;

M. furnish, upon payment of a reasonable fee established by the division, a certified copy of any license issued or of the record of the official revocation or suspension thereof. Such certified copy shall be prima facie evidence of the facts stated therein; and

N. publish a list of contractors, with their addresses and classifications, licensed by the division. The list shall be furnished without charge to such public officials, public bodies or public works and building departments as the division deems advisable. The list shall be published annually, and supplements shall be provided as the division deems necessary. Copies of the list and supplements shall be furnished to any person upon request and payment of a reasonable fee established by the division."

## **Chapter 142 Section 3 Laws 2013**

SECTION 3. Section 60-13-24 NMSA 1978 (being Laws 1967, Chapter 199, Section 27, as amended) is amended to read:

"60-13-24. CERTIFICATES OF QUALIFICATION--STATEWIDE INSPECTOR'S CERTIFICATES--CAUSES FOR REVOCATION OR SUSPENSION.--Any certificate of qualification or statewide inspector's certificate shall be revoked or suspended by the commission for the following causes:

A. misrepresentation of a material fact by the individual in obtaining the certificate;

B. violation, willfully or by reason of incompetence, of any provision of the Construction Industries Licensing Act or any code, minimum standard, rule or regulation adopted pursuant to that act; or

C. aiding, abetting, combining or conspiring with a person to evade or violate the provisions of the Construction Industries Licensing Act or any code, minimum standard, rule or regulation adopted pursuant to that act."

## **Chapter 142 Section 4 Laws 2013**

SECTION 4. Section 60-13-41 NMSA 1978 (being Laws 1967, Chapter 199, Section 49, as amended) is amended to read:

"60-13-41. INSPECTORS--DESIGNATED INSPECTION AGENCIES.--

A. State inspectors shall be employed by the director.

B. Qualifications for inspectors shall be prescribed by the commission, and applicants shall submit to an appropriate background check as prescribed by the commission. Inspectors shall meet the minimum continuing education requirements as prescribed by the nationally recognized code organization for each trade bureau jurisdiction and provide proof of such credits to the division upon application for or renewal of certification.

C. The division shall certify and issue a statewide inspector's certificate to any person who meets the requirements established by the nationally recognized code organization for certification. The certificate shall list all trade bureaus for which the inspector is certified to inspect and shall be valid for a term of three years.

D. An inspector shall be employed by a county, municipality or other political subdivision in order to inspect work under permits issued in the trade bureau for which the inspector is certified; provided that the county, municipality or other political subdivision has a certified building official in its employ and has adopted the current minimum code standards as established by the commission.

E. Except as provided in Subsection F of this section, the state or its agent shall conduct all inspections if a county, municipality or other political subdivision does not have a certified building official in its employ.

F. A county, municipality or other political subdivision may enter into a memorandum of understanding to share a certified building official and inspectors operating under that certified building official with another county, municipality or other political subdivision; provided that the certified building official is employed in the same



county, in an adjacent county, within one hundred miles of the county, municipality or other political subdivision or as approved by the division.

G. A person currently acting in the capacity of a certified building official may continue to act in that capacity and shall have five years from the effective date of this 2013 act to become a certified building official as prescribed by the Construction Industries Licensing Act. When a certified building official leaves the employ of a county, municipality or other political subdivision, the plan review, permitting and inspections overseen by that certified building official shall transfer to the state unless the county, municipality or other political subdivision, within sixty days or a longer period as approved by the division, replaces that certified building official or enters into a memorandum of understanding pursuant to Subsection F of this section.

H. The division may appoint inspection agencies to inspect the construction, installation, alteration or repair of manufactured commercial units, modular homes and premanufactured homes, including those manufacturers whose business premises are without the state, to ensure that the New Mexico standards of construction and installation are adhered to and that the quality of construction meets all New Mexico codes and standards. If the inspection agency has no place of business within the state, it shall file a written statement with the secretary of state setting forth its name and business address and designating the secretary of state as its agent for the service of process.

I. The division shall, with the approval of the commission, establish qualifications for inspectors certified to inspect in more than one bureau's jurisdiction.

J. The director shall assign an investigator to investigate the merits of every complaint brought against an inspector and report to the commission within ten days."

## **Chapter 142 Section 5 Laws 2013**

SECTION 5. REPEAL.--Section 60-13-43 NMSA 1978 (being Laws 1967, Chapter 199, Section 51, as amended) is repealed.

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Senate Bill 249, aa

Approved April 3, 2013

# **LAWS 2013, CHAPTER 143**

AN ACT

RELATING TO PROPERTY; AMENDING AND ENACTING SECTIONS OF THE APPRAISAL MANAGEMENT COMPANY REGISTRATION ACT; PROVIDING FOR COMPLIANCE WITH FEDERAL LAW; PROVIDING A DEFINITION OF "APPRAISAL MANAGEMENT COMPANIES"; PROVIDING FOR REGISTRATION STANDARDS, FEES AND COMPLIANCE WITH THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE; PROVIDING FOR AUTOMATED VALUATION MODELS; PROVIDING FOR BROKER PRICE OPINIONS; PROVIDING FOR INDEPENDENCE OF APPRAISALS; PROVIDING FOR CRIMINAL BACKGROUND CHECKS; PROVIDING PENALTIES.

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

### **Chapter 143 Section 1 Laws 2013**

SECTION 1. Section 47-14-2 NMSA 1978 (being Laws 2009, Chapter 214, Section 2) is amended to read:

"47-14-2. DEFINITIONS.--As used in the Appraisal Management Company Registration Act:

A. "appraisal" means the act or process of developing an opinion of the value of real property in conformance with the uniform standards for professional appraisal practice published by the appraisal foundation;

B. "appraisal foundation" means the appraisal foundation incorporated as an Illinois not-for-profit corporation on November 30, 1987 and to which reference is made in the Federal Financial Institutions Examination Council Act of 1978, as amended by Title 11, Real Estate Appraisal Reform Amendments;

C. "appraisal management company" means:

(1) any external third party that oversees a network or panel of certified or licensed appraisers to:

(a) recruit, select and retain appraisers;

(b) contract with appraisers to perform appraisal assignments;

(c) manage the process of having an appraisal performed; or

(d) review and verify the work of appraisers; or

(2) any external third party that contracts with a qualifying licensed real estate broker or associate broker as defined in Chapter 61, Article 29 NMSA 1978 to provide broker price opinions;

D. "appraisal management services" means the process of receiving a request for the performance of real estate appraisal services from a client, and for a fee paid by the client, entering into an agreement with one or more independent appraisers to perform the real estate appraisal services contained in the request;

E. "appraiser" means a person who provides an opinion of the market value of real property and holds a state license, registration or certified license in good standing;

F. "appraiser panel" means a group of independent appraisers that have been selected and retained by an appraisal management company to perform real estate appraisal services for the appraisal management company;

G. "automated valuation model" means any computerized model used by mortgage originators and secondary market issuers to determine the collateral worth of a mortgage secured by a consumer's principal dwelling;

H. "board" means the real estate appraisers board created pursuant to the Real Estate Appraisers Act;

I. "broker price opinion" means an opinion by a qualifying or associate broker of the price of real estate for the purpose of marketing, selling, purchasing, leasing or exchanging the real estate or any interest therein or for the purposes of providing a financial institution with a collateral assessment of any real estate in which the financial institution has an existing or potential security interest; provided that the opinion of the price shall not be referred to or construed as an appraisal or appraisal report and shall not be used as the primary basis to determine the value of real estate for the purpose of loan origination;

J. "client" means a person or entity that contracts with, or otherwise enters into an agreement with, an appraisal management company for the performance of real estate appraisal services;

K. "controlling person" means:

(1) an owner, officer or director of a corporation, partnership, limited liability company or other business entity seeking to offer appraisal management services in this state;

(2) an individual employed, appointed or authorized by an appraisal management company that has the authority to enter into a contractual relationship with clients for the performance of appraisal management services and that has the authority to enter into agreements with independent appraisers for the performance of real estate appraisal services; or

(3) an individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company;

L. "real estate appraisal services" means the practice of developing an opinion of the value of real property in conformance with the uniform standards of professional appraisal practice published by the appraisal foundation; and

M. "uniform standards of professional appraisal practice" means the uniform standards of professional appraisal practice promulgated by the appraisal foundation and adopted by rule pursuant to the Real Estate Appraisers Act."

## **Chapter 143 Section 2 Laws 2013**

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

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

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

B. A person, corporation, partnership, sole proprietorship, subsidiary, limited liability company or any other business entity seeking the registration required by Subsection A of this section shall:

(1) register with the appraisal subcommittee or the board and be subject to supervision by the board;

(2) verify that only licensed or certified appraisers are used for federally related transactions;

(3) require that appraisals comply with the uniform standards of professional appraisal practice; and

(4) require that appraisals are conducted independently and free from inappropriate influence and coercion pursuant to the appraisal independence standards established pursuant to the federal Truth in Lending Act.

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

- (1) the name of the entity seeking registration;
- (2) the business address of the entity seeking registration;
- (3) telephone contact information of the entity seeking registration;
- (4) if the entity seeking registration is not a corporation that is domiciled in this state, the name and contact information for the company's agent for service of process in this state;
- (5) the name, address and contact information for any individual or any corporation, partnership or other business entity that owns ten percent or more of the appraisal management company;
- (6) the name, address and contact information for a controlling person;
- (7) a certification that the entity seeking registration has a system and process in place to verify that an appraiser is selected and retained for the network or the appraiser panel of the appraisal management company holds a license or certification in good standing in this state pursuant to the Real Estate Appraisers Act;
- (8) a certification that the entity seeking registration has a system in place to review, on a periodic basis, the work of all independent appraisers that are performing real estate appraisal services for the appraisal management company to ensure that the real estate appraisal services are being conducted in accordance with uniform standards of professional appraisal practice;
- (9) a certification that the entity maintains a detailed record of each service request that it receives and of the independent appraiser that performs the real estate appraisal services for the appraisal management company;
- (10) an irrevocable consent to service of process;
- (11) a bond or other equivalent means of security as required by the Appraisal Management Company Registration Act; and
- (12) any other information required by the board.

D. The requirements of Subsection B of this section shall apply to an appraisal management company that is a subsidiary owned and controlled by a financial institution regulated by a federal financial institution regulatory agency."

## **Chapter 143 Section 3 Laws 2013**

SECTION 3. Section 47-14-6 NMSA 1978 (being Laws 2009, Chapter 214, Section 6) is amended to read:

"47-14-6. EXPIRATION OF LICENSE.--A registration granted by the board pursuant to the Appraisal Management Company Registration Act shall expire on September 30 of each year."

### **Chapter 143 Section 4 Laws 2013**

SECTION 4. Section 47-14-8 NMSA 1978 (being Laws 2009, Chapter 214, Section 8) is amended to read:

"47-14-8. FEE.--

A. The board shall establish the fee for appraisal management company registration by rule to cover the cost of the administration of the Appraisal Management Company Registration Act, but in no case shall the fee be more than two thousand dollars (\$2,000).

B. Registration fees shall be credited to the appraiser fund pursuant to Section 61-30-18 NMSA 1978.

C. An appraisal management company that either has registered with the board or operates as a subsidiary of a federally regulated financial institution shall pay to the board an annual registry as determined by the appraisal subcommittee."

### **Chapter 143 Section 5 Laws 2013**

SECTION 5. Section 47-14-9 NMSA 1978 (being Laws 2009, Chapter 214, Section 9) is amended to read:

"47-14-9. OWNER REQUIREMENTS.--

A. An appraisal management company applying for registration may not be owned by a person or have any principal of the company who has had a license or certificate to act as an appraiser refused, denied, canceled or revoked in this state or in any other state.

B. Each person that owns, is an officer of or has a financial interest in an appraisal management company in this state shall:

- (1) be of good moral character, as determined by the board; and
- (2) submit to a background investigation, as determined by the board.

C. An appraisal management company shall not be registered by the board or included on the national registry if the company, in whole or in part, directly or indirectly, is owned by any person who has had an appraiser license or certificate refused, denied, canceled, surrendered in lieu of revocation or revoked in any state and not subsequently granted or reinstated. A person that owns more than ten percent of an appraisal management company shall be of good moral character, as determined by the board, and shall submit to a background investigation carried out by the board."

## **Chapter 143 Section 6 Laws 2013**

SECTION 6. Section 47-14-17 NMSA 1978 (being Laws 2009, Chapter 214, Section 17) is amended to read:

### "47-14-17. APPRAISER INDEPENDENCE--PROHIBITIONS.--

A. Appraisals shall be conducted independently and free from inappropriate influence and coercion pursuant to the appraisal independence standards established pursuant to the federal Truth in Lending Act.

B. It is unlawful for any employee, director, officer or agent of an appraisal management company registered pursuant to the Appraisal Management Company Registration Act to influence or attempt to influence the development, reporting or review of an appraisal through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, bribery or in any other manner, including:

(1) withholding or threatening to withhold timely payment for an appraisal;

(2) withholding or threatening to withhold future business for an independent appraiser or demoting or terminating, or threatening to demote or terminate, an independent appraiser;

(3) expressly or impliedly promising future business, promotions or increased compensation for an independent appraiser;

(4) conditioning the request for an appraisal service or the payment of an appraisal fee or salary or bonus on the opinion, conclusion or valuation to be reached or on a preliminary estimate or opinion requested from an independent appraiser;

(5) requesting that an independent appraiser provide an estimated, predetermined or desired valuation in an appraisal report or provide estimated values of comparable sales at any time prior to the independent appraiser's completion of an appraisal service;

(6) providing to an independent appraiser an anticipated, estimated, encouraged or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except that a copy of the sales contract for purchase transactions may be provided;

(7) providing to an independent appraiser, or any entity or person related to the appraiser, stock or other financial or non-financial benefits;

(8) allowing the removal of an independent appraiser from an appraiser panel, without prior written notice to such appraiser;

(9) obtaining, using or paying for a second or subsequent appraisal or ordering an automated valuation model in connection with a mortgage financing transaction unless there is a reasonable basis to believe that the initial appraisal was flawed or tainted and such basis is clearly and appropriately noted in the loan file, or unless such appraisal or automated valuation model is done pursuant to a bona fide pre- or post-funding appraisal review or quality control process; or

(10) engaging in any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity or impartiality.

C. Nothing in Subsection B of this section shall be construed as prohibiting the appraisal management company from requesting that an independent appraiser:

(1) provide additional information about the basis for a valuation; or

(2) correct objective factual errors in an appraisal report.

D. In an effort to preclude discrimination, criteria shall be established by the appraisal management company and may include education achieved, experience, sample appraisals and references from prior clients. Membership in a nationally recognized professional appraisal organization may be a criterion considered, though lack of membership shall not be the sole bar against consideration for an assignment under these criteria."

## **Chapter 143 Section 7 Laws 2013**

SECTION 7. Section 47-14-21 NMSA 1978 (being Laws 2009, Chapter 214, Section 21) is amended to read:

"47-14-21. ENFORCEMENT.--

A. The board may censure an appraisal management company, conditionally or unconditionally suspend or revoke any registration issued under the Appraisal Management Company Registration Act, levy fines or impose civil penalties not to exceed twenty-five thousand dollars (\$25,000) per violation if, in the opinion of the



board, an appraisal management company is attempting to perform, has performed or has attempted to perform any of the following acts:

(1) committing any act in violation of the Appraisal Management Company Registration Act;

(2) violating any rule or regulation adopted by the board in the interest of the public and consistent with the provisions of the Appraisal Management Company Registration Act;

(3) procuring a registration, license or certification by fraud, misrepresentation or deceit; or

(4) violating the Real Estate Appraisers Act or the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

B. The board may deny an application for registration for failure to comply with the minimum requirements and criteria as set forth by the Appraisal Management Company Registration Act.

C. Board action relating to the issuance, suspension or revocation of any registration, license or certificate shall be governed by the provisions of the Uniform Licensing Act; provided that the time limitations set forth in the Uniform Licensing Act shall not apply to the processing of administrative complaints filed with the board, which shall be governed by federal statute, regulation or policy."

## **Chapter 143 Section 8 Laws 2013**

SECTION 8. A new section of the Appraisal Management Company Registration Act is enacted to read:

"AUTOMATED VALUATION MODELS USED TO ESTIMATE COLLATERAL VALUE FOR MORTGAGE LENDING PURPOSES.--

A. Automated valuation models shall adhere to quality control standards designed to:

(1) ensure a high level of confidence in the estimates produced by automated valuation models;

(2) protect against the manipulation of data;

(3) seek to avoid conflicts of interest;

(4) require random sample testing and reviews; and

(5) account for any other such factor that the board determines to be appropriate.

B. The board, in consultation with the staff of the appraisal subcommittee and the appraisal standards board of the appraisal foundation, shall promulgate rules to implement the quality control standards required under this section."

## **Chapter 143 Section 9 Laws 2013**

SECTION 9. A new section of the Appraisal Management Company Registration Act is enacted to read:

### **"CRIMINAL BACKGROUND CHECKS.--**

A. The board may adopt rules that provide for criminal background checks for all licensees to include:

(1) requiring criminal history background checks of applicants for licensure pursuant to the Appraisal Management Company Registration Act;

(2) requiring applicants for licensure to be fingerprinted;

(3) providing for an applicant who has been denied licensure to inspect or challenge the validity of the background check record;

(4) establishing a fingerprint and background check fee not to exceed the current rate as determined by the department of public safety to be paid by the applicant; and

(5) providing for submission of an applicant's fingerprint cards to the federal bureau of investigation to conduct a national criminal history background check and to the department of public safety to conduct a state criminal history check.

B. Arrest record information received from the department of public safety and the federal bureau of investigation shall be privileged and shall not be disclosed to persons not directly involved in the decision affecting the applicant.

C. Electronic live fingerprint scans may be used when conducting criminal history background checks."

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SCORC/Senate Bill 279

Approved April 3, 2013

# LAWS 2013, CHAPTER 144

## AN ACT

RELATING TO MARRIAGE LICENSES; ADDRESSING THE COLLECTION AND USE OF SOCIAL SECURITY NUMBERS; PROVIDING A DEFINITION OF "SOLEMNIZE" IN REGARD TO THE MARRIAGE CONTRACT; UPDATING RESTRICTIONS ON MARRIAGE FOR MINORS AND BETWEEN CERTAIN RELATIVES; ADDRESSING THE LEGAL RIGHTS OF CHILDREN BORN TO PARENTS WHO ARE NOT MARRIED TO EACH OTHER; REQUIRING A PERSONAL APPEARANCE IN MOST CASES TO APPLY FOR A MARRIAGE LICENSE; ELIMINATING THE NEED FOR CERTAIN PHYSICIAN CERTIFICATES; CLARIFYING THE NEED TO ASCERTAIN QUALIFICATIONS FOR MARRIAGE; PROVIDING FOR CORRECTION OF A MARRIAGE CERTIFICATE; INCREASING THE PENALTY FOR VIOLATIONS OF CHAPTER 40, ARTICLE 1 NMSA 1978; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

### **Chapter 144 Section 1 Laws 2013**

SECTION 1. Section 27-1-10 NMSA 1978 (being Laws 1997, Chapter 237, Section 15) is amended to read:

"27-1-10. COLLECTION AND USE OF SOCIAL SECURITY NUMBERS FOR USE IN CHILD SUPPORT ENFORCEMENT.--

A. For applicants or persons who have been assigned a social security number, the state shall have and use procedures requiring that the social security number of any:

(1) applicant for a professional license, commercial driver's license or occupational license be recorded on the application;

(2) applicant for a marriage license be collected and placed in the records maintained by the county clerk;

(3) person who is subject to a divorce decree, support order or paternity determination or acknowledgment be placed in the records relating to the matter; and

(4) person who has died be placed in the records relating to the death and be recorded on the death certificate.

B. The collection and use of social security numbers shall be made available to the human services department for use in child support enforcement."

## **Chapter 144 Section 2 Laws 2013**

SECTION 2. Section 40-1-2 NMSA 1978 (being Laws 1859-1860, p. 120, as amended) is amended to read:

"40-1-2. MARRIAGES SOLEMNIZED--ORDAINED CLERGY OR CIVIL MAGISTRATES MAY SOLEMNIZE.--

A. The civil contract of marriage is entered into when solemnized as provided in Chapter 40, Article 1

NMSA 1978. As used in Chapter 40, Article 1 NMSA 1978, "solemnize" means to join in marriage before witnesses by means of a ceremony.

B. A person who is an ordained member of the clergy or who is an authorized representative of a federally recognized Indian nation, tribe or pueblo may solemnize the contract of marriage without regard to sect or rites and customs the person may practice.

C. Active or retired judges, justices and magistrates of any of the courts established by the constitution of New Mexico, United States constitution, laws of the state or laws of the United States are civil magistrates having authority to solemnize contracts of marriage. Civil magistrates solemnizing contracts of marriage shall charge no fee therefor."

## **Chapter 144 Section 3 Laws 2013**

SECTION 3. Section 40-1-3 NMSA 1978 (being Laws 1862-1863, p. 66, as amended) is amended to read:

"40-1-3. CEREMONY BY RELIGIOUS SOCIETY.--It is lawful for any religious society or federally recognized Indian nation, tribe or pueblo to solemnize marriage conformably with its rites and customs, and the secretary of the society or the person authorized by the society or federally recognized Indian nation, tribe or pueblo shall make and transmit a transcript to the county clerk certifying to the marriages solemnized."

## **Chapter 144 Section 4 Laws 2013**

SECTION 4. Section 40-1-6 NMSA 1978 (being Laws 1876, Chapter 31, Section 2, as amended) is repealed and a new Section 40-1-6 NMSA 1978 is enacted to read:

"40-1-6. RESTRICTIONS ON MARRIAGE OF MINORS.--

A. The county clerk shall not issue a marriage license to an unemancipated person sixteen or seventeen years of age, and no person authorized by

the laws of this state to solemnize marriages shall knowingly unite in marriage any person sixteen or seventeen years of age, unless the minor first receives the written consent of each of the minor's living parents as shown on the minor's certificate of birth, or the district court has authorized the marriage of such person upon request of a parent or legal guardian of the person for good cause shown, and a certified copy of the judicial authorization is filed with the county clerk.

B. The county clerk shall not issue a marriage license to any person under sixteen years of age, and no person authorized by the laws of this state to solemnize marriages shall knowingly unite in marriage any person under sixteen years of age, unless the children's or family court division of the district court has first authorized the marriage of the person upon request of a parent or legal guardian of the person in settlement of proceedings to compel support and establish parentage, or where an applicant for the marriage license is pregnant, and a certified copy of the judicial authorization is filed with the county clerk."

### **Chapter 144 Section 5 Laws 2013**

SECTION 5. Section 40-1-7 NMSA 1978 (being Laws 1876, Chapter 31, Section 1, as amended) is amended to read:

"40-1-7. INCESTUOUS MARRIAGES.--All marriages between relations and children, including grandparents and grandchildren of all degrees; between brothers and sisters of full blood or of half blood; between uncles and nieces; and between aunts and nephews are declared incestuous and absolutely void."

### **Chapter 144 Section 6 Laws 2013**

SECTION 6. Section 40-1-9 NMSA 1978 (being Laws 1876, Chapter 32, Section 1, as amended) is amended to read:

"40-1-9. PROHIBITED MARRIAGES.--No marriage between relatives within the prohibited degrees or between or with persons under the prohibited ages shall be declared void except by a decree of the district court upon proper proceedings. A cause of action may be instituted by the minor, by next friend, by either parent or legal guardian of the minor or by the district attorney. In the case of minors, no party to the marriage who may be over the prohibited age shall be allowed to apply for or obtain a decree of the court declaring the marriage void; but the minor may do so, and the court may, in its discretion, grant alimony until the minor becomes of age or remarries. If the parties should live together until they arrive at the age under which marriage is permitted by statute, then the marriage shall be deemed legal and binding."

### **Chapter 144 Section 7 Laws 2013**

SECTION 7. Section 40-1-10 NMSA 1978 (being Laws 1905, Chapter 65, Section 1, as amended) is amended to read:

"40-1-10. LICENSE REQUIRED--COUNTY CLERK.--

A. Each couple desiring to marry pursuant to the laws of New Mexico shall first obtain a license from a county clerk of this state and following a ceremony conducted in this state file the license for recording in the county issuing the license.

B. To obtain a marriage license, the couple shall personally appear at the office of the county clerk issuing the license and provide sufficient identification to satisfy the county clerk as to each person's identity and qualification to receive a marriage license pursuant to Chapter 40, Article 1 NMSA 1978. On application to a judge of the district court, the court, for good cause, may authorize a person unable to appear personally to obtain a license from the county clerk, and a certified copy of the judicial authorization shall be filed with the county clerk.

C. The county clerk:

(1) shall collect the social security number of an applicant for a marriage license only as provided for in Section 27-1-10 NMSA 1978;

(2) shall not make available a social security number to another person except as provided for in Section 27-1-10 NMSA 1978; and

(3) may, thirty days after the commencement of each fiscal year, dispose of, in a secure manner, those social security numbers collected in the previous fiscal year that have not been requested as provided for in Section 27-1-10 NMSA 1978."

### **Chapter 144 Section 8 Laws 2013**

SECTION 8. Section 40-1-11 NMSA 1978 (being Laws 1957, Chapter 33, Section 1, as amended) is amended to read:

"40-1-11. FEES--DISPOSITION.--The county clerk shall receive a fee of twenty-five dollars (\$25.00) for issuing, acknowledging and recording a marriage license and marriage certificate. Fifteen dollars (\$15.00) of each fee shall be remitted by the county treasurer to the state treasurer, within fifteen days of the last day of each month, for credit to the children's trust fund."

### **Chapter 144 Section 9 Laws 2013**

SECTION 9. Section 40-1-14 NMSA 1978 (being Laws 1905, Chapter 65, Section 3, as amended) is amended to read:

"40-1-14. PRODUCTION OF LICENSE AND PROOF OF LEGAL QUALIFICATIONS.--Prior to a ceremony, all persons authorized to solemnize marriage shall require the parties contemplating marriage to produce a license signed and sealed

by the county clerk issuing the license. Nothing in Chapter 40, Article 1 NMSA 1978 shall excuse any person authorized by the laws of this state to solemnize the contract of marriage from being satisfied as to the legal qualifications of any parties desiring to be married, in addition to the authority conferred by the license."

### **Chapter 144 Section 10 Laws 2013**

SECTION 10. Section 40-1-15 NMSA 1978 (being Laws 1905, Chapter 65, Section 4, as amended) is amended to read:

"40-1-15. CERTIFICATION OF MARRIAGE--RECORDING AND INDEXING.--

A. It is the duty of all persons solemnizing the contract of marriage in this state to certify the marriage to the county clerk within ninety days from the date of the marriage ceremony. Upon ensuring the information on the certificate is complete and legible, the county clerk shall immediately upon receipt of the certificate cause it to be properly recorded and indexed in a permanent record as a part of the county records.

B. The county clerk may issue a certificate of correction or correct or reissue an application for a marriage license, a marriage license or a certificate of marriage as a result of a typographical or data entry error by the office of the county clerk. The county clerk shall issue a certificate of correction or correct or reissue an application for a marriage license, a marriage license or a certificate of marriage to correct an error on the document upon order of the district court."

### **Chapter 144 Section 11 Laws 2013**

SECTION 11. Section 40-1-16 NMSA 1978 (being Laws 1905, Chapter 65, Section 5, as amended) is amended to read:

"40-1-16. APPLICATION OF LAW.--

A. A child born to parents who are not married to each other has the same rights pursuant to the law as a child born to parents who are married to each other.

B. Nothing in Chapter 40, Article 1 NMSA 1978 shall be construed to in any manner interfere with the records kept by any civil magistrate, religious society, church organization or federally recognized Indian nation, tribe or pueblo or with any additional form of ceremony, regulation or requirement prescribed by them."

### **Chapter 144 Section 12 Laws 2013**

SECTION 12. Section 40-1-17 NMSA 1978 (being Laws 1905, Chapter 65, Section 7, as amended) is amended to read:

"40-1-17. UNIFORM USE FORM.--To ensure a uniform system of records of all marriages contracted and the better preservation of the records for future reference, the form of application, license and certificate shall be substantially as provided in Section 40-1-18 NMSA 1978, each blank to be numbered consecutively corresponding with the page number of the record book in the clerk's office; provided that the medical evaluation language shall not be printed on the application until such time as the secretary of health deems such evaluation necessary through the issuance of rules."

## **Chapter 144 Section 13 Laws 2013**

SECTION 13. Section 40-1-19 NMSA 1978 (being Laws 1905, Chapter 65, Section 9, as amended) is amended to read:

"40-1-19. OFFENSES--PENALTIES.--

A. For failure to perform the county clerk's responsibilities and duties pursuant to Chapter 40, Article 1 NMSA 1978, a county clerk is responsible on the county clerk's official bond for damages suffered by the injured party.

B. A person who performs the marriage ceremony or certifies a marriage to the county clerk, who neglects or fails to comply with the provisions of Chapter 40, Article 1 NMSA 1978 and any person who willfully violates the law by deceiving or attempting to deceive or mislead any officer or person in order to obtain a marriage license or to be married contrary to law is upon conviction guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978."

## **Chapter 144 Section 14 Laws 2013**

SECTION 14. REPEAL.--Sections 40-1-5, 40-1-8, 40-1-12 and 40-1-13 NMSA 1978 (being Laws 1862-1863, p. 64, Laws 1876, Chapter 31, Section 3, and Laws 1957, Chapter 33, Sections 2 and 3, as amended) are repealed.

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Senate Bill 299, aa

Approved April 3, 2013

# **LAWS 2013, CHAPTER 145**

AN ACT

RELATING TO RAILROADS; AMENDING A SECTION OF THE LIVESTOCK CODE TO PROVIDE BETTER ENFORCEMENT OF FENCING LAWS REQUIRED OF RAILROADS.



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

## **Chapter 145 Section 1 Laws 2013**

SECTION 1. Section 77-16-16 NMSA 1978 (being Laws 1889, Chapter 75, Section 1, as amended) is amended to read:

"77-16-16. RAILROADS--FENCING OF LINES--DAMAGE.--

A. Every railroad in this state whose lines of road, or any part thereof, are open for use and every railroad company formed or to be formed shall, within six months after the lines of the railroad or any part thereof are open, erect and thereafter maintain fences on the sides of the railroad or the part thereof so open for use, suitably and amply sufficient to prevent cattle, horses, sheep, mules, burros and hogs from getting on the railroad, except at the crossings of public roads and highways and within the limits of municipalities and shall also construct, where not already done, and maintain at all public road crossings now existing or hereafter established cattle guards suitable and sufficient to prevent cattle, horses, sheep, burros, mules and hogs from getting onto the railroad. If any railroad fails to construct and maintain fences and cattle guards as directed in this section, the railroad shall be liable to the owner for all damages resulting from injury or death caused to any livestock, including reasonable attorney fees, on order of the court should legal proceedings be commenced by the owner. Should the New Mexico livestock board be unable to determine ownership of livestock crippled or killed by the railroad within thirty days of the date it first receives notice of such injury or death, by report or otherwise, then the board may institute legal proceedings in the name of the unknown owner in any court of competent jurisdiction and recover damages as provided in this section, and the proceeds shall be disposed of as provided for under the laws pertaining to estrays.

B. In the event that a fence is in a condition of neglect, disrepair or nonexistence, the adjacent landowner may contact the railroad supervisor or the owner of the right of way by certified mail, return receipt requested, and demand repair or construction to the legal standard provided in Section 77-16-17 NMSA 1978. Within thirty days thereafter, the railroad shall commence construction or provide proof of intent to comply, and after ten more days, if the railroad has failed to commence construction or to comply with agreed-upon terms of construction or repair, the adjacent landowner may repair, construct or cause to be repaired or constructed the fence at the expense of the railroad calculated at the cost of commercial rates common to the area. If the railroad fails to comply within thirty days of presentation of proof of cost, the landowner shall be compensated in an amount equal to two times the amount of the presented proof plus any cost of litigation, including attorney fees.

C. State-owned railroads and narrow-gauge and recreational railroads are exempt from the provisions of this section."

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Senate Bill 326, aa

Approved April 3, 2013

## **LAWS 2013, CHAPTER 146**

AN ACT

RELATING TO PROCUREMENT; REMOVING THE TEN-MILLION-DOLLAR (\$10,000,000) MINIMUM ON DESIGN AND BUILD PROJECTS.

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

### **Chapter 146 Section 1 Laws 2013**

SECTION 1. Section 13-1-119.1 NMSA 1978 (being Laws 1997, Chapter 171, Section 5, as amended) is amended to read:

"13-1-119.1. PUBLIC WORKS PROJECT DELIVERY SYSTEM--DESIGN AND BUILD PROJECTS AUTHORIZED.--

A. Except for road and highway construction or reconstruction projects, a design and build project delivery system may be authorized when the state purchasing agent or a central purchasing office makes a determination in writing that it is appropriate and in the best interest of the state or local public body to use the system on a specific project. The determination shall be issued only after the state purchasing agent or a central purchasing office has taken into consideration the following criteria, which shall be used as the minimum basis in determining when to use the design and build process:

(1) the extent to which the project requirements have been or can be adequately defined;

(2) time constraints for delivery of the project;

(3) the capability and experience of potential teams with the design and build process;

(4) the suitability of the project for use of the design and build process as concerns time, schedule, costs and quality; and

(5) the capability of the using agency to manage the project, including experienced personnel or outside consultants, and to oversee the project with persons who are familiar with the design and build process.

B. When a determination has been made by the state purchasing agent or a central purchasing office that it is appropriate to use a design and build project delivery system, the design and build team shall include, as needed, a New Mexico registered engineer or architect and a contractor properly licensed in New Mexico for the type of work required.

C. Except as provided in Subsections F and G of this section, for each proposed state or local public works design and build project, a two-phase procedure for awarding design and build contracts shall be adopted and shall include at a minimum the following:

(1) during phase one, and prior to solicitation, documents shall be prepared for a request for qualifications by a registered engineer or architect, either in-house or selected in accordance with Sections 13-1-120 through 13-1-124 NMSA 1978, and shall include minimum qualifications, a scope of work statement and schedule, documents defining the project requirements, the composition of the selection committee and a description of the phase-two requirements and subsequent management needed to bring the project to completion. Design and build qualifications of responding firms shall be evaluated, and a maximum of five firms shall be short-listed in accordance with technical and qualifications-based criteria; and

(2) during phase two, the short-listed firms shall be invited to submit detailed specific technical concepts or solutions, costs and scheduling. Unsuccessful firms may be paid a stipend to cover proposal expenses. After evaluation of these submissions, selection shall be made and the contract awarded to the highest-ranked firm.

D. Except as provided in Subsections F and G of this section, to ensure fair, uniform, clear and effective procedures that will strive for the delivery of a quality project on time and within budget, the secretary, in conjunction with the appropriate and affected professional associations and contractors, shall promulgate rules applicable to all using agencies, which shall be followed by all using agencies when procuring a design and build project delivery system.

E. A state agency shall make the decision on a design and build project delivery system for a state public works project, and a local public body shall make that decision for a local public works project. A state agency shall not make the decision on a design and build project delivery system for a local public works project.

F. The requirements of Subsections C and D of this section do not apply to a design and build project delivery system and the services procured for the project if:

(1) the maximum allowable construction cost of the project is four hundred thousand dollars (\$400,000) or less; and

(2) the only requirement for architects, engineers, landscape architects or surveyors is limited to either site improvements or adaption for a pre-engineered building or system.

G. The procurement of a design and build project delivery system qualifying for exemptions pursuant to Subsection F of this section, including the services of any architect, engineer, landscape architect, construction manager or surveyor needed for the project, shall be accomplished by competitive sealed bids pursuant to Sections 13-1-102 through 13-1-110 NMSA 1978."

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Senate Bill 340

Approved April 3, 2013

## **LAWS 2013, CHAPTER 147**

AN ACT

RELATING TO HIGHER EDUCATION; RAISING THE CAP FOR PUBLIC SERVICE ATTORNEY LOAN REPAYMENTS.

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

### **Chapter 147 Section 1 Laws 2013**

SECTION 1. Section 21-22F-5 NMSA 1978 (being Laws 2005, Chapter 83, Section 5, as amended) is amended to read:

"21-22F-5. LOAN REPAYMENT PROGRAM--PARTICIPANT ELIGIBILITY--AWARD CRITERIA.--

A. An applicant shall be licensed to practice in New Mexico as an attorney and shall declare an intent to practice as an attorney in public service employment.

B. Prior to submitting an application to the public service law loan repayment program, an applicant shall apply to all available legal education loan repayment programs offered by the applicant's law school for which the applicant qualifies.

C. An applicant who intends to practice as an attorney in a public service employment position that earns more than fifty-five thousand dollars (\$55,000) per year is not eligible for participation in the public service law loan repayment program.

D. Prior to receiving a loan repayment award, the applicant shall file with the department:

(1) a declaration of intent to practice as an attorney in public service employment;

(2) proof of prior application to all legal education loan repayment programs offered by the applicant's law school for which the applicant qualifies; and

(3) documentation that includes the applicant's total legal education debt, salary, any amounts received by the applicant from other law loan repayment programs and other sources of income deemed by the department as appropriate for consideration; provided that the applicant shall not be required to disclose amounts of income from military service.

E. Award criteria shall provide that:

(1) preference in making awards shall be to applicants who:

(a) have graduated from the university of New Mexico law school;

(b) have the greatest financial need based on legal education indebtedness and salary;

(c) work in public service employment that has the lowest salaries; and

(d) work in public service employment in underserved areas of New Mexico that are in greatest need of attorneys practicing in public service employment;

(2) an applicant's employment as an attorney in public service employment prior to participation in the public service law loan repayment program shall not count as time spent toward the minimum three-year period of service requirement pursuant to the contract between the participating attorney and the department acting on behalf of the state;

(3) award amounts are dependent upon the applicant's total legal education debt, salary and sources of income other than income from military service deemed by the department as appropriate for consideration;

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

(5) an award shall not exceed the total legal education debt of any participant;

(6) award amounts shall be reduced by the sum of the total award amounts received by the participant from other legal education loan repayment programs; and

(7) an award determination may be appealed to the secretary of higher education.

F. The following legal education debts are not eligible for repayment pursuant to the Public Service Law Loan Repayment Act:

(1) amounts incurred as a result of participation in state or law school loan-for-service programs or other state or law school programs whose purposes state that service be provided in exchange for financial assistance;

(2) scholarships that have a service component or obligation;

(3) personal loans from relatives or friends; and

(4) loans that exceed individual standard school expense levels."

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Senate Bill 349

Approved April 3, 2013

## **LAWS 2013, CHAPTER 148**

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; AUTHORIZING THE ISSUANCE OF PERMITS FOR CERTAIN LICENSED ENTITIES TO CONDUCT TASTINGS OF BEER, WINE, CIDER AND SPIRITUOUS LIQUORS ON LICENSED PREMISES; PROVIDING FOR NOTIFICATION OF TASTING EVENTS TO THE APPROPRIATE ENFORCEMENT AGENCY.

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

### **Chapter 148 Section 1 Laws 2013**

SECTION 1. A new section of the Liquor Control Act is enacted to read:

"TASTING PERMIT--FEES.--

A. The director is authorized to issue a tasting permit to a licensed dispenser, retailer, resident manufacturer, nonresident manufacturer, wholesaler or winegrower or an agent of any such licensed entity to conduct tastings of wine, beer, cider or spirituous liquor on a licensed premises in accordance with rules promulgated by the director to protect public health and safety. A person serving wine, beer, cider or spirituous liquor at a tasting event permitted pursuant to this section shall have a server permit.

B. To apply for a tasting permit, the holder of a license described in Subsection A of this section shall submit to the department a tasting permit fee of one hundred dollars (\$100) and such information as the director may require. A tasting permit shall be valid for one year from the date that it is issued and may be renewed upon application to the department and payment of the tasting permit fee of one hundred dollars (\$100). A person permitted to hold tastings pursuant to this section shall notify the director no less than forty-eight hours before a tasting event of the person's intent to hold the event. Notification shall include the times and locations of, and the types of products to be included in, the tasting event. Upon receipt of notification, the director shall forward the notice to the appropriate staff member of the special investigations division of the department of public safety."

## **Chapter 148 Section 2 Laws 2013**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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Senate Bill 424, aa

Approved April 3, 2013

## **LAWS 2013, CHAPTER 149**

AN ACT

RELATING TO PROCUREMENT; PROVIDING PROCEDURES FOR THE TRADE, EXCHANGE OR DISPOSAL OF ITEMS OF TANGIBLE PERSONAL PROPERTY OF A STATE-OWNED RAILROAD.

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

## **Chapter 149 Section 1 Laws 2013**

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

"TRADE, EXCHANGE OR DISPOSAL OF TANGIBLE PERSONAL PROPERTY-  
-STATE-OWNED RAILROAD.--

A. In addition to other methods of disposal authorized by law, the tangible personal property of a state-owned railroad may be traded or exchanged for new items of tangible personal property, or disposed of, by the department of transportation or a local public body that manages the railroad, if authorized by the department of transportation pursuant to the provisions of this section. The central purchasing office may require in a request for proposals that quotes be submitted for the purchase or disposal of the tangible personal property to be traded in, exchanged or disposed of. The tangible personal property may be traded, exchanged or disposed of pursuant to the terms of the contract with the responsible offeror who is awarded the contract if an amount offered in trade or exchange, or amount for disposal, in the proposal is found by the central purchasing office to be:

- (1) a fair reflection of the current market value;
- (2) representative of the condition of the tangible personal property;
- (3) in the best interest of the agency; and

(4) included as an itemized adjustment in the price in the case of a trade or exchange, or itemized cost in the case of disposal.

B. All terms of the trade, exchange or disposal of the items of tangible personal property shall be part of the contract."

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Senate Bill 555, aa

Approved April 3, 2013

## **LAWS 2013, CHAPTER 150**

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; AUTHORIZING THE ISSUANCE OF A SPECIAL BED AND BREAKFAST DISPENSING LICENSE FOR BEER AND WINE.

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

### **Chapter 150 Section 1 Laws 2013**

SECTION 1. A new section of the Liquor Control Act is enacted to read:



"SPECIAL BED AND BREAKFAST DISPENSING LICENSE--FEES--  
LIMITATIONS.--

A. The director is authorized to issue a special bed and breakfast dispensing license to an owner or operator of a bed and breakfast in accordance with rules promulgated by the director to protect public health and safety. The license shall be limited to the serving of wine and beer in conjunction with food to the guests of the bed and breakfast.

B. A bed and breakfast establishment may apply for a special bed and breakfast dispensing license by submitting to the department a fee of one hundred dollars (\$100) and such information as the director may require. A license shall be valid for one year from the date that it is issued and may be renewed for a fee of one hundred dollars (\$100). The license shall allow the owner, operator or employee of a bed and breakfast who holds a server permit to dispense only wine or beer only to guests of the bed and breakfast in conjunction with the serving of food in a common area of the bed and breakfast.

C. The issuance of a bed and breakfast license for beer and wine service shall be contingent on the approval of the local public governing body or local option district of the jurisdiction in which the business is domiciled.

D. Service of beer or wine with food to guests at a bed and breakfast shall be limited to two twelve-ounce servings of beer or two six-ounce servings of wine per guest.

E. A special bed and breakfast dispensing license shall not be transferable from person to person or from one location to another.

F. An owner, operator or employee of a bed and breakfast who holds a server permit shall comply with the provisions of the Alcohol Server Education Article of the Liquor Control Act.

G. For the purposes of this section, "bed and breakfast" means a business establishment that offers temporary lodging with meals included and has a guest capacity of twenty or fewer persons."

## **Chapter 150 Section 2 Laws 2013**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

Approved April 3, 2013

## **LAWS 2013, CHAPTER 151**

AN ACT

RELATING TO HEALTH CARE; PROVIDING FOR ADDITIONAL SOURCES OF PAYMENTS.

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

### **Chapter 151 Section 1 Laws 2013**

SECTION 1. Section 27-5-16 NMSA 1978 (being Laws 1965, Chapter 234, Section 16, as amended) is amended to read:

"27-5-16. DEPARTMENT--PAYMENTS--COOPERATION.--

A. The department shall not decrease the amount of any assistance payments made to the hospitals or health care providers of this state pursuant to law because of any financial reimbursement made to ambulance services, hospitals or health care providers for indigent or medicaid eligible patients as provided in the Indigent Hospital and County Health Care Act.

B. The department shall cooperate with each board in furnishing information or assisting in the investigation of any person to determine whether the person meets the qualifications of an indigent patient as defined in the Indigent Hospital and County Health Care Act.

C. The department shall ensure that the sole community provider payment and the reimbursement to hospitals made under the state medicaid program do not exceed what would have been paid for under medicare payment principles. In the event the sole community provider payment and medicaid reimbursement to hospitals would exceed medicare payment principles, the department shall reduce the sole community provider payment prior to making any reduction in reimbursement to hospitals made under the state medicaid program; provided, however, that additional payments may be made pursuant to waiver agreement, rule, law or state plan amendment providing for supplemental medicaid payments to hospitals."

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Senate Bill 586

Approved April 3, 2013

# LAWS 2013, CHAPTER 152

## AN ACT

RELATING TO SEX OFFENDERS; REQUIRING ADDITIONAL REGISTRATION INFORMATION; REQUIRING SEX OFFENDERS TO REGISTER AND UPDATE INFORMATION WITHIN FIVE BUSINESS DAYS; PROVIDING FOR VERIFICATION OF REGISTRATION; PROVIDING FOR ELECTRONIC UPDATES; INCLUDING ADDITIONAL OFFENDERS ON THE SEX OFFENDER INTERNET WEB SITE; REQUIRING THAT CERTAIN CRIMES BE COMMITTED WITH SEXUAL INTENT BEFORE THEY ARE DEEMED A SEX OFFENSE; PROVIDING FOR INFORMATION TO BE AVAILABLE ON THE SEX OFFENDER INTERNET WEB SITE; REITERATING STATE PREEMPTION OF THE FIELD OF SEX OFFENDER REGISTRATION BY PROHIBITING LAW ENFORCEMENT FROM REQUIRING ADDITIONAL REGISTRATION OR FROM IMPOSING OTHER RESTRICTIONS; PROVIDING DEFINITIONS; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTIONS OF LAW IN LAWS 2007.

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

### **Chapter 152 Section 1 Laws 2013**

SECTION 1. Section 29-11A-3 NMSA 1978 (being Laws 1995, Chapter 106, Section 3, as amended by Laws 2007, Chapter 68, Section 1 and by Laws 2007, Chapter 69, Section 5) is amended to read:

"29-11A-3. DEFINITIONS.--As used in the Sex Offender Registration and Notification Act:

A. "business day" means a day that is not a Saturday, a Sunday or a state holiday;

B. "conviction" means a conviction in any court of competent jurisdiction and includes a deferred sentence, but does not include a conditional discharge;

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

D. "institution of higher education" means a:

(1) private or public post-secondary educational institution;

(2) trade school; or

(3) professional school;

E. "habitually lives" means any place where a sex offender lives for at least thirty days in any three-hundred-sixty-five-day period;

F. "out-of-state registrant" means any person who establishes a residence in New Mexico while the person is required to register as a sex offender in another state or territory;

G. "registration requirement" means any requirement set forth in Section 29-11A-4 NMSA 1978 that requires a sex offender to register; provide information, including a DNA sample; renew, revise or change registration information; or provide written notice or disclosure regarding the sex offender's status as a sex offender;

H. "sex offender" means a person who:

(1) is a resident of New Mexico who is convicted of a sex offense pursuant to state, federal, tribal or military law;

(2) changes residence to New Mexico, when that person has been convicted of a sex offense pursuant to state, federal, tribal or military law;

(3) does not have an established residence in New Mexico, but lives in a shelter, halfway house or transitional living facility or stays in multiple locations in New Mexico and who has been convicted of a sex offense pursuant to state, federal, tribal or military law; or

(4) is a resident of another state and who has been convicted of a sex offense pursuant to state, federal, tribal or military law, but who is:

(a) employed full time or part time in New Mexico for a period of time exceeding fourteen days or for an aggregate period of time exceeding thirty days during any calendar year, including any employment or vocation, whether financially compensated, volunteered or for the purpose of government or educational benefit; or

(b) enrolled on a full-time or part-time basis in a private or public school or an institution of higher education in New Mexico;

I. "sex offense" means any of the following offenses or their equivalents in any other jurisdiction:

(1) aggravated criminal sexual penetration or criminal sexual penetration in the first, second, third or fourth degree, as provided in Section 30-9-11 NMSA 1978;

(2) criminal sexual contact in the fourth degree, as provided in Section 30-9-12 NMSA 1978;

(3) criminal sexual contact of a minor in the second, third or fourth degree, as provided in Section 30-9-13 NMSA 1978;

(4) sexual exploitation of children, as provided in Section 30-6A-3 NMSA 1978;

(5) sexual exploitation of children by prostitution, as provided in Section 30-6A-4 NMSA 1978;

(6) kidnapping, as provided in Section 30-4-1 NMSA 1978, when committed with the intent to inflict a sexual offense;

(7) false imprisonment, as provided in Section 30-4-3 NMSA 1978, when committed with the intent to inflict a sexual offense;

(8) aggravated indecent exposure, as provided in Section 30-9-14.3 NMSA 1978;

(9) enticement of child, as provided in Section 30-9-1 NMSA 1978;

(10) incest, as provided in Section 30-10-3 NMSA 1978, when the victim is younger than eighteen years of age;

(11) child solicitation by electronic communication device, as provided in Section 30-37-3.2 NMSA 1978, for convictions occurring on or after July 1, 2013;

(12) solicitation to commit criminal sexual contact of a minor in the second, third or fourth degree, as provided in Sections 30-9-13 and 30-28-3 NMSA 1978; or

(13) attempt to commit any of the sex offenses set forth in Paragraphs (1) through (11) of this subsection, as provided in Section 30-28-1 NMSA 1978; and

J. "social networking site" means an internet web site that facilitates online social interaction by offering a mechanism for communication with other users, where such users are likely to include a substantial number of minors under the age of sixteen, and allowing users, through the creation of web pages, profiles or other means, to provide information about themselves that is available to the public or to other users."

## **Chapter 152 Section 2 Laws 2013**

SECTION 2. Section 29-11A-4 NMSA 1978 (being Laws 1995, Chapter 106, Section 4, as amended) is amended to read:

"29-11A-4. REGISTRATION OF SEX OFFENDERS--INFORMATION  
REQUIRED--VERIFICATION--CRIMINAL PENALTY FOR NONCOMPLIANCE.--

A. A sex offender residing in this state shall register with the county sheriff for the county in which the sex offender resides.

B. A sex offender who is a resident of New Mexico shall initially register with the county sheriff no later than five business days after being released from the custody of the corrections department, a municipal or county jail or a federal, military or tribal correctional facility or detention center or being placed on probation or parole. A sex offender who changes residence to New Mexico shall register with the county sheriff no later than five business days after arrival in this state. When a sex offender initially registers with the county sheriff, the sex offender shall provide the following registration information:

(1) the sex offender's legal name and any other names or aliases that the sex offender is using or has used;

(2) the sex offender's date of birth;

(3) the sex offender's social security number;

(4) the sex offender's current physical and mailing address and the address of every place where the sex offender habitually lives;

(5) the sex offender's place of employment;

(6) the sex offense for which the sex offender was convicted;

(7) the date and place of the sex offense conviction;

(8) the sex offender's names, email addresses and monikers and other self-identifiers used on social networking sites, to be used only for law enforcement purposes;

(9) the sex offender's landline and cellular telephone numbers and any other telephone numbers primarily used by the sex offender;

(10) the sex offender's professional licenses;

(11) the license plate or other identifier and the description of any vehicle owned or primarily operated by the sex offender, including aircraft and watercraft;

(12) the name and address of any school or institution of higher education that the sex offender is attending; and

(13) copies of the sex offender's passport and immigration documents.

C. A sex offender who is a resident of another state but who is employed in New Mexico or attending public or private school or an institution of higher education in New Mexico shall register with the county sheriff for the county in which the sex offender is working or attending school or an institution of higher education.

D. A sex offender who is a resident of another state but who is employed in New Mexico or attending public or private school or an institution of higher education in New Mexico shall register with the county sheriff no later than five business days after beginning work or school. When the sex offender registers with the county sheriff, the sex offender shall provide the following registration information:

(1) the sex offender's legal name and any other names or aliases that the sex offender is using or has used;

(2) the sex offender's date of birth;

(3) the sex offender's social security number;

(4) the sex offender's current physical and mailing address in the sex offender's state of residence and, if applicable, the address of the sex offender's place of lodging in New Mexico while working or attending school or an institution of higher education;

(5) the sex offender's place of employment or the name of the school the sex offender is attending;

(6) the sex offense for which the sex offender was convicted; and

(7) the date and place of the sex offense conviction.

E. When a sex offender registers with a county sheriff, the sheriff shall obtain:

(1) a photograph of the sex offender and a complete set of the sex offender's fingerprints and a palm print;

(2) a physical description, including a description of any tattoos, scars or other distinguishing features on the sex offender's body that would assist in identifying the sex offender; and

(3) a DNA sample for inclusion in the sex offender DNA identification system pursuant to the provisions of the DNA Identification Act.

F. When a sex offender who is registered changes any information required under this section, the sex offender shall send written notice of the change on a form approved by the department to the county sheriff no later than five business days after the change occurs.

G. When a sex offender who is registered changes residence to a new county in New Mexico, the sex offender shall register with the county sheriff of the new county no later than five business days after establishing the new residence. The sex offender shall also send written notice of the change in residence to the county sheriff with whom the sex offender last registered no later than five business days after establishing the new residence.

H. When a sex offender who is registered or required to register is homeless or does not have an established residence, but lives in a shelter, halfway house or transitional living facility or stays in multiple locations in New Mexico, the sex offender shall register each address or temporary location with the county sheriff for each county in which the sex offender is living or temporarily located. The sex offender shall register no later than five business days after a change in living arrangements or temporary location.

I. When a sex offender who is registered or required to register is employed, begins a vocation or is enrolled as a student at an institution of higher education in New Mexico, the sex offender shall disclose the sex offender's status as a sex offender in writing to the county sheriff for the county in which the institution of higher education is located, the law enforcement entity responsible for the institution of higher education and the registrar for the institution of higher education no later than five business days after beginning employment, beginning a vocation or enrolling at the institution of higher education. The sex offender shall also send written notice of any change regarding employment, vocation or enrollment status at an institution of higher education to the county sheriff, the law enforcement entity and the registrar no later than five business days after the change in employment, vocation or enrollment status.

J. When a sex offender who is registered or required to register is employed or is enrolled as a student at a public or private school in New Mexico, the sex offender shall disclose the sex offender's status as a sex offender in writing to the county sheriff for the county in which the school is located and to the principal of the school no later than five business days after beginning employment or enrolling at the school. The sex offender shall also send written notice of any change regarding employment or enrollment status at a school to the county sheriff and the principal no later than five business days after the change in employment or enrollment status.

K. When a sex offender who is registered or required to register is employed, begins a vocation or volunteers services, regardless of whether the sex offender receives payment or other compensation, the sex offender shall disclose the sex offender's status as a sex offender in writing to the sex offender's employer,



supervisor or person similarly situated. The written disclosure shall be made immediately upon beginning employment, vocation or volunteer service.

L. Following initial registration pursuant to the provisions of this section:

(1) a sex offender required to register pursuant to the provisions of Subsection D of Section 29-11A-5 NMSA 1978 shall verify registration information with the county sheriff as provided in Subsection N of this section not less than once in each ninety-day period following the date of the sex offender's initial registration for the remainder of the sex offender's natural life;

(2) a sex offender required to register pursuant to the provisions of Subsection E of Section 29-11A-5 NMSA 1978 shall verify registration information with the county sheriff as provided in Subsection N of this section once every six months for a period of ten years; and

(3) an out-of-state registrant shall verify registration information with the county sheriff for whichever is the longer of:

(a) the duration of time remaining in the registrant's convicting jurisdiction and at the same frequency as required in that state or territory, but no less than once every six months; or

(b) the duration of time remaining that would be required for the equivalent offense in New Mexico.

M. Notwithstanding the provisions of Paragraph (2) of Subsection L of this section, if a sex offender is convicted a second or subsequent time for a sex offense set forth in Subsection E of Section 29-11A-5 NMSA 1978, the sex offender shall verify registration information with the county sheriff as provided in Subsection N of this section not less than once in each ninety-day period following the date of the sex offender's initial registration for the remainder of the sex offender's natural life.

N. At least fifteen days prior to the time a sex offender is required to verify registration information, the department shall send a verification form to the sex offender, by first class mail, containing the sex offender's current registration information and a notice of the date that the sex offender's next verification is due. The sex offender shall appear in person at a location designated by the department to verify the information contained on the form, to change the information as necessary and to sign a statement under oath that the information is true and correct. The department may photograph the sex offender at that time if the sex offender's appearance is significantly different from the photograph already contained in the sex offender's file. If a sex offender does not receive a verification form before the time that the sex offender is required to verify registration pursuant to Subsection L of this section, the sex offender shall appear at a location designated by the department to verify registration information as required by this section.

O. The department shall establish a secure system that will permit a sex offender to notify the department electronically of any change in registration information.

P. A sex offender who willfully or knowingly fails to comply with the registration or verification requirements set forth in this section is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978. A sex offender who willfully or knowingly fails to comply with the registration or verification requirements set forth in this section after a first or subsequent conviction for a violation pursuant to this section is guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978. The willful failure to comply with any registration or verification requirement set forth in this section shall be deemed part of a continuing transaction or occurrence. A conviction pursuant to this subsection shall not be considered a felony for purposes of the imposition of sentencing enhancements pursuant to the provisions of Section 31-18-17 NMSA 1978.

Q. A sex offender who willfully or knowingly provides false information when complying with the registration or verification requirements set forth in this section is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978. A sex offender who willfully or knowingly provides false information when complying with the registration or verification requirements set forth in this section after a first or subsequent conviction for a violation pursuant to this section is guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978. The willful providing by a sex offender of false information with respect to the registration or verification requirements set forth in this section shall be deemed part of a continuing transaction or occurrence. A conviction pursuant to this subsection shall not be considered a felony for purposes of the imposition of sentencing enhancements pursuant to the provisions of Section 31-18-17 NMSA 1978."

## **Chapter 152 Section 3 Laws 2013**

SECTION 3. Section 29-11A-5.1 NMSA 1978 (being Laws 1999, Chapter 19, Section 8, as amended) is amended to read:

"29-11A-5.1. PUBLIC ACCESS TO INFORMATION REGARDING CERTAIN REGISTERED SEX OFFENDERS--ACTIVE COMMUNITY NOTIFICATION--INTERNET WEB SITE.--

A. If a sex offender is convicted of one of the following sex offenses, the county sheriff shall forward registration information obtained from the sex offender to the district attorney for the judicial district in which the sex offender resides and, if the sex offender is a resident of a municipality, the chief law enforcement officer for the municipality in which the sex offender resides:

(1) aggravated criminal sexual penetration or criminal sexual penetration in the first, second or third degree, as provided in Section 30-9-11 NMSA 1978;

(2) criminal sexual contact of a minor in the second, third or fourth degree, as provided in Section 30-9-13 NMSA 1978;

(3) sexual exploitation of children, as provided in Section 30-6A-3 NMSA 1978;

(4) sexual exploitation of children by prostitution, as provided in Section 30-6A-4 NMSA 1978; or

(5) attempt to commit any of the sex offenses set forth in Paragraphs (1) through (4) of this subsection, as provided in Section 30-28-1 NMSA 1978.

B. A person who wants to obtain registration information regarding sex offenders described in Subsection A of this section may request that information from the:

(1) sheriff for the county in which the sex offenders reside;

(2) chief law enforcement officer for the municipality in which the sex offenders reside;

(3) district attorney for the judicial district in which the sex offenders reside; or

(4) secretary of public safety.

C. Upon receiving a request for registration information regarding sex offenders described in Subsection A of this section, the county sheriff, chief municipal law enforcement officer, district attorney or secretary of public safety shall provide that registration information, with the exception of a sex offender's social security number and DNA information, within a reasonable period of time, and no later than seven days after receiving the request.

D. Within seven days of receiving registration information from a sex offender described in Subsection A of this section, the county sheriff shall contact every licensed daycare center, elementary school, middle school and high school within a one-mile radius of the sex offender's residence and provide them with the sex offender's registration information, with the exception of the sex offender's social security number and DNA information.

E. The department shall establish and manage an internet web site that provides the public with registration information regarding sex offenders described in Subsection A of this section, except that the department shall not provide registration information on the internet web site regarding a sex offender who was less than eighteen years of age when the sex offender committed the sex offense for which the sex offender was convicted as a youthful offender, as provided in Section 32A-2-3 NMSA 1978, unless at the time of sentencing, the court made a finding that the sex offender is not amenable to treatment and is a danger to the community. The registration information provided to the public pursuant to this subsection shall not include a sex offender's social security number or DNA information or the identity of a sex offender's place of employment, unless the sex offender's employment requires the sex offender to have direct contact with children. The internet web site shall provide only the following registration information:

(1) the sex offender's legal name and any other names or aliases that the sex offender is using or has used;

(2) the sex offender's current address and the address of every place where the sex offender habitually lives;

(3) if the sex offender's employment involves direct contact with children, the sex offender's place of employment;

(4) the sex offenses for which the sex offender has been convicted;

(5) a photograph of the sex offender;

(6) the sex offender's date of birth;

(7) a physical description, including a description of any tattoos, scars or other distinguishing features on the sex offender's body that would assist in identifying the sex offender; and

(8) a link that will pinpoint the location of the sex offender's place of employment if the sex offender has direct contact with children."

## **Chapter 152 Section 4 Laws 2013**

SECTION 4. Section 29-11A-9 NMSA 1978 (being Laws 2005, Chapter 279, Section 7) is amended to read:

"29-11A-9. STATE PREEMPTION--SAVING CLAUSE.--

A. The state preempts the field of sex offender registration and notification. Cities, counties, home rule municipalities and other political subdivisions of the state are prohibited from adopting or continuing in effect any ordinance, rule,

regulation, resolution or statute on sex offender registration and notification and from imposing any other restrictions on sex offenders that are not included in the Sex Offender Registration and Notification Act. The department, cities, counties, home rule municipalities and other political subdivisions of the state shall not require a sex offender to report or to register more frequently or to provide information not required by the Sex Offender Registration and Notification Act.

B. After January 18, 2005, cities, counties, home rule municipalities and other political subdivisions of the state are prohibited from adopting or amending an ordinance, rule, regulation or resolution on sex offender registration and notification. An ordinance in effect on January 18, 2005 shall continue in force and effect until repealed; provided that the ordinance shall only continue in force and effect with regard to sex offenders who are required to register pursuant to the provisions of the ordinance but who are not required to register pursuant to the provisions of the Sex Offender Registration and Notification Act. All other sex offenders shall register pursuant to the provisions of the Sex Offender Registration and Notification Act."

## **Chapter 152 Section 5 Laws 2013**

SECTION 5. APPLICABILITY.--The provisions of these 2013 amendments to the Sex Offender Registration and Notification Act are applicable to a person who, on or after July 1, 2013, is found guilty of committing a sex offense.

## **Chapter 152 Section 6 Laws 2013**

SECTION 6. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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HJC/House Bill 570

Approved April 3, 2013

# **LAWS 2013, CHAPTER 153**

AN ACT

RELATING TO CONSTRUCTION INSPECTORS; AMENDING THE CONSTRUCTION INDUSTRIES LICENSING ACT REGARDING STATEWIDE INSPECTOR CERTIFICATION; ESTABLISHING CERTIFIED BUILDING OFFICIALS; REPEALING SECTION 60-13-43 NMSA 1978 (BEING LAWS 1967, CHAPTER 199, SECTION 51, AS AMENDED).

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

## Chapter 153 Section 1 Laws 2013

SECTION 1. Section 60-13-2 NMSA 1978 (being Laws 1967, Chapter 199, Section 2, as amended) is amended to read:

"60-13-2. GENERAL DEFINITIONS.--As used in the Construction Industries Licensing Act:

A. "division" means the construction industries division of the regulation and licensing department;

B. "trade bureau", "jurisdiction" and "trade bureau jurisdiction" mean the electrical bureau, the mechanical bureau, the general construction bureau or the liquefied petroleum gas bureau of the division;

C. "jurisdictional conflict" means a conflict between or among trade bureaus as to the exercise of jurisdiction over an occupation or trade for which a license is required under the provisions of the Construction Industries Licensing Act;

D. "person" includes an individual, firm, partnership, corporation, association or other organization, or any combination thereof;

E. "qualifying party" means an individual who submits to the examination for a license to be issued under the Construction Industries Licensing Act and who is responsible for the licensee's compliance with the requirements of that act and with the rules, regulations, codes and standards adopted and promulgated in accordance with that act;

F. "certificate of qualification" means a certificate issued by the division to a qualifying party;

G. "journeyman" means an individual who is properly certified by the electrical bureau or the mechanical bureau, as required by law, to engage in or work at the certified trade;

H. "apprentice" means an individual who is engaged, as the individual's principal occupation, in learning and assisting in a trade;

I. "wages" means compensation paid to an individual by an employer from which taxes are required to be withheld by federal and state law;

J. "public use" means the use or occupancy of a structure, facility or manufactured commercial unit to which the general public, as distinguished from residents or employees, has access;

K. "bid" means a written or oral offer to contract;

L. "building" means a structure built for use or occupancy by persons or property, including manufactured commercial units and modular homes or premanufactured homes designed to be placed on permanent foundations whether mounted on skids or permanent foundations or whether constructed on or off the site of location;

M. "inspection agency" means a firm, partnership, corporation, association or any combination thereof approved in accordance with regulations as having the personnel and equipment available to adequately inspect for the proper construction of manufactured commercial units, modular homes or premanufactured homes;

N. "director" means the administrative head of the division;

O. "chief" means the administrative head of a trade bureau;

P. "commission" means the construction industries commission;

Q. "manufactured commercial unit" means a movable or portable housing structure over thirty-two feet in length or over eight feet in width that is constructed to be towed on its own chassis and designed so as to be installed without a permanent foundation for use as an office or other commercial purpose and that may include one or more components that can be retracted for towing purposes and subsequently expanded for additional capacity, or two or more units separately towable but designed to be joined into one integral unit, as well as a single unit, but that does not include any movable or portable housing structure over twelve feet in width and forty feet in length that is used for nonresidential purposes. "Manufactured commercial unit" does not include modular or premanufactured homes, built to a nationally recognized standard adopted by the commission and designed to be permanently affixed to real property;

R. "code" means a body or compilation of provisions or standards adopted by the commission that govern contracting or some aspect of contracting; that provide for safety and protection of life and health; and that are published by a nationally recognized standards association;

S. "inspector" means a person certified by the division and certified by one or more trade bureaus to conduct inspections of permitted work to ensure that all work performed by a contractor or the homeowner complies with the applicable code;

T. "statewide inspector's certificate" means a certificate that enables an inspector to conduct inspections in one or more trade bureau jurisdictions for the state or any county, municipality or other political subdivision that has a certified building official in its employ; and

U. "certified building official" means an employee of any county, municipality or other political subdivision who has a broad knowledge of the construction

industry, holds a current nationally recognized code organization certified building official certificate and has:

(1) been a practicing inspector or practicing contractor for at least five years; or

(2) held a management position in a construction-related company or construction organization for at least five of the past ten years."

## **Chapter 153 Section 2 Laws 2013**

SECTION 2. Section 60-13-9 NMSA 1978 (being Laws 1978, Chapter 73, Section 1, as amended) is amended to read:

"60-13-9. DIVISION--DUTIES.--The division shall:

A. approve and adopt examinations on codes and standards, business knowledge, division rules and regulations and on the Construction Industries Licensing Act recommended by the commission for all classifications of contractor's licenses;

B. issue, under the director's signature, contractor's licenses and certificates of qualification in accordance with the provisions of the Construction Industries Licensing Act;

C. submit a list of all contractor's licenses, statewide inspector's certificates and certificates of qualification issued by the division to the commission for review and approval;

D. resolve jurisdictional conflicts by assigning specific responsibility to the appropriate bureau for preparing examinations and for certifying and inspecting each occupation, trade or activity covered by the Construction Industries Licensing Act;

E. establish and collect fees authorized to be collected by the division pursuant to the Construction Industries Licensing Act;

F. adopt all building codes and minimum standards as recommended by the trade bureaus and approved by the commission so that the public welfare is protected, uniformity is promoted and conflicting provisions are avoided;

G. with approval of the superintendent of regulation and licensing, employ such personnel as the division deems necessary for the exclusive purpose of investigating violations of the Construction Industries Licensing Act, enforcing Sections 60-13-12 and 60-13-38 NMSA 1978 and instituting legal action in the name of the division to accomplish the provisions of Section 60-13-52 NMSA 1978;



H. approve, disapprove or revise the recommended budget of each trade bureau and submit the budgets of those bureaus, along with its own budget, to the regulation and licensing department;

I. approve, disapprove or revise and submit to the regulation and licensing department all requests of the trade bureaus for emergency budget transfers;

J. make an annual report to the superintendent of regulation and licensing and develop a policy manual concerning the operations of the division and the trade bureaus. The report shall also contain the division's recommendations for legislation it deems necessary to improve the licensing and technical practices of the construction and LP gas industries and to protect persons, property and agencies of the state and its political subdivisions;

K. adopt, subject to commission approval, rules and regulations necessary to carry out the provisions of the Construction Industries Licensing Act and the LPG and CNG Act;

L. maintain a complete record of all applications; all licenses issued, renewed, canceled, revoked and suspended; and all fines and penalties imposed by the division or commission and may make that information available to certified code jurisdictions;

M. furnish, upon payment of a reasonable fee established by the division, a certified copy of any license issued or of the record of the official revocation or suspension thereof. Such certified copy shall be prima facie evidence of the facts stated therein; and

N. publish a list of contractors, with their addresses and classifications, licensed by the division. The list shall be furnished without charge to such public officials, public bodies or public works and building departments as the division deems advisable. The list shall be published annually, and supplements shall be provided as the division deems necessary. Copies of the list and supplements shall be furnished to any person upon request and payment of a reasonable fee established by the division."

## **Chapter 153 Section 3 Laws 2013**

SECTION 3. Section 60-13-24 NMSA 1978 (being Laws 1967, Chapter 199, Section 27, as amended) is amended to read:

"60-13-24. CERTIFICATES OF QUALIFICATION--STATEWIDE INSPECTOR'S CERTIFICATES--CAUSES FOR REVOCATION OR SUSPENSION.--Any certificate of qualification or statewide inspector's certificate shall be revoked or suspended by the commission for the following causes:

A. misrepresentation of a material fact by the individual in obtaining the certificate;

B. violation, willfully or by reason of incompetence, of any provision of the Construction Industries Licensing Act or any code, minimum standard, rule or regulation adopted pursuant to that act; or

C. aiding, abetting, combining or conspiring with a person to evade or violate the provisions of the Construction Industries Licensing Act or any code, minimum standard, rule or regulation adopted pursuant to that act."

## **Chapter 153 Section 4 Laws 2013**

SECTION 4. Section 60-13-41 NMSA 1978 (being Laws 1967, Chapter 199, Section 49, as amended) is amended to read:

"60-13-41. INSPECTORS--DESIGNATED INSPECTION AGENCIES.--

A. State inspectors shall be employed by the director.

B. Qualifications for inspectors shall be prescribed by the commission, and applicants shall submit to an appropriate background check as prescribed by the commission. Inspectors shall meet the minimum continuing education requirements as prescribed by the nationally recognized code organization for each trade bureau jurisdiction and provide proof of such credits to the division upon application for or renewal of certification.

C. The division shall certify and issue a statewide inspector's certificate to any person who meets the requirements established by the nationally recognized code organization for certification. The certificate shall list all trade bureaus for which the inspector is certified to inspect and shall be valid for a term of three years.

D. An inspector shall be employed by a county, municipality or other political subdivision in order to inspect work under permits issued in the trade bureau for which the inspector is certified; provided that the county, municipality or other political subdivision has a certified building official in its employ and has adopted the current minimum code standards as established by the commission.

E. Except as provided in Subsection F of this section, the state or its agent shall conduct all inspections if a county, municipality or other political subdivision does not have a certified building official in its employ.

F. A county, municipality or other political subdivision may enter into a memorandum of understanding to share a certified building official and inspectors operating under that certified building official with another county, municipality or other political subdivision; provided that the certified building official is employed in the same

county, in an adjacent county, within one hundred miles of the county, municipality or other political subdivision or as approved by the division.

G. A person currently acting in the capacity of a certified building official may continue to act in that capacity and shall have five years from the effective date of this 2013 act to become a certified building official as prescribed by the Construction Industries Licensing Act. When a certified building official leaves the employ of a county, municipality or other political subdivision, the plan review, permitting and inspections overseen by that certified building official shall transfer to the state unless the county, municipality or other political subdivision, within sixty days or a longer period as approved by the division, replaces that certified building official or enters into a memorandum of understanding pursuant to Subsection F of this section.

H. The division may appoint inspection agencies to inspect the construction, installation, alteration or repair of manufactured commercial units, modular homes and premanufactured homes, including those manufacturers whose business premises are without the state, to ensure that the New Mexico standards of construction and installation are adhered to and that the quality of construction meets all New Mexico codes and standards. If the inspection agency has no place of business within the state, it shall file a written statement with the secretary of state setting forth its name and business address and designating the secretary of state as its agent for the service of process.

I. The division shall, with the approval of the commission, establish qualifications for inspectors certified to inspect in more than one bureau's jurisdiction.

J. The director shall assign an investigator to investigate the merits of every complaint brought against an inspector and report to the commission within ten days."

## **Chapter 153 Section 5 Laws 2013**

SECTION 5. REPEAL.--Section 60-13-43 NMSA 1978 (being Laws 1967, Chapter 199, Section 51, as amended) is repealed.

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House Bill 348, aa

Approved April 3, 2013

# **LAWS 2013, CHAPTER 154**

AN ACT

RELATING TO JUDICIAL STANDARDS; ADDING A MUNICIPAL JUDGE AND A PUBLIC MEMBER TO THE JUDICIAL STANDARDS COMMISSION; DECLARING AN EMERGENCY.

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

## **Chapter 154 Section 1 Laws 2013**

SECTION 1. Section 34-10-1 NMSA 1978 (being Laws 1968, Chapter 48, Section 1, as amended) is amended to read:

"34-10-1. JUDICIAL STANDARDS COMMISSION--SELECTION--TERMS.--The judicial standards commission consists of thirteen positions:

A. positions 1 through 5, position 10 and position 12, each of which shall be filled by a person who is a qualified elector of this state, who is not a justice, judge or magistrate of any court and who is not licensed to practice law in this state. The governor shall fill each of these positions by appointment of qualified persons. Following initial terms specified in this subsection, these positions shall be filled in the same manner by qualified persons who serve for five years or less, in such manner that at least one term expires on June 30 each year, and so that not more than three of the seven positions are occupied by persons from the same political party. The initial terms for positions 1 through 5 begin on July 1, 1968. The initial term for position 10 begins on July 1, 1999, and the initial term for position 12 begins on July 1, 2013. The terms expire as follows:

- (1) position 1 on June 30, 1969;
- (2) position 2 on June 30, 1970;
- (3) position 3 on June 30, 1971;
- (4) position 4 on June 30, 1972;
- (5) position 5 on June 30, 1973;
- (6) position 10 on June 30, 2004; and
- (7) position 12 on June 30, 2018;

B. positions 6 and 7, each of which shall be filled by a person who is licensed to practice law in this state. These positions shall be filled by appointment of qualified persons by majority vote of all members of the board of commissioners of the state bar of New Mexico, but no member of the board of commissioners shall be appointed. Following initial terms specified in this subsection, these positions shall be filled in the same manner by qualified persons who serve for four years or less, in such

manner that one of the terms expires on June 30 of each even-numbered year. Initial terms begin on July 1, 1968 and expire as follows:

(1) position 6 on June 30, 1970; and

(2) position 7 on June 30, 1972; and

C. positions 8 and 9, each of which shall be filled by a person who is a justice of the supreme court or a judge of the court of appeals or district court; position 11, which shall be filled by a person who is a magistrate court judge; and position 13, which shall be filled by a person who is a municipal judge. These positions shall be filled by appointment of qualified persons by the supreme court. Following initial terms specified in this subsection, these positions shall be filled in the same manner by qualified persons who serve for four years or less, in such manner that at least one of the terms expires on June 30 of each odd-numbered year. The initial terms for positions 8 and 9 begin on July 1, 1968. The initial term for position 11 begins on July 1, 1999. The initial term for position 13 begins on July 1, 2013. The terms expire as follows:

(1) position 8 on June 30, 1971;

(2) position 9 on June 30, 1973;

(3) position 11 on June 30, 2003; and

(4) position 13 on June 30, 2017."

## **Chapter 154 Section 2 Laws 2013**

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

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House Bill 358, aa, w/ec

Approved April 3, 2013

## **LAWS 2013, CHAPTER 155**

AN ACT

RELATING TO TAXATION; REQUIRING THE TAXATION AND REVENUE DEPARTMENT TO CONDUCT DELINQUENT PROPERTY TAX SALES IN EACH COUNTY WITH DELINQUENT PROPERTIES AT LEAST ONE TIME IN EACH CALENDAR YEAR.

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

## **Chapter 155 Section 1 Laws 2013**

SECTION 1. Section 7-38-65 NMSA 1978 (being Laws 1973, Chapter 258, Section 105, as amended) is amended to read:

"7-38-65. COLLECTION OF DELINQUENT TAXES ON REAL PROPERTY--  
SALE OF REAL PROPERTY.--

A. If a lien exists by the operation of Section 7-38-48 NMSA 1978, the department may collect delinquent taxes on real property by selling the real property on which the taxes have become delinquent. The sale of real property for delinquent taxes shall be in accordance with the provisions of the Property Tax Code. Real property may be sold for delinquent taxes at any time after the expiration of three years from the first date shown on the tax delinquency list on which the taxes became delinquent. Real property shall be offered for sale for delinquent taxes either within four years after the first date shown on the tax delinquency list on which the taxes became delinquent or, if the department is barred by operation of law or by order of a court of competent jurisdiction from offering the property for sale for delinquent taxes within four years after the first date shown on the tax delinquency list on which the taxes became delinquent, within one year from the time the department determines that it is no longer barred from selling the property, unless:

(1) all delinquent taxes, penalties, interest and costs due are paid by 5:00 p.m. of the day prior to the date of the sale; or

(2) an installment agreement for payment of all delinquent taxes, penalties, interest and costs due is entered into with the department by 5:00 p.m. of the day prior to the date of the sale pursuant to Section 7-38-68 NMSA 1978.

B. Failure to offer property for sale within the time prescribed by Subsection A of this section shall not impair the validity or effect of any sale that does take place.

C. The time requirements of this section are subject to the provisions of Section 7-38-83 NMSA 1978.

D. After January 1, 2014 and subject to the provisions of Subsection A of this section, the department shall annually offer for sale in each county at least one real property listed on that county's property tax delinquency list, unless the director of the property tax division of the department and the county treasurer enter into an agreement to postpone the delinquent property tax sale. The agreement to postpone the delinquent property tax sale shall be executed in writing, and copies shall be sent to the secretary of taxation and revenue and the secretary of finance and administration.

That agreement shall state the reason for the postponement and the proposed remedy that will allow the department to conduct the sale in the future."

### **Chapter 155 Section 2 Laws 2013**

SECTION 2. APPLICABILITY.--The provisions of this act apply to property tax years beginning on or after January 1, 2014.

### **Chapter 155 Section 3 Laws 2013**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2014.

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House Bill 37, aa

Approved April 3, 2013

## **LAWS 2013, CHAPTER 156**

AN ACT

RELATING TO CHILD CUSTODY; PROVIDING FOR PETITIONS FOR AND ISSUANCE OF CHILD ABDUCTION PREVENTION ORDERS; ENACTING THE UNIFORM CHILD ABDUCTION PREVENTION ACT.

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

### **Chapter 156 Section 1 Laws 2013**

SECTION 1. SHORT TITLE.--This act may be cited as the "Uniform Child Abduction Prevention Act".

### **Chapter 156 Section 2 Laws 2013**

SECTION 2. DEFINITIONS.--As used in the Uniform Child Abduction Prevention Act:

A. "abduction" means the wrongful removal or wrongful retention of a child;

B. "child" means an unemancipated individual who is less than eighteen years of age;

C. "child-custody determination" means a judgment, decree or other order of a court providing for the legal custody, physical custody or visitation with respect to a child. "Child-custody determination" includes a permanent, temporary, initial or modification order;

D. "child-custody proceeding" means a proceeding in which legal custody, physical custody or visitation with respect to a child is at issue. "Child-custody proceeding" includes a proceeding for divorce, dissolution of marriage, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights or protection from domestic violence;

E. "court" means an entity authorized pursuant to the law of a state to establish, enforce or modify a child-custody determination;

F. "petition" includes a motion or its equivalent;

G. "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;

H. "state" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States. "State" includes a federally recognized Indian nation, tribe or pueblo;

I. "travel document" means records relating to a travel itinerary, including travel tickets, passes, reservations for transportation or accommodations. "Travel document" does not include a passport or visa;

J. "wrongful removal" means the taking of a child, which taking breaches rights of custody or visitation given or recognized pursuant to the law of this state; and

K. "wrongful retention" means the keeping or concealing of a child, which keeping or concealing breaches rights of custody or visitation given or recognized pursuant to the law of this state.

## **Chapter 156 Section 3 Laws 2013**

SECTION 3. COOPERATION AND COMMUNICATION AMONG COURTS.--  
Sections 40-10A-110 through 40-10A-112 NMSA 1978 apply to cooperation and communication among courts in proceedings pursuant to the Uniform Child Abduction Prevention Act.

## **Chapter 156 Section 4 Laws 2013**

SECTION 4. ACTIONS FOR ABDUCTION PREVENTION MEASURES.--



A. A court on its own motion may order abduction prevention measures in a child-custody proceeding if the court finds that the evidence establishes a credible risk of abduction of the child.

B. A party to a child-custody determination or another individual or entity having a right pursuant to the law of this state or any other state to seek a child-custody determination for the child may file a petition seeking abduction prevention measures to protect the child pursuant to the Uniform Child Abduction Prevention Act.

C. A prosecutor or public authority designated pursuant to Section 40-10A-315 NMSA 1978 may seek a warrant to take physical custody of a child pursuant to Section 9 of the Uniform Child Abduction Prevention Act or other appropriate prevention measures.

## **Chapter 156 Section 5 Laws 2013**

### **SECTION 5. JURISDICTION.--**

A. A petition pursuant to the Uniform Child Abduction Prevention Act may be filed only in a court that has jurisdiction to make a child-custody determination with respect to the child at issue pursuant to the Uniform Child-Custody Jurisdiction and Enforcement Act.

B. A court of this state has temporary emergency jurisdiction pursuant to Section 40-10A-204 NMSA 1978 if the court finds a credible risk of abduction.

## **Chapter 156 Section 6 Laws 2013**

**SECTION 6. CONTENTS OF PETITION.--**A petition pursuant to the Uniform Child Abduction Prevention Act shall be verified and include a copy of any existing child-custody determination, if available. The petition shall specify the risk factors for abduction, including the relevant factors described in Section 7 of the Uniform Child Abduction Prevention Act. Subject to the provisions of Subsection (e) of Section 40-10A-209 NMSA 1978, and if the information is reasonably ascertainable, the petition shall contain:

A. the name, date of birth and gender of the child;

B. the customary address and current physical location of the child;

C. the identity, customary address and current physical location of the respondent;

D. a statement of whether a prior action to prevent abduction or domestic violence has been filed by a party or other individual or entity having custody of the child and the date, location and disposition of the action;

E. a statement of whether a party to the proceeding has been arrested for a crime related to domestic violence, stalking or child abuse or neglect and the date, location and disposition of the case;

F. a statement of whether a party or other individual having custody of the child has sought the assistance of a domestic violence shelter and, if known, the approximate date and name of the person seeking the assistance of the shelter; and

G. any other information required to be submitted to the court for a child-custody determination pursuant to Section 40-10A-209 NMSA 1978.

## **Chapter 156 Section 7 Laws 2013**

### **SECTION 7. FACTORS TO DETERMINE RISK OF ABDUCTION.--**

A. In determining whether there is a credible risk of abduction of a child, the court shall consider any evidence that the petitioner or respondent:

- (1) has previously abducted or attempted to abduct the child;
- (2) has threatened to abduct the child;
- (3) has recently engaged in activities that may indicate a planned abduction, including:
  - (a) abandoning employment;
  - (b) selling a primary residence;
  - (c) terminating a lease;
  - (d) closing bank or other financial management accounts, liquidating assets, hiding or destroying financial documents or conducting any unusual financial activities;
  - (e) applying for a passport or visa or obtaining travel documents for the respondent, a family member or the child; or
  - (f) seeking to obtain the child's birth certificate or school or medical records;
- (4) has engaged in domestic violence, stalking or child abuse or neglect;
- (5) has refused to follow a child-custody determination;

(6) lacks strong familial, financial, emotional or cultural ties to the state or the United States;

(7) has strong familial, financial, emotional or cultural ties to another state or country;

(8) is likely to take the child to a country that:

(a) is not a party to the Hague Convention on the Civil Aspects of International Child Abduction and does not provide for the extradition of an abducting parent or for the return of an abducted child;

(b) is a party to the Hague Convention on the Civil Aspects of International Child Abduction but: 1) the Hague Convention on the Civil Aspects of International Child Abduction is not in force between the United States and that country; 2) the country is noncompliant according to the most recent compliance report issued by the United States department of state; or 3) the country lacks legal mechanisms for immediately and effectively enforcing a return order pursuant to the Hague Convention on the Civil Aspects of International Child Abduction;

(c) poses a risk that the child's physical or emotional health or safety would be endangered in the country because of specific circumstances relating to the child or because of human rights violations committed against children;

(d) has laws or practices that would: 1) enable the respondent, without due cause, to prevent the petitioner from contacting the child; 2) restrict the petitioner from freely traveling to or exiting from the country because of the petitioner's gender, nationality, marital status or religion; or 3) restrict the child's ability legally to leave the country after the child reaches the age of majority because of a child's gender, nationality or religion;

(e) is included by the United States department of state on a current list of state sponsors of terrorism;

(f) does not have an official United States diplomatic presence in the country; or

(g) is engaged in active military action or war, including a civil war, to which the child may be exposed;

(9) is undergoing a change in immigration or citizenship status that would adversely affect the respondent's ability to remain in the United States legally;

(10) has had an application for United States citizenship denied;

(11) has forged or presented misleading or false evidence on government forms or supporting documents to obtain or attempt to obtain a passport, a visa, travel documents, a federal social security card, a driver's license or other government-issued identification card or has made a misrepresentation to the United States government;

(12) has used multiple names to attempt to mislead or defraud; or

(13) has engaged in any other conduct the court considers relevant to the risk of abduction.

B. In the hearing on a petition pursuant to the Uniform Child Abduction Prevention Act, the court shall consider any evidence that the respondent believed in good faith that the respondent's conduct was necessary to avoid imminent harm to the child or respondent and any other evidence that may be relevant to whether the respondent may be permitted to remove or retain the child.

C. In applying the provisions of the Uniform Child Abduction Prevention Act, a court shall consider that parents abduct their children before as well as during and after custody litigation. The court shall also consider that some of the risk factors set forth in Subsection A of this section involve the same activities that might be undertaken by a victim of domestic violence who is trying to relocate or flee to escape violence. If the evidence shows that the parent preparing to leave is fleeing domestic violence, the court shall consider that any order restricting departure or transferring custody may pose safety issues for the victim and the child.

## **Chapter 156 Section 8 Laws 2013**

### **SECTION 8. PROVISIONS AND MEASURES TO PREVENT ABDUCTION.--**

A. If a petition is filed pursuant to the Uniform Child Abduction Prevention Act, the court may enter an order that shall include:

(1) the basis for the court's exercise of jurisdiction;

(2) the manner in which notice and opportunity to be heard were given to the persons entitled to notice of the proceeding;

(3) a detailed description of each party's custody and visitation rights and residential arrangements for the child;

(4) a provision stating that a violation of the order may subject the party in violation to civil and criminal penalties; and

(5) identification of the child's country of habitual residence at the time of the issuance of the order.

B. If at a hearing on a petition pursuant to the Uniform Child Abduction Prevention Act or on the court's own motion, the court, after reviewing the evidence, finds a credible risk of abduction of the child, the court shall enter an abduction prevention order. The order shall include the provisions required by Subsection A of this section and measures and conditions, including those set forth in Subsections C, D and E of this section, that are reasonably calculated to prevent abduction of the child, giving due consideration to the custody and visitation rights of the parties. The court shall consider the age of the child, the potential harm to the child from an abduction, the legal and practical difficulties of returning the child to the jurisdiction if abducted and the reasons for the potential abduction, including evidence of domestic violence, stalking or child abuse or neglect.

C. An abduction prevention order may include one or more of the following:

(1) an imposition of travel restrictions that requires that a party traveling with the child outside a designated geographical area provide the other party with the following:

(a) the travel itinerary of the child;

(b) a list of physical addresses and telephone numbers at which the child can be reached at specified times; and

(c) copies of all travel documents;

(2) a prohibition of the respondent directly or indirectly:

(a) removing the child from this state, the United States or another geographic area without permission of the court or the petitioner's written consent;

(b) removing or retaining the child in violation of a child-custody determination;

(c) removing the child from school or a child care or similar facility; or

(d) approaching the child at any location other than a site designated for supervised visitation;

(3) a requirement that a party register the order in another state as a prerequisite to allowing the child to travel to that state;

(4) with regard to the child's passport:

(a) a direction that the petitioner place the child's name in the United States department of state's child passport issuance alert program;

(b) a requirement that the respondent surrender to the court or the petitioner's attorney any United States or foreign passport issued in the child's name, including a passport issued in the name of both the parent and the child; and

(c) a prohibition upon the respondent from applying on behalf of the child for a new or replacement passport or visa;

(5) as a prerequisite to exercising custody or visitation, a requirement that the respondent provide:

(a) to the United States department of state office of children's issues and the relevant foreign consulate or embassy, an authenticated copy of the order detailing passport and travel restrictions for the child;

(b) to the court: 1) proof that the respondent has provided the information in Subparagraph (a) of this paragraph; and 2) an acknowledgment in a record from the relevant foreign consulate or embassy that no passport application has been made, nor passport issued, on behalf of the child;

(c) to the petitioner, proof of registration with the United States embassy or other United States diplomatic presence in the destination country and with the central authority for the Hague Convention on the Civil Aspects of International Child Abduction, if that convention is in effect between the United States and the destination country, unless one of the parties objects; and

(d) a written waiver pursuant to the Privacy Act of 1974, 5 U.S.C. Section 552a, as amended, with respect to any document, application or other information pertaining to the child authorizing its disclosure to the court and the petitioner; and

(6) upon the petitioner's request, a requirement that the respondent obtain an order from the relevant foreign country containing terms identical to the child-custody determination issued in the United States.

D. In an abduction prevention order, the court may impose conditions on the exercise of custody or visitation that:

(1) limit visitation or require that visitation with the child by the respondent be supervised until the court finds that supervision is no longer necessary and order the respondent to pay the costs of supervision;

(2) require the respondent to post a bond or provide other security in an amount sufficient to serve as a financial deterrent to abduction, the proceeds of

which may be used to pay for the reasonable expenses of recovery of the child, including reasonable attorney fees and costs if there is an abduction; and

(3) require the respondent to obtain education on the potentially harmful effects to the child from abduction.

E. To prevent imminent abduction of a child, a court may:

(1) issue a warrant to take physical custody of the child pursuant to Section 9 of the Uniform Child Abduction Prevention Act;

(2) direct the use of law enforcement to take any action reasonably necessary to locate the child, obtain return of the child or enforce a custody determination pursuant to the Uniform Child Abduction Prevention Act; or

(3) grant any other relief allowed pursuant to the law of this state other than the Uniform Child Abduction Prevention Act.

F. The remedies provided in the Uniform Child Abduction Prevention Act are cumulative and do not affect the availability of other remedies to prevent abduction.

G. A court shall not require the disclosure of a confidential communication that is protected by the Victim Counselor Confidentiality Act, the physician-patient privilege or the psychotherapist-patient privilege.

## **Chapter 156 Section 9 Laws 2013**

### **SECTION 9. WARRANT TO TAKE PHYSICAL CUSTODY OF CHILD.--**

A. If a petition pursuant to the Uniform Child Abduction Prevention Act contains allegations that the child is imminently likely to be wrongfully removed and the court finds that there is a credible risk that the child is imminently likely to be wrongfully removed, the court may issue an ex parte warrant to take physical custody of the child.

B. The respondent on a petition pursuant to Subsection A of this section shall be afforded an opportunity to be heard at the earliest possible time after the ex parte warrant is executed, but not later than the next judicial day unless a hearing on that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible.

C. An ex parte warrant pursuant to Subsection A of this section to take physical custody of a child shall:

(1) recite the facts upon which a determination of a credible risk of imminent wrongful removal of the child is based;

(2) direct law enforcement officers to take physical custody of the child immediately;

(3) state the date and time for the hearing on the petition; and

(4) provide for the safe interim placement of the child pending further order of the court.

D. If feasible, before issuing a warrant and before determining the placement of the child after the warrant is executed, the court may order a search of the relevant databases of the national crime information center system and similar state databases to determine if either the petitioner or respondent has a history of domestic violence, stalking or child abuse or neglect.

E. The petition and warrant shall be served on the respondent when or immediately after the child is taken into physical custody.

F. A warrant to take physical custody of a child, issued by this state or another state, is enforceable throughout this state. If the court finds that a less intrusive remedy will not be effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances, the court may authorize law enforcement officers to make a forcible entry at any hour.

G. If the court finds, after a hearing, that a petitioner sought an ex parte warrant pursuant to Subsection A of this section for the purpose of harassment or in bad faith, the court may award the respondent reasonable attorney fees, costs and expenses.

H. The Uniform Child Abduction Prevention Act does not affect the availability of relief allowed pursuant to the law of this state other than that act.

## **Chapter 156 Section 10 Laws 2013**

SECTION 10. DURATION OF ABDUCTION PREVENTION ORDER.--An abduction prevention order remains in effect until the earliest of:

A. the time stated in the order;

B. the emancipation of the child;

C. the child's attaining eighteen years of age; or

D. the time the order is modified, revoked, vacated or superseded by a court with jurisdiction pursuant to Sections 40-10A-201 through 40-10A-203 NMSA 1978.



## **Chapter 156 Section 11 Laws 2013**

SECTION 11. UNIFORMITY OF APPLICATION AND CONSTRUCTION.--In applying and construing the Uniform Child Abduction Prevention 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 156 Section 12 Laws 2013**

SECTION 12. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.--The Uniform Child Abduction Prevention Act modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but does not modify, limit or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

## **Chapter 156 Section 13 Laws 2013**

SECTION 13. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2014.

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House Bill 173, aa

Approved April 3, 2013

# **LAWS 2013, CHAPTER 157**

AN ACT

RELATING TO DANGEROUS DRUGS; AMENDING THE NEW MEXICO DRUG, DEVICE AND COSMETIC ACT TO ALLOW PHARMACISTS TO SELL OR DISPENSE A DANGEROUS DRUG ON A PRACTITIONER'S DRUG ORDER; PROVIDING FOR COMBINING FILLS.

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

## **Chapter 157 Section 1 Laws 2013**

SECTION 1. Section 26-1-2 NMSA 1978 (being Laws 1967, Chapter 23, Section 2, as amended) is amended to read:

"26-1-2. DEFINITIONS.--As used in the New Mexico Drug, Device and Cosmetic Act:

A. "board" means the board of pharmacy or its duly authorized agent;

B. "person" includes an individual, partnership, corporation, association, institution or establishment;

C. "biological product" means a virus, therapeutic serum, toxin, antitoxin or analogous product applicable to the prevention, treatment or cure of diseases or injuries of humans and domestic animals, and, as used within the meaning of this definition:

(1) a "virus" is interpreted to be a product containing the minute living cause of an infectious disease and includes filterable viruses, bacteria, rickettsia, fungi and protozoa;

(2) a "therapeutic serum" is a product obtained from blood by removing the clot or clot components and the blood cells;

(3) a "toxin" is a product containing a soluble substance poisonous to laboratory animals or humans in doses of one milliliter or less of the product and, following the injection of nonfatal doses into an animal, having the property of or causing to be produced therein another soluble substance that specifically neutralizes the poisonous substance and that is demonstrable in the serum of the animal thus immunized; and

(4) an "antitoxin" is a product containing the soluble substance in serum or other body fluid of an immunized animal that specifically neutralizes the toxin against which the animal is immune;

D. "controlled substance" means a drug, substance or immediate precursor enumerated in Schedules I through V of the Controlled Substances Act;

E. "drug" means articles:

(1) recognized in an official compendium;

(2) intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or other animals and includes the domestic animal biological products regulated under the federal Virus-Serum-Toxin Act, 37 Stat 832-833, 21 U.S.C. 151-158, and the biological products applicable to humans regulated under Federal 58 Stat 690, as amended, 42 U.S.C. 216, Section 351, 58 Stat 702, as amended, and 42 U.S.C. 262;

(3) other than food, that affect the structure or any function of the human body or the bodies of other animals; and

(4) intended for use as a component of Paragraph (1), (2) or (3) of this subsection, but "drug" does not include devices or their component parts or accessories;

F. "dangerous drug" means a drug, other than a controlled substance enumerated in Schedule I of the Controlled Substances Act, that because of a potentiality for harmful effect or the method of its use or the collateral measures necessary to its use is not safe except under the supervision of a practitioner licensed by law to direct the use of such drug and hence for which adequate directions for use cannot be prepared. "Adequate directions for use" means directions under which the layperson can use a drug or device safely and for the purposes for which it is intended. A drug shall be dispensed only upon the prescription or drug order of a practitioner licensed by law to administer or prescribe the drug if it:

(1) is a habit-forming drug and contains any quantity of a narcotic or hypnotic substance or a chemical derivative of such substance that has been found under the federal act and the board to be habit forming;

(2) because of its toxicity or other potential for harmful effect or the method of its use or the collateral measures necessary to its use is not safe for use except under the supervision of a practitioner licensed by law to administer or prescribe the drug;

(3) is limited by an approved application by Section 505 of the federal act to the use under the professional supervision of a practitioner licensed by law to administer or prescribe the drug;

(4) bears the legend: "Caution: federal law prohibits dispensing without prescription.";

(5) bears the legend: "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian."; or

(6) bears the legend "RX only";

G. "counterfeit drug" means a drug that is deliberately and fraudulently mislabeled with respect to its identity, ingredients or sources. Types of such pharmaceutical counterfeits may include:

(1) "identical copies", which are counterfeits made with the same ingredients, formulas and packaging as the originals but not made by the original manufacturer;

(2) "look-alikes", which are products that feature high-quality packaging and convincing appearances but contain little or no active ingredients and may contain harmful substances;

(3) "rejects", which are drugs that have been rejected by the manufacturer for not meeting quality standards; and

(4) "relabels", which are drugs that have passed their expiration dates or have been distributed by unauthorized foreign sources and may include placebos created for late-phase clinical trials;

H. "device", except when used in Subsection P of this section and in Subsection G of Section 26-1-3, Subsection L and Paragraph (4) of Subsection A of Section 26-1-11 and Subsection C of Section 26-1-24 NMSA 1978, means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related article, including any component, part or accessory, that is:

(1) recognized in an official compendium;

(2) intended for use in the diagnosis of disease or other conditions or in the cure, mitigation, treatment or prevention of disease in humans or other animals; or

(3) intended to affect the structure or a function of the human body or the bodies of other animals and that does not achieve any of its principal intended purposes through chemical action within or on the human body or the bodies of other animals and that is not dependent on being metabolized for achievement of any of its principal intended purposes;

I. "prescription" means an order given individually for the person for whom prescribed, either directly from a licensed practitioner or the practitioner's agent to the pharmacist, including by means of electronic transmission, or indirectly by means of a written order signed by the prescriber, and bearing the name and address of the prescriber, the prescriber's license classification, the name and address of the patient, the name and quantity of the drug prescribed, directions for use and the date of issue;

J. "practitioner" means a certified advanced practice chiropractic physician, physician, doctor of oriental medicine, dentist, veterinarian, euthanasia technician, certified nurse practitioner, clinical nurse specialist, pharmacist, pharmacist clinician, certified nurse-midwife, physician assistant, prescribing psychologist, dental hygienist or other person licensed or certified to prescribe and administer drugs that are subject to the New Mexico Drug, Device and Cosmetic Act;

K. "cosmetic" means:

(1) articles intended to be rubbed, poured, sprinkled or sprayed on, introduced into or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness or altering the appearance; and

(2) articles intended for use as a component of any articles enumerated in Paragraph (1) of this subsection, except that the term shall not include soap;

L. "official compendium" means the official United States pharmacopoeia national formulary or the official homeopathic pharmacopoeia of the United States or any supplement to either of them;

M. "label" means a display of written, printed or graphic matter upon the immediate container of an article. A requirement made by or under the authority of the New Mexico Drug, Device and Cosmetic Act that any word, statement or other information appear on the label shall not be considered to be complied with unless the word, statement or other information also appears on the outside container or wrapper, if any, of the retail package of the article or is easily legible through the outside container or wrapper;

N. "immediate container" does not include package liners;

O. "labeling" means all labels and other written, printed or graphic matter:

(1) on an article or its containers or wrappers; or

(2) accompanying an article;

P. "misbranded" means a label to an article that is misleading. In determining whether the label is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device or any combination of the foregoing, but also the extent to which the label fails to reveal facts material in the light of such representations or material with respect to consequences that may result from the use of the article to which the label relates under the conditions of use prescribed in the label or under such conditions of use as are customary or usual;

Q. "advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or that are likely to induce, directly or indirectly, the purchase of drugs, devices or cosmetics;

R. "antiseptic", when used in the labeling or advertisement of an antiseptic, shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be or represented as an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder or such other use as involves prolonged contact with the body;

S. "new drug" means a drug:

(1) the composition of which is such that the drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and efficacy of drugs, as safe and effective for use under the conditions prescribed, recommended or suggested in the labeling thereof; or

(2) the composition of which is such that the drug, as a result of investigation to determine its safety and efficacy for use under such conditions, has become so recognized, but that has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions;

T. "contaminated with filth" applies to a drug, device or cosmetic not securely protected from dirt, dust and, as far as may be necessary by all reasonable means, from all foreign or injurious contaminations, or a drug, device or cosmetic found to contain dirt, dust, foreign or injurious contamination or infestation;

U. "selling of drugs, devices or cosmetics" shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession and holding of any such article for sale and the sale and the supplying or applying of any such article in the conduct of a drug or cosmetic establishment;

V. "color additive" means a material that:

(1) is a dye, pigment or other substance made by a process of synthesis or similar artifice or extracted, isolated or otherwise derived, with or without intermediate or final change of identity, from a vegetable, mineral, animal or other source; or

(2) when added or applied to a drug or cosmetic or to the human body or a part thereof, is capable, alone or through reaction with other substances, of imparting color thereto; except that such term does not include any material that has been or hereafter is exempted under the federal act;

W. "federal act" means the Federal Food, Drug and Cosmetic Act;

X. "restricted device" means a device for which the sale, distribution or use is lawful only upon the written or oral authorization of a practitioner licensed by law to administer, prescribe or use the device and for which the federal food and drug administration requires special training or skills of the practitioner to use or prescribe. This definition does not include custom devices defined in the federal act and exempt from performance standards or premarket approval requirements under Section 520(b) of the federal act;

Y. "prescription device" means a device that, because of its potential for harm, the method of its use or the collateral measures necessary to its use, is not safe except under the supervision of a practitioner licensed in this state to direct the use of such device and for which "adequate directions for use" cannot be prepared, but that

bears the label: "Caution: federal law restricts this device to sale by or on the order of a \_\_\_\_\_", the blank to be filled with the word "physician", "physician assistant", "certified advanced practice chiropractic physician", "doctor of oriental medicine", "dentist", "veterinarian", "euthanasia technician", "certified nurse practitioner", "clinical nurse specialist", "pharmacist", "pharmacist clinician", "certified nurse-midwife" or "dental hygienist" or with the descriptive designation of any other practitioner licensed in this state to use or order the use of the device;

Z. "valid practitioner-patient relationship" means a professional relationship, as defined by the practitioner's licensing board, between the practitioner and the patient;

AA. "pedigree" means the recorded history of a drug; and

BB. "drug order" means an order either directly from a licensed practitioner or the practitioner's agent to the pharmacist, including by means of electronic transmission or indirectly by means of a written order signed by the licensed practitioner or the practitioner's agent, and bearing the name and address of the practitioner and the practitioner's license classification and the name and quantity of the drug or device ordered for use at an inpatient or outpatient facility."

## **Chapter 157 Section 2 Laws 2013**

SECTION 2. Section 26-1-16 NMSA 1978 (being Laws 1967, Chapter 23, Section 16, as amended) is amended to read:

"26-1-16. DANGEROUS DRUGS--CONDITIONS FOR SALE--PRESCRIPTION REFILLING--LIMITATIONS.--

A. It is unlawful for a person to sell, dispose of or possess any dangerous drugs, except:

(1) manufacturers, wholesalers or distributors, their agents or employees licensed by the board to ship dangerous drugs into the state; or

(2) distributors, wholesalers, hospitals, nursing homes, clinics or pharmacies and other authorized retailers of dangerous drugs in this state licensed by the board, and appropriate records of dangerous drugs receipt and disposition are kept. These records shall be open to inspection by any enforcement officer of this state.

B. Practitioners licensed in this state may prescribe, provide samples of and dispense any dangerous drug to a patient where there is a valid practitioner-patient relationship. A record of all such dispensing shall be kept showing the date the drug was dispensed and bearing the name and address of the patient to whom dispensed. It is the duty of every licensed physician, dentist, veterinarian, pharmacist or person holding a limited license issued under Subsection B of Section 61-11-14 NMSA 1978,

when dispensing any dangerous drug, to mark on the dispensing container the name of the patient, the date dispensed, the name and address of the person dispensing the drug, the name and strength of the drug, expiration date where applicable, adequate directions for use and the prescription number when applicable. All official compendium requirements for the preservation, packaging, labeling and storage of dangerous drugs are applicable where drugs are held for dispensing to the public, whether by a pharmacy, clinic, hospital or practitioner.

C. Pharmacists are prohibited from selling or dispensing a dangerous drug except on prescription or drug order of a practitioner and except as such sale or possession is authorized under Subsection A of this section. It is the duty of all pharmacists to keep an accurate record of all disposals, which record shall be open to inspection by an enforcement officer of this state.

D. No enforcement officer having knowledge by virtue of office of a prescription, order or record shall divulge such knowledge except in connection with a prosecution or proceeding in court or before a licensing or registration board or officer, to which prosecution or proceeding the person to whom such prescriptions, orders or records relate is a party.

E. It is unlawful, except as otherwise authorized under Subsection A of this section or the Controlled Substances Act and except for the college of pharmacy of the university of New Mexico or a public health laboratory, for a person to possess any dangerous drug unless such substance has been dispensed to the person either directly by a practitioner or on a prescription.

F. All records required to be kept under the provisions of the New Mexico Drug, Device and Cosmetic Act shall be preserved for a period of three years, provided that records requirements do not apply to the administration of a drug to a patient upon whom the practitioner personally attends, and provided that records of controlled substances shall be kept in accordance with the provisions of the Controlled Substances Act.

G. A prescription shall not be filled:

(1) as a refill if it is marked by the issuing practitioner to indicate that the prescription is not to be refilled;

(2) except in compliance with the provisions of the Controlled Substances Act if the drug is a controlled substance;

(3) unless the fill is made in accordance with the provisions of this section; and

(4) when the practitioner does not indicate fill instructions on the original prescription calling for a dangerous drug, unless:



(a) the practitioner is contacted orally, by telephone or other means of communication for instruction; and

(b) if authorization to fill is given the pharmacist, the following information will be immediately transferred to the original prescription: 1) date; 2) name of person authorizing the fill; 3) pharmacist's initials; and 4) amount dispensed if different from the amount indicated on the original prescription.

H. Nothing in this section shall prevent the owner of livestock or the owner's consignee or their employees to be in possession of drugs for their use in performing routine, accepted livestock management practices in the care of livestock belonging to the owner, and the drugs are labeled as being restricted to animal use only; provided, that if such drugs bear the legend: "CAUTION: federal law restricts this drug to use by or on the order of a licensed veterinarian", the drugs may be used or distributed only as provided in Subsection A of Section 26-1-15 NMSA 1978.

I. When, on the original prescription calling for a dangerous drug that is not a controlled substance, a practitioner indicates a specific number of fills or a specific period of time during which a prescription may be filled, a drug may be filled the number of times or for the period of time that the prescription indicates if the following information is provided with the prescription:

(1) the date of fill;

(2) the initials of the pharmacist filling the prescription; and

(3) the amount of drug dispensed, if it differs from the amount called for on the original prescription.

J. A pharmacist may dispense a quantity not to exceed a ninety-day supply of a dangerous drug by combining valid fills when:

(1) an indication on the prescription or label does not specifically prohibit a combined fill; and

(2) the dangerous drug to be filled is not a controlled substance.

K. When the practitioner indicates on the original prescription calling for dangerous drugs that it may be filled "prn", the pharmacist may fill it within the limits of the dosage directions for a period of twelve months, provided the date of filling and the initials of the pharmacist are recorded on the original prescription. At the expiration of the twelve-month period, the practitioner must be contacted for a new prescription; provided that this is not to be construed to apply to those drugs regulated by the Controlled Substances Act.

L. The board may adopt and promulgate regulations to permit the use of computer systems for the storage and retrieval of prescriptions, records for the purpose of filling prescriptions, receipt records, drug distribution records, drug withdrawals from stock, drug compounding records, drug disposition records and drug disposal records.

M. As used in this section, "fill" means a dispensing of a drug for the first time or as a refill."

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House Bill 393, aa

Approved April 3, 2013

## **LAWS 2013, CHAPTER 158**

### **AN ACT**

RELATING TO GENERAL OBLIGATION BONDS; PROVIDING FOR THE SALE THROUGH NEGOTIATED SALES; PROVIDING FOR THE DESIGNATION OF INTEREST RATES.

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

### **Chapter 158 Section 1 Laws 2013**

SECTION 1. Section 6-15-5 NMSA 1978 (being Laws 1929, Chapter 201, Section 3, as amended) is amended to read:

"6-15-5. SALE OF BONDS.--

A. All of the bonds shall be offered and sold at public sale pursuant to this section or at a negotiated sale on terms determined by the municipal corporation.

B. Bonds maturing in less than thirty days may be sold at private sale to the state at the price and upon such terms and conditions as a municipal corporation and the state may determine.

C. Notwithstanding any law requiring bonds to be sold at a public sale, the following bonds may be sold at a public or private sale:

(1) bonds designated as build America bonds pursuant to Section 1531 of the federal American Recovery and Reinvestment Act of 2009; and

(2) qualified school construction bonds issued pursuant to the Qualified School Construction Bonds Act and Section 1521 of the federal American Recovery and Reinvestment Act of 2009.

D. Before any bonds issued by a municipal corporation are offered for public sale, the corporate authorities issuing the bonds shall designate the maximum net effective interest rate the bonds shall bear, which shall not exceed the maximum permitted by the Public Securities Act. A notice calling for bids for the purchase of the bonds shall be published once at least one week prior to the date of the sale in a newspaper having local circulation. The notice shall specify a place and designate a day and hour subsequent to the date of the publication when bids shall be received and publicly opened for the purchase of the bonds. The notice shall specify the maximum net effective interest rate permitted for the bonds and the maximum discount if a discount is allowed by the governing body and shall require bidders to submit a bid specifying the lowest rate of interest and any premium or discount if allowed by the governing body at, above or below par at which the bidder will purchase the bonds. The bonds shall be sold to the responsible bidder making the best bid determined by the municipal corporation as set forth in the notice, subject to the right of the governing body to reject any and all bids and readvertise. All bids shall be sealed or sent by facsimile or other electronic transmission to the municipal corporation as set forth in the notice. Except for the bid of the state or the United States, if one is received prior to acceptance by the governing body of the best bid, the best bidder shall make a deposit of not less than two percent of the principal amount of the bonds, either in the form of a financial security bond or in cash or by cashier's or treasurer's check of, or by certified check drawn on, a solvent commercial bank or trust company in the United States, which deposit shall be returned if the bid is not accepted. The financial surety bond or the long-term debt obligations of the issuer or person guarantying the obligations of the issuer of the financial surety bond shall be rated in one of the top two rating categories of a nationally recognized rating agency, without regard to any modification of the rating, and the financial surety bond must be issued by an insurance company licensed to issue such a bond in New Mexico. If the successful bidder does not complete the purchase of the bonds within thirty days following the acceptance of the bidder's bid or within ten days after the bonds are made ready and are offered by the municipal corporation for delivery, whichever is later, the amount of the bidder's deposit shall be forfeited to the municipal corporation issuing the bonds, and, in that event, the governing body may accept the bid of the bidder making the next best bid. If all bids are rejected, the governing body may readvertise the bonds for sale in the same manner as for the original advertisement or sell the bonds at private sale to the state or the United States. If there are two or more equal bids and the bids are the best bids received, the governing body shall determine which bid shall be accepted.

E. Except as provided in this section, bonds to be issued by a municipal corporation for various purposes may be sold and issued as a single combined issue even though they may have been authorized by separate votes at an election or elections. Bonds authorized by any incorporated city, town or village for the construction or purchase of a system for supplying water, a sanitary sewer system or a storm sewer

system may be combined with each other and sold and issued as a single issue but may not be combined with bonds to be issued for any other purpose that may be subject to the debt limitation of Article 9, Section 13 of the constitution of New Mexico.

F. The bond underwriter representing the municipal corporation in a negotiated bond sale pursuant to this section shall be selected pursuant to a request for proposals in accordance with the provisions of the Procurement Code.

G. When bonds are sold at a negotiated sale, the terms of the bonds and comparable sale results for similar bonds shall be presented at a public meeting of the governing body of the municipal corporation.

H. For purposes of this section, "negotiated sale" means a sale of the bonds to investors by a bond underwriter or a private placement of the bonds with a bank, financial institution, state instrumentality or other person, with interest rates, maturity dates and other terms that are satisfactory to the municipal corporation."

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House Bill 503, aa

Approved April 3, 2013

## **LAWS 2013, CHAPTER 159**

### **AN ACT**

RELATING TO ALCOHOLIC BEVERAGES; AUTHORIZING THE ISSUANCE OF A SPECIAL BED AND BREAKFAST DISPENSING LICENSE FOR BEER AND WINE.

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

### **Chapter 159 Section 1 Laws 2013**

SECTION 1. A new section of the Liquor Control Act is enacted to read:

"SPECIAL BED AND BREAKFAST DISPENSING LICENSE--FEES--LIMITATIONS.--

A. The director is authorized to issue a special bed and breakfast dispensing license to an owner or operator of a bed and breakfast in accordance with rules promulgated by the director to protect public health and safety. The license shall be limited to the serving of wine and beer in conjunction with food to the guests of the bed and breakfast.

B. A bed and breakfast establishment may apply for a special bed and breakfast dispensing license by submitting to the department a fee of one hundred dollars (\$100) and such information as the director may require. A license shall be valid for one year from the date that it is issued and may be renewed for a fee of one hundred dollars (\$100). The license shall allow the owner, operator or employee of a bed and breakfast who holds a server permit to dispense only wine or beer only to guests of the bed and breakfast in conjunction with the serving of food in a common area of the bed and breakfast.

C. The issuance of a bed and breakfast license for beer and wine service shall be contingent on the approval of the local public governing body or local option district of the jurisdiction in which the business is domiciled.

D. Service of beer or wine with food to guests at a bed and breakfast shall be limited to two twelve-ounce servings of beer or two six-ounce servings of wine per guest.

E. A special bed and breakfast dispensing license shall not be transferable from person to person or from one location to another.

F. An owner, operator or employee of a bed and breakfast who holds a server permit shall comply with the provisions of the Alcohol Server Education Article of the Liquor Control Act.

G. For the purposes of this section, "bed and breakfast" means a business establishment that offers temporary lodging with meals included and has a guest capacity of twenty or fewer persons."

## **Chapter 159 Section 2 Laws 2013**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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House Bill 506

Approved April 3, 2013

## **LAWS 2013, CHAPTER 160**

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;  
OFFSETTING THE EFFECTS OF REVENUE REDUCTIONS FROM DECREASING  
THE CORPORATE INCOME TAX RATE AND THE USE OF A SINGLE SALES

FACTOR BY PHASING OUT CERTAIN LOCAL GOVERNMENT HOLD HARMLESS PROVISIONS OVER A FIFTEEN-YEAR PERIOD AND REQUIRING COMBINED REPORTING; ALLOWING MUNICIPALITIES AND COUNTIES TO IMPOSE A GROSS RECEIPTS TAX; DECREASING CERTAIN CORPORATE INCOME TAX RATES OVER FIVE YEARS; REQUIRING COMBINED REPORTING FOR CERTAIN UNITARY CORPORATIONS WITH A RETAIL FACILITY OF MORE THAN THIRTY THOUSAND SQUARE FEET BUT THAT DO NOT HAVE NONRETAIL FACILITIES THAT EMPLOY AT LEAST SEVEN HUNDRED FIFTY EMPLOYEES; INCREASING THE FILM PRODUCTION TAX CREDIT FOR CERTAIN DIRECT PRODUCTION EXPENDITURES; ALLOWING A MAXIMUM OF TEN MILLION DOLLARS (\$10,000,000) OF UNCLAIMED FILM PRODUCTION TAX CREDITS TO BE CARRIED FORWARD FOR THREE FISCAL YEARS; PROVIDING FOR ACCELERATED PAYMENTS OF FUTURE SCHEDULED PAYMENTS OF FILM PRODUCTION TAX CREDITS; PROVIDING FOR ADDITIONAL ELIGIBILITY REQUIREMENTS; CHANGING THE SCOPE OF DIRECT PRODUCTION EXPENDITURES FOR WHICH FILM PRODUCTION TAX CREDITS MAY BE CLAIMED; PHASING IN USE OF A SINGLE SALES FACTOR BY CERTAIN TAXPAYERS IN APPORTIONING CORPORATE INCOME TO THE STATE OVER FIVE YEARS; EXCLUDING CERTAIN SALES FROM BEING APPORTIONED AS SALES IN NEW MEXICO; PROVIDING A DEFINITION OF "CONSUMABLE" FOR PURPOSES OF THE DEDUCTION OF RECEIPTS FROM SALES TO MANUFACTURERS; CLARIFYING APPLICATION OF THE HIGH-WAGE JOBS TAX CREDIT; DEFINING "BENEFITS" AND "WAGES"; EXTENDING THE CREDIT FOR FIVE YEARS; RECONCILING MULTIPLE AMENDMENTS TO SECTIONS OF LAW IN LAWS 2011; RECONCILING MULTIPLE AMENDMENTS TO SECTIONS OF LAW IN LAWS 2011; RECONCILING CONFLICTING AMENDMENTS TO THE SAME SECTION OF LAW BY REPEALING LAWS 2011, CHAPTER 165, SECTION 3.

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

## **Chapter 160 Section 1 Laws 2013**

SECTION 1. Section 7-1-6.46 NMSA 1978 (being Laws 2004, Chapter 116, Section 1, as amended) is amended to read:

"7-1-6.46. DISTRIBUTION TO MUNICIPALITIES--OFFSET FOR FOOD DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--

A. For a municipality that has not elected to impose a municipal hold harmless gross receipts tax through an ordinance and that has a population of less than ten thousand according to the most recent federal decennial census, 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:

(1) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 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 for the month plus one and two hundred twenty-five thousandths percent; and

(2) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 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 for the month plus one and two hundred twenty-five thousandths percent.

B. For a municipality not described in Subsection A of this section, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the 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:

(1) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 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, 2007 plus one and two hundred twenty-five thousandths percent in the following percentages:

- (a) prior to July 1, 2015, one hundred percent;
- (b) on or after July 1, 2015 and prior to July 1, 2016, ninety-four percent;
- (c) on or after July 1, 2016 and prior to July 1, 2017, eighty-eight percent;
- (d) on or after July 1, 2017 and prior to July 1, 2018, eighty-two percent;
- (e) on or after July 1, 2018 and prior to July 1, 2019, seventy-six percent;
- (f) on or after July 1, 2019 and prior to July 1, 2020, seventy percent;
- (g) on or after July 1, 2020 and prior to July 1, 2021, sixty-three percent;
- (h) on or after July 1, 2021 and prior to July 1, 2022, fifty-six percent;

- nine percent;
- (i) on or after July 1, 2022 and prior to July 1, 2023, forty-
- percent;
- (j) on or after July 1, 2023 and prior to July 1, 2024, forty-two
- five percent;
- (k) on or after July 1, 2024 and prior to July 1, 2025, thirty-
- eight percent;
- (l) on or after July 1, 2025 and prior to July 1, 2026, twenty-
- one percent;
- (m) on or after July 1, 2026 and prior to July 1, 2027, twenty-
- percent; and
- (n) on or after July 1, 2027 and prior to July 1, 2028, fourteen
- percent; and
- (o) on or after July 1, 2028 and prior to July 1, 2029, seven

(2) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 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, 2007 plus one and two hundred twenty-five thousandths percent in the following percentages:

- (a) prior to July 1, 2015, one hundred percent;
- four percent;
- (b) on or after July 1, 2015 and prior to July 1, 2016, ninety-
- eight percent;
- (c) on or after July 1, 2016 and prior to July 1, 2017, eighty-
- two percent;
- (d) on or after July 1, 2017 and prior to July 1, 2018, eighty-
- seventy-six percent;
- (e) on or after July 1, 2018 and prior to July 1, 2019,
- percent;
- (f) on or after July 1, 2019 and prior to July 1, 2020, seventy
- three percent;
- (g) on or after July 1, 2020 and prior to July 1, 2021, sixty-



(h) on or after July 1, 2021 and prior to July 1, 2022, fifty-six percent;

(i) on or after July 1, 2022 and prior to July 1, 2023, forty-nine percent;

(j) on or after July 1, 2023 and prior to July 1, 2024, forty-two percent;

(k) on or after July 1, 2024 and prior to July 1, 2025, thirty-five percent;

(l) on or after July 1, 2025 and prior to July 1, 2026, twenty-eight percent;

(m) on or after July 1, 2026 and prior to July 1, 2027, twenty-one percent;

(n) on or after July 1, 2027 and prior to July 1, 2028, fourteen percent; and

(o) on or after July 1, 2028 and prior to July 1, 2029, seven percent.

C. The distribution pursuant to Subsections A and B of this section is in lieu of revenue that would have been received by the municipality but for the deductions provided by Sections 7-9-92 and 7-9-93 NMSA 1978. The distribution shall be considered gross receipts tax revenue and shall be used by the municipality in the same manner as gross receipts tax revenue, including payment of gross receipts tax revenue bonds. A distribution pursuant to this section to a municipality not described in Subsection A of this section or to a municipality that has imposed a gross receipts tax through an ordinance that does not provide a deduction contained in the Gross Receipts and Compensating Tax Act shall not be made on or after July 1, 2029.

D. If the reductions made by this 2013 act to the distributions made pursuant to Subsections A and B of this section impair the ability of a municipality to meet its principal or interest payment obligations for revenue bonds that are outstanding prior to July 1, 2013 and that are secured by the pledge of all or part of the municipality's revenue from the distribution made pursuant to this section, then the amount distributed pursuant to this section to that municipality shall be increased by an amount sufficient to meet the required payment; provided that the total amount distributed to that municipality pursuant to this section does not exceed the amount that would have been due that municipality pursuant to this section as it was in effect on June 30, 2013.

E. 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.

F. 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."

## **Chapter 160 Section 2 Laws 2013**

SECTION 2. Section 7-1-6.47 NMSA 1978 (being Laws 2004, Chapter 116, Section 2, as amended) is amended to read:

### **"7-1-6.47. DISTRIBUTION TO COUNTIES--OFFSET FOR FOOD DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--**

A. For a county that has not elected to impose a county hold harmless gross receipts tax through an ordinance and that has a population of less than forty-eight thousand according to the most recent federal decennial census, 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:

- (1) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed throughout the county;

(2) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations in the county but not within a municipality multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed in the county area not within a municipality;

(3) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed throughout the county; and

(4) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations in the county but not within a municipality multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed in the county area not within a municipality.

B. For a county not described in Subsection A of this section, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the 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:

(1) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect on January 1, 2007 that are imposed throughout the county in the following percentages:

- (a) prior to July 1, 2015, one hundred percent;
- (b) on or after July 1, 2015 and prior to July 1, 2016, ninety-four percent;
- (c) on or after July 1, 2016 and prior to July 1, 2017, eighty-eight percent;
- (d) on or after July 1, 2017 and prior to July 1, 2018, eighty-two percent;
- (e) on or after July 1, 2018 and prior to July 1, 2019, seventy-six percent;
- (f) on or after July 1, 2019 and prior to July 1, 2020, seventy percent;

three percent; (g) on or after July 1, 2020 and prior to July 1, 2021, sixty-six percent;

percent; (h) on or after July 1, 2021 and prior to July 1, 2022, fifty-six percent;

nine percent; (i) on or after July 1, 2022 and prior to July 1, 2023, forty-two percent;

percent; (j) on or after July 1, 2023 and prior to July 1, 2024, forty-two percent;

five percent; (k) on or after July 1, 2024 and prior to July 1, 2025, thirty-eight percent;

eight percent; (l) on or after July 1, 2025 and prior to July 1, 2026, twenty-one percent;

one percent; (m) on or after July 1, 2026 and prior to July 1, 2027, twenty-one percent; and

percent; and (n) on or after July 1, 2027 and prior to July 1, 2028, fourteen percent; and

percent; (o) on or after July 1, 2028 and prior to July 1, 2029, seven percent;

(2) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations 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, 2007 that are imposed in the county area not within a municipality in the following percentages:

(a) prior to July 1, 2015, one hundred percent;

four percent; (b) on or after July 1, 2015 and prior to July 1, 2016, ninety-eight percent;

eight percent; (c) on or after July 1, 2016 and prior to July 1, 2017, eighty-two percent;

two percent; (d) on or after July 1, 2017 and prior to July 1, 2018, eighty-two percent;

seventy-six percent; (e) on or after July 1, 2018 and prior to July 1, 2019, seventy-six percent;

(f) on or after July 1, 2019 and prior to July 1, 2020, seventy percent;

(g) on or after July 1, 2020 and prior to July 1, 2021, sixty-three percent;

(h) on or after July 1, 2021 and prior to July 1, 2022, fifty-six percent;

(i) on or after July 1, 2022 and prior to July 1, 2023, forty-nine percent;

(j) on or after July 1, 2023 and prior to July 1, 2024, forty-two percent;

(k) on or after July 1, 2024 and prior to July 1, 2025, thirty-five percent;

(l) on or after July 1, 2025 and prior to July 1, 2026, twenty-eight percent;

(m) on or after July 1, 2026 and prior to July 1, 2027, twenty-one percent;

(n) on or after July 1, 2027 and prior to July 1, 2028, fourteen percent; and

(o) on or after July 1, 2028 and prior to July 1, 2029, seven percent;

(3) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect on January 1, 2007 that are imposed throughout the county in the following percentages:

(a) prior to July 1, 2015, one hundred percent;

(b) on or after July 1, 2015 and prior to July 1, 2016, ninety-four percent;

(c) on or after July 1, 2016 and prior to July 1, 2017, eighty-eight percent;

(d) on or after July 1, 2017 and prior to July 1, 2018, eighty-two percent;

seventy-six percent;

(e) on or after July 1, 2018 and prior to July 1, 2019,

percent;

(f) on or after July 1, 2019 and prior to July 1, 2020, seventy

three percent;

(g) on or after July 1, 2020 and prior to July 1, 2021, sixty-

percent;

(h) on or after July 1, 2021 and prior to July 1, 2022, fifty-six

nine percent;

(i) on or after July 1, 2022 and prior to July 1, 2023, forty-

percent;

(j) on or after July 1, 2023 and prior to July 1, 2024, forty-two

five percent;

(k) on or after July 1, 2024 and prior to July 1, 2025, thirty-

eight percent;

(l) on or after July 1, 2025 and prior to July 1, 2026, twenty-

one percent;

(m) on or after July 1, 2026 and prior to July 1, 2027, twenty-

percent; and

(n) on or after July 1, 2027 and prior to July 1, 2028, fourteen

percent; and

(o) on or after July 1, 2028 and prior to July 1, 2029, seven

(4) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations 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, 2007 that are imposed in the county area not within a municipality in the following percentages:

(a) prior to July 1, 2015, one hundred percent;

(b) on or after July 1, 2015 and prior to July 1, 2016, ninety-

four percent;

(c) on or after July 1, 2016 and prior to July 1, 2017, eighty-

eight percent;

two percent; (d) on or after July 1, 2017 and prior to July 1, 2018, eighty-

seventy-six percent; (e) on or after July 1, 2018 and prior to July 1, 2019,

percent; (f) on or after July 1, 2019 and prior to July 1, 2020, seventy

three percent; (g) on or after July 1, 2020 and prior to July 1, 2021, sixty-

percent; (h) on or after July 1, 2021 and prior to July 1, 2022, fifty-six

nine percent; (i) on or after July 1, 2022 and prior to July 1, 2023, forty-

percent; (j) on or after July 1, 2023 and prior to July 1, 2024, forty-two

five percent; (k) on or after July 1, 2024 and prior to July 1, 2025, thirty-

eight percent; (l) on or after July 1, 2025 and prior to July 1, 2026, twenty-

one percent; (m) on or after July 1, 2026 and prior to July 1, 2027, twenty-

percent; and (n) on or after July 1, 2027 and prior to July 1, 2028, fourteen

percent. (o) on or after July 1, 2028 and prior to July 1, 2029, seven

C. The distribution pursuant to Subsections A and B of this section is in lieu of revenue that would have been received by the county but for the deductions provided by Sections 7-9-92 and 7-9-93 NMSA 1978. The distribution shall be considered gross receipts tax revenue and shall be used by the county in the same manner as gross receipts tax revenue, including payment of gross receipts tax revenue bonds. A distribution pursuant to this section to a county not described in Subsection A of this section or to a county that has imposed a gross receipts tax through an ordinance that does not provide a deduction contained in the Gross Receipts and Compensating Tax Act shall not be made on or after July 1, 2029.

D. If the reductions made by this 2013 act to the distributions made pursuant to Subsections A and B of this section impair the ability of a county to meet its principal or interest payment obligations for revenue bonds that are outstanding prior to July 1, 2013 and that are secured by the pledge of all or part of the county's revenue from the distribution made pursuant to this section, then the amount distributed pursuant to this section to that county shall be increased by an amount sufficient to meet the required payment; provided that the total amount distributed to that county pursuant to this section does not exceed the amount that would have been due that county pursuant to this section as it was in effect on June 30, 2013.

E. 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 county pursuant to the Tax Increment for Development Act."

### **Chapter 160 Section 3 Laws 2013**

SECTION 3. Section 7-2A-5 NMSA 1978 (being Laws 1981, Chapter 37, Section 38, as amended) is amended to read:

"7-2A-5. CORPORATE INCOME TAX RATES.--The corporate income tax imposed on corporations by Section 7-2A-3 NMSA 1978 shall be at the rates specified in the following tables:

A. For taxable years beginning prior to January 1, 2014:

If the net income is: The tax shall be:

\$500,000	4.8% of net income
Over \$500,000 but not	
over \$1,000,000	\$24,000 plus
	6.4% of excess
	over \$500,000
\$56,000	
	plus 7.6% of excess
	over \$1,000,000.

B. For taxable years beginning on or after January 1, 2014 and prior to January 1, 2015:



If the net income is: The tax shall be:

\$500,000 4.8% of net income  
Over \$500,000 but not  
over \$1,000,000 \$24,000 plus  
6.4% of excess  
over \$500,000  
\$56,000  
plus 7.3% of excess  
over \$1,000,000.

C. For taxable years beginning on or after January 1, 2015 and prior to January 1, 2016:

If the net income is: The tax shall be:

Not over \$500,000 4.8% of net income  
Over \$500,000 but not  
over \$1,000,000 \$24,000 plus  
6.4% of excess  
over \$500,000  
\$56,000  
plus 6.9% of excess  
over \$1,000,000.

D. For taxable years beginning on or after January 1, 2016 and prior to January 1, 2017:

If the net income is: The tax shall be:

\$500,000 4.8% of net income

Over \$500,000 but not  
over \$1,000,000 \$24,000 plus

6.4% of excess

over \$500,000

\$56,000

plus 6.6% of excess

over \$1,000,000.

E. For taxable years beginning on or after January 1, 2017 and prior to  
January 1, 2018:

If the net income is: The tax shall be:

Not over \$500,000 4.8% of net income

\$24,000 plus

6.2% of excess

over \$500,000.

F. For taxable years beginning on or after January 1, 2018:

If the net income is: The tax shall be:

Not over \$500,000 4.8% of net income

\$24,000 plus

5.9% of excess

over \$500,000."

## **Chapter 160 Section 4 Laws 2013**

SECTION 4. Section 7-2A-8.3 NMSA 1978 (being Laws 1983, Chapter 213,  
Section 12, as amended by Laws 1993, Chapter 307, Section 4 and by Laws 1993,  
Chapter 309, Section 2) is amended to read:

"7-2A-8.3. COMBINED RETURNS.--

A. A unitary corporation that is subject to taxation under the Corporate Income and Franchise Tax Act and that has not previously filed a combined return pursuant to this section or a consolidated return pursuant to Section 7-2A-8.4 NMSA 1978 may elect to file a combined return with other unitary corporations as though the entire combined net income were that of one corporation; provided, however, that for taxable years beginning on or after January 1, 2014, a unitary corporation that provides retail sales of goods in a facility of more than thirty thousand square feet under one roof in New Mexico shall file a combined return with other unitary corporations as though the entire combined net income were that of one corporation. The return filed under this method of reporting shall include the net income of all the unitary corporations. Transactions among the unitary corporations may be eliminated by applying the appropriate rules for reporting income for a consolidated federal income tax return. Any corporation that has filed an income tax return with New Mexico pursuant to Section 7-2A-8.4 NMSA 1978 shall not file pursuant to this section unless the secretary gives prior permission to file on a combined return basis.

B. Once corporations have reported net income through a combined return for any taxable year, they shall file combined returns for subsequent taxable years, so long as they remain unitary corporations, unless the corporations elect to file pursuant to Section 7-2A-8.4 NMSA 1978 or unless the secretary grants prior permission for one or more of the corporations to file individually.

C. For taxable years beginning on or after January 1, 1993, no unitary corporation once included in a combined return may elect, or be granted permission by the secretary, for any subsequent taxable year to separately account pursuant to Paragraph (4) of Subsection A of Section 7-2A-8 NMSA 1978.

D. Notwithstanding Subsection A of this section, a unitary corporation shall not be required to file a combined return pursuant to this section if that unitary corporation:

(1) has operations in New Mexico at facilities that do not provide retail sales of goods; and

(2) employs at least seven hundred fifty employees in New Mexico at such facilities."

## **Chapter 160 Section 5 Laws 2013**

SECTION 5. Section 7-2F-1 NMSA 1978 (being Laws 2002, Chapter 36, Section 1, as amended by Laws 2011, Chapter 165, Section 1 and by Laws 2011, Chapter 177, Section 2) is amended to read:

"7-2F-1. FILM PRODUCTION TAX CREDIT.--

A. The tax credit created by this section may be referred to as the "film production tax credit". An eligible film production company may apply for, and the taxation and revenue department may allow, subject to the limitation in this section, a tax credit in an amount equal to the percentage specified in Subsection B of this section of:

(1) direct production expenditures made in New Mexico that:

(a) are directly attributable to the production in New Mexico of a film or commercial audiovisual product;

(b) are subject to taxation by the state of New Mexico;

(c) exclude direct production expenditures for which another taxpayer claims the film production tax credit; and

(d) do not exceed the usual and customary cost of the goods or services acquired when purchased by unrelated parties. The secretary of taxation and revenue may determine the value of the goods or services for purposes of this section when the buyer and seller are affiliated persons or the sale or purchase is not an arm's length transaction; and

(2) postproduction expenditures made in New Mexico that:

(a) are directly attributable to the production of a commercial film or audiovisual product;

(b) are for services performed in New Mexico;

(c) are subject to taxation by the state of New Mexico;

(d) exclude postproduction expenditures for which another taxpayer claims the film production tax credit; and

(e) do not exceed the usual and customary cost of the goods or services acquired when purchased by unrelated parties. The secretary of taxation and revenue may determine the value of the goods or services for purposes of this section when the buyer and seller are affiliated persons or the sale or purchase is not an arm's length transaction.

B. Except as otherwise provided in this section, the percentage to be applied in calculating the amount of the film production tax credit is twenty-five percent.

C. In addition to the percentage applied pursuant to Subsection B of this section, another five percent shall be applied in calculating the amount of the film production tax credit to direct production expenditures:

(1) on series television productions intended for commercial distribution with an order for at least six episodes in a single season; provided that the budget per episode is fifty thousand dollars (\$50,000) or more; or

(2) that are directly attributable to the wages and fringe benefits paid to a New Mexico resident directly employed in an industry crew position, excluding a performing artist, on a production with a total budget of:

(a) not more than thirty million dollars (\$30,000,000) that shoots at least ten principal photography days at a qualified production facility in New Mexico; or

(b) thirty million dollars (\$30,000,000) or more that shoots at least fifteen principal photography days at a qualified production facility in New Mexico.

D. With respect to expenditures attributable to a production for which the film production company receives a tax credit pursuant to the federal new markets tax credit program, the percentage to be applied in calculating the film production tax credit is twenty percent.

E. A claim for film production tax credits shall be filed as part of a return filed pursuant to the Income Tax Act or the Corporate Income and Franchise Tax Act or an information return filed by a pass-through entity. The date a credit claim is received by the department shall determine the order that a credit claim is authorized for payment by the department. Except as otherwise provided in this section, the aggregate amount of the film production tax credit claims that may be authorized for payment in any fiscal year is fifty million dollars (\$50,000,000) with respect to the direct production expenditures or postproduction expenditures made on film or commercial audiovisual products. A film production company that submits a claim for a film production tax credit that is unable to receive the tax credit because the claims for the fiscal year exceed the limitation in this subsection shall be placed for the subsequent fiscal year at the front of a queue of film production tax credit claimants submitting claims in the subsequent fiscal year in the order of the date on which the credit was authorized for payment.

F. If, in fiscal years 2013 through 2015, the aggregate amount in each fiscal year of the film production tax credit claims authorized for payment is less than fifty million dollars (\$50,000,000), then the difference in that fiscal year or ten million dollars (\$10,000,000), whichever is less, shall be added to the aggregate amount of the film production tax credit claims that may be authorized for payment pursuant to Subsection E of this section in the immediately following fiscal year.

G. Except as otherwise provided in this section, credit claims authorized for payment pursuant to the Film Production Tax Credit Act shall be paid pursuant to provisions of the Tax Administration Act to the taxpayer as follows:

(1) a credit claim amount of less than two million dollars (\$2,000,000) per taxable year shall be paid immediately upon authorization for payment of the credit claim;

(2) a credit claim amount of two million dollars (\$2,000,000) or more but less than five million dollars (\$5,000,000) per taxable year shall be divided into two equal payments, with the first payment to be made immediately upon authorization of the payment of the credit claim and the second payment to be made twelve months following the date of the first payment; and

(3) a credit claim amount of five million dollars (\$5,000,000) or more per taxable year shall be divided into three equal payments, with the first payment to be made immediately upon authorization of payment of the credit claim, the second payment to be made twelve months following the date of the first payment and the third payment to be made twenty-four months following the date of the first payment.

H. For a fiscal year in which the amount of total credit claims authorized for payment is less than the aggregate amount of the film production tax credit claims that may be authorized for payment pursuant to this section, the next scheduled payments for credit claims authorized for payment pursuant to Subsection G of this section shall be accelerated for payment for that fiscal year and shall be paid to a taxpayer pursuant to the Tax Administration Act and in the order in which outstanding payments are scheduled in the queue established pursuant to Subsections E and G of this section; provided that the total credit claims authorized for payment shall not exceed the aggregate amount of the film production tax credit claims that may be authorized for payment pursuant to this section. If a partial payment is made pursuant to this subsection, the difference owed shall retain its original position in the queue.

I. Any amount of a credit claim that is carried forward pursuant to Subsection G of this section shall be subject to the limit on the aggregate amount of credit claims that may be authorized for payment pursuant to Subsections E and F of this section in the fiscal year in which that amount is paid.

J. A credit claim shall only be considered received by the department if the credit claim is made on a complete return filed after the close of the taxable year. All direct production expenditures and postproduction expenditures incurred during the taxable year by a film production company shall be submitted as part of the same income tax return and paid pursuant to this section. A credit claim shall not be divided and submitted with multiple returns or in multiple years.

K. For purposes of determining the payment of credit claims pursuant to this section, the secretary of taxation and revenue may require that credit claims of affiliated persons be combined into one claim if necessary to accurately reflect closely integrated activities of affiliated persons.

L. The film production tax credit shall not be claimed with respect to direct production expenditures or postproduction expenditures for which the film production company has delivered a nontaxable transaction certificate pursuant to Section 7-9-86 NMSA 1978.

M. A production for which the film production tax credit is claimed pursuant to Paragraph (1) of Subsection A of this section shall contain an acknowledgment in the end screen credits that the production was filmed in New Mexico, and a state logo provided by the division shall be included in the end screen credits of long-form narrative film productions, unless otherwise agreed upon in writing by the film production company and the division.

N. To be eligible for the film production tax credit, a film production company shall submit to the division information required by the division to demonstrate conformity with the requirements of the Film Production Tax Credit Act, including detailed information on each direct production expenditure and each postproduction expenditure. A film production company shall make reasonable efforts, as determined by the division, to contract with a vendor that provides goods, inventory or services directly related to that vendor's ordinary course of business. A film production company shall provide to the division a projection of the film production tax credit claim the film production company plans to submit in the fiscal year. In addition, the film production company shall agree in writing:

(1) to pay all obligations the film production company has incurred in New Mexico;

(2) to post a notice at completion of principal photography on the web site of the division that:

(a) contains production company information, including the name of the production, the address of the production company and contact information that includes a working phone number, fax number and email address for both the local production office and the permanent production office to notify the public of the need to file creditor claims against the film production company; and

(b) remains posted on the web site until all financial obligations incurred in the state by the film production company have been paid;

(3) that outstanding obligations are not waived should a creditor fail to file;

(4) to delay filing of a claim for the film production tax credit until the division delivers written notification to the taxation and revenue department that the film production company has fulfilled all requirements for the credit; and

(5) to submit a completed application for the film production tax credit and supporting documentation to the division within one year of making the final expenditures in New Mexico that are included in the credit claim.

O. The division shall determine the eligibility of the company and shall report this information to the taxation and revenue department in a manner and at times the economic development department and the taxation and revenue department shall agree upon. The division shall also post on its web site all information provided by the film production company that does not reveal revenue, income or other information that may jeopardize the confidentiality of income tax returns, including that the division shall report monthly the projected amount of credit claims for the fiscal year.

P. To provide guidance to film production companies regarding the amount of credit capacity remaining in the fiscal year, the taxation and revenue department shall post monthly on that department's web site the aggregate amount of credits claimed and processed for the fiscal year.

Q. To receive a film production tax credit, a film production company shall apply to the taxation and revenue department on forms and in the manner the department may prescribe. The application shall include a certification of the amount of direct production expenditures or postproduction expenditures made in New Mexico with respect to the film production for which the film production company is seeking the film production tax credit; provided that for the film production tax credit, the application shall be submitted within one year of the date of the last direct production expenditure in New Mexico or the last postproduction expenditure in New Mexico. If the amount of the requested tax credit exceeds five million dollars (\$5,000,000), the application shall also include the results of an audit, conducted by a certified public accountant licensed to practice in New Mexico, verifying that the expenditures have been made in compliance with the requirements of this section. If the requirements of this section have been complied with, subject to the provisions of Subsection E of this section, the taxation and revenue department shall approve the film production tax credit and issue a document granting the tax credit.

R. The film production company may apply all or a portion of the film production tax credit granted against personal income tax liability or corporate income tax liability. If the amount of the film production tax credit claimed exceeds the film production company's tax liability for the taxable year in which the credit is being claimed, the excess shall be refunded.

S. As applied to direct production expenditures for the services of performing artists, the film production tax credit authorized by this section shall not exceed five million dollars (\$5,000,000) for services rendered by all performing artists in a production for which the film production tax credit is claimed."

## **Chapter 160 Section 6 Laws 2013**



SECTION 6. Section 7-2F-2 NMSA 1978 (being Laws 2003, Chapter 127, Section 2, as amended by Laws 2011, Chapter 165, Section 3 and by Laws 2011, Chapter 177, Section 4) is amended to read:

"7-2F-2. DEFINITIONS.--As used in the Film Production Tax Credit Act:

A. "affiliated person" means a person who directly or indirectly owns or controls, is owned or controlled by or is under common ownership or control with another person through ownership of voting securities or other ownership interests representing a majority of the total voting power of the entity;

B. "commercial audiovisual product" means a film or a videogame intended for commercial exploitation;

C. "direct production expenditure":

(1) except as provided in Paragraph (2) of this subsection, means a transaction that is subject to taxation in New Mexico, including:

(a) payment of wages, fringe benefits or fees for talent, management or labor to a person who is a New Mexico resident;

(b) payment for services by a performing artist who is not a New Mexico resident and who is directly employed by the film production company; provided that the film production company deducts and remits, or causes to be deducted and remitted, income tax in New Mexico pursuant to the Withholding Tax Act;

(c) payment to a personal services business for the services of a performing artist if: 1) the personal services business pays gross receipts tax in New Mexico on the portion of those payments qualifying for the tax credit; and 2) the film production company deducts and remits, or causes to be deducted and remitted, income tax at the maximum rate in New Mexico pursuant to Subsection H of Section 7-3A-3 NMSA 1978 on the portion of those payments qualifying for the tax credit paid to a personal services business where the performing artist is a full or part owner of that business or subcontracts with a personal services business where the performing artist is a full or part owner of that business; and

(d) any of the following provided by a vendor: 1) the story and scenario to be used for a film; 2) set construction and operations, wardrobe, accessories and related services; 3) photography, sound synchronization, lighting and related services; 4) editing and related services; 5) rental of facilities and equipment; 6) leasing of vehicles, not including the chartering of aircraft for out-of-state transportation; however, New Mexico-based chartered aircraft for in-state transportation directly attributable to the production shall be considered a direct production expenditure; provided that only the first one hundred dollars (\$100) of the daily expense of leasing a vehicle for passenger transportation on roadways in the state may be claimed as a

direct production expenditure; 7) food or lodging; provided that only the first one hundred fifty dollars (\$150) of lodging per individual per day is eligible to be claimed as a direct production expenditure; 8) commercial airfare if purchased through a New Mexico-based travel agency or travel company for travel to and from New Mexico or within New Mexico that is directly attributable to the production; 9) insurance coverage and bonding if purchased through a New Mexico-based insurance agent, broker or bonding agent; and 10) other direct costs of producing a film in accordance with generally accepted entertainment industry practice; and

(2) does not include an expenditure for:

(a) a gift with a value greater than twenty-five dollars (\$25.00);

(b) artwork or jewelry, except that a work of art or a piece of jewelry may be a direct production expenditure if: 1) it is used in the film production; and 2) the expenditure is less than two thousand five hundred dollars (\$2,500);

(c) entertainment, amusement or recreation;

(d) subcontracted goods or services provided by a vendor when subcontractors are not subject to state taxation, such as equipment and locations provided by the military, government and religious organizations; or

(e) a service provided by a person who is not a New Mexico resident and employed in an industry crew position, excluding a performing artist, where it is the standard entertainment industry practice for the film production company to employ a person for that industry crew position, except when the person who is not a New Mexico resident is hired or subcontracted by a vendor; and when the film production company, as determined by the division and when applicable in consultation with industry, provides: 1) reasonable efforts to hire resident crew; and 2) financial or in-kind contributions toward education or work force development efforts in New Mexico, including at least one of the following: a pre-approved workshop; on-set shadowing per each approved position; or ten percent of the portion of the tax credit attributable to the payment for services provided by nonresidents employed by the vendor in the approved positions, which equates to two-and-one-half percent of the respective total direct production expenditure and which is allocated to New Mexico public education institutions that administer at least one industry-recognized film or multimedia program;

D. "division" means the New Mexico film division of the economic development department;

E. "federal new markets tax credit program" means the tax credit program codified as Section 45D of the United States Internal Revenue Code of 1986, as amended;

F. "film" means a single medium or multimedia program, excluding advertising messages other than national or regional advertising messages intended for exhibition, that:

(1) is fixed on film, a digital medium, videotape, computer disc, laser disc or other similar delivery medium;

(2) can be viewed or reproduced;

(3) is not intended to and does not violate a provision of Chapter 30, Article 37 NMSA 1978; and

(4) is intended for reasonable commercial exploitation for the delivery medium used;

G. "film production company" means a person that produces one or more films or any part of a film;

H. "fiscal year" means the state fiscal year beginning on July 1;

I. "New Mexico resident" means an individual who is domiciled in this state during any part of the taxable year or an individual who is physically present in this state for one hundred eighty-five days or more during the taxable year; but any individual, other than someone who was physically present in the state for one hundred eighty-five days or more during the taxable year and who, on or before the last day of the taxable year, changed the individual's place of abode to a place without this state with the bona fide intention of continuing actually to abide permanently without this state is not a resident for the purposes of the Film Production Tax Credit Act for periods after that change of abode;

J. "personal services business" means a business organization that receives payments for the services of a performing artist;

K. "physical presence" means a physical address in New Mexico from which a vendor conducts business, stores inventory or otherwise creates, assembles or offers for sale the product purchased or leased by a film production company;

L. "postproduction expenditure" means an expenditure for editing, Foley recording, automatic dialogue replacement, sound editing, special effects, including computer-generated imagery or other effects, scoring and music editing, beginning and end credits, negative cutting, soundtrack production, dubbing, subtitling or addition of sound or visual effects; but not including an expenditure for advertising, marketing, distribution or expense payments;

M. "qualified production facility" means a building or complex of buildings and their improvements and associated back-lot facilities in which films are or are

intended to be regularly produced and that contain at least one sound stage with contiguous, clear-span floor space of at least seven thousand square feet and a ceiling height of no less than twenty-one feet; and

N. "vendor" means a person selling goods or services that has a physical presence in New Mexico and is subject to gross receipts tax pursuant to the Gross Receipts and Compensating Tax Act and income tax pursuant to the Income Tax Act or corporate income tax pursuant to the Corporate Income and Franchise Tax Act but excludes services provided by nonresidents hired or subcontracted if the tasks and responsibilities are associated with:

(1) the standard industry job position of:

- (a) a director;
- (b) a writer;
- (c) a producer;
- (d) an associate producer;
- (e) a co-producer;
- (f) an executive producer;
- (g) a production supervisor;
- (h) a director of photography;
- (i) a motion picture driver whose sole responsibility is driving;
- (j) a production or personal assistant;
- (k) a designer;
- (l) a still photographer; or
- (m) a carpenter and utility technician at an entry level; and

(2) nonstandard industry job positions and personal support services."

## **Chapter 160 Section 7 Laws 2013**

SECTION 7. Section 7-4-10 NMSA 1978 (being Laws 1993, Chapter 153, Section 1, as amended) is amended to read:

"7-4-10. APPORTIONMENT OF BUSINESS INCOME.--

A. Except as provided in Subsection B of this section, 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.

B. A taxpayer whose principal business activity is manufacturing may elect to have business income apportioned to this state:

(1) in the taxable year beginning on or after January 1, 2014 and prior to January 1, 2015, by multiplying the income by a fraction, the numerator of which is twice the sales factor plus the property factor plus the payroll factor and the denominator of which is four;

(2) in the taxable year beginning on or after January 1, 2015 and prior to January 1, 2016, by multiplying the income by a fraction, the numerator of which is three multiplied by the sales factor plus the property factor plus the payroll factor and the denominator of which is five;

(3) in the taxable year beginning on or after January 1, 2016 and prior to January 1, 2017, by multiplying the income by a fraction, the numerator of which is seven multiplied by the sales factor plus one and one-half multiplied by the property factor plus one and one-half multiplied by the payroll factor and the denominator of which is ten;

(4) in the taxable year beginning on or after January 1, 2017 and prior to January 1, 2018, by multiplying the income by a fraction, the numerator of which is eight multiplied by the sales factor plus the property factor plus the payroll factor and the denominator of which is ten; and

(5) in taxable years beginning on or after January 1, 2018, by multiplying the income by a fraction, the numerator of which is the total sales of the taxpayer in New Mexico during the taxable year and the denominator of which is the total sales of the taxpayer from any location within or outside of the state during the taxable year.

C. To elect the method of apportionment provided by Subsection B of this section, the taxpayer shall notify the department of the election, in writing, no later than the date on which the taxpayer files the return for the first taxable year to which the election will apply. The election will apply to that taxable year and to each taxable year thereafter until the taxpayer notifies the department, in writing, that the election is terminated, except that the taxpayer shall not terminate the election until the method of apportioning business income provided by Subsection B of this section has been used by the taxpayer for at least three consecutive taxable years, including a total of at least thirty-six calendar months.

D. For purposes of this section, "manufacturing" means combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include:

(1) construction;

(2) farming;

(3) power generation, except for electricity generation at a facility other than one for which both location approval and a certificate of convenience and necessity are required prior to commencing construction or operation of the facility, pursuant to the Public Utility Act; or

(4) processing natural resources, including hydrocarbons."

### **Chapter 160 Section 8 Laws 2013**

SECTION 8. Section 7-4-17 NMSA 1978 (being Laws 1965, Chapter 203, Section 17) is amended to read:

"7-4-17. DETERMINATION OF SALES IN THIS STATE OF TANGIBLE PERSONAL PROPERTY FOR INCLUSION IN SALES FACTOR.--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:

(a) is not taxable in the state of the purchaser; and

(b) did not make an election for apportionment of business income pursuant to Subsection B of Section 7-4-10 NMSA 1978."

### **Chapter 160 Section 9 Laws 2013**

SECTION 9. 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. 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 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 to the seller may be deducted in the following percentages from gross receipts or from governmental gross receipts:

- (1) twenty percent of receipts received prior to January 1, 2014;
- (2) forty percent of receipts received in calendar year 2014;
- (3) sixty percent of receipts received in calendar year 2015;
- (4) eighty percent of receipts received in calendar year 2016; and
- (5) one hundred percent of receipts received on or after January 1, 2017.

C. 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.

D. 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.

E. 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.

F. 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 160 Section 10 Laws 2013**

SECTION 10. 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 who is an eligible employer may apply for, and the taxation and revenue department may allow, a tax credit for each new high-wage economic-based 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 ten percent of the wages and benefits distributed to an eligible employee in a new high-wage economic-based job, but shall not exceed twelve thousand dollars (\$12,000) per job per qualifying period.

D. The high-wage jobs tax credit may be claimed by an eligible employer for each new high-wage economic-based job performed for the year in which the new high-wage economic-based job is created and for the three consecutive qualifying periods. A taxpayer shall apply for approval of the credit after the close of a qualifying period, but not later than twelve months following the end of the calendar year in which the taxpayer's final qualifying period closes.



E. A new high-wage economic-based job shall not be eligible for a credit pursuant to this section unless the eligible employer's total number of employees with high-wage economic-based jobs on the last day of the qualifying period at the location at which the job is performed or based is at least one more than the number on the day prior to the date the new high-wage economic-based job was created.

F. A new high-wage economic-based job shall not be eligible for a credit pursuant to this section if:

(1) the new high-wage economic-based 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 economic-based 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.

G. Notwithstanding the provisions of Subsection F of this section, a new high-wage economic-based 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 taxation and revenue 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 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 qualifying period for which the qualifying job is otherwise eligible.

H. A 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 economic-based job that was not being performed by an employee of the replaced entity.

I. With respect to each new high-wage economic-based job for which an eligible employer seeks the high-wage jobs tax credit, the employer shall certify:

(1) the amount of wages and benefits paid to each eligible employee in a new high-wage economic-based job during each qualifying period;

(2) the number of weeks the position was occupied during the qualifying period;

(3) whether the new high-wage economic-based 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; and

(4) 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.

J. To receive a high-wage jobs tax credit with respect to any qualifying period, an eligible employer shall apply to the taxation and revenue department on forms and in the manner prescribed by the department. The application shall include a certification made pursuant to Subsection I of this section.

K. The credit provided in this section may be deducted from the modified combined tax liability of a taxpayer. If the credit exceeds the modified combined tax liability of the taxpayer, the excess shall be refunded to the taxpayer.

L. The economic development department shall report to the appropriate interim legislative committee before November 1 of each year the cost of this tax credit to the state and its impact on company recruitment and job creation.

M. 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 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. "Benefits" does not include the employer's share of payroll taxes, social security or medicare contributions, federal or state unemployment insurance contributions or workers' compensation;

(2) "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) bears any of the relationships described in Paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to the employer or, if the employer is a corporation, to an individual who owns, directly or indirectly, more than fifty percent in

value of the outstanding stock of the corporation or, if the employer is an entity other than a corporation, to an individual who owns, directly or indirectly, more than fifty percent of the capital and profits interest in the entity;

(b) if the employer is an estate or trust, is a grantor, beneficiary or fiduciary of the estate or trust or is an individual who bears any of the relationships described in Paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to a grantor, beneficiary or fiduciary of the estate or trust;

(c) is a dependent, as that term is described in 26 U.S.C. Section 152(a)(9), of the employer or, if the taxpayer is a corporation, of an individual who owns, directly or indirectly, more than fifty percent in value of the outstanding stock of the corporation or, if the employer is an entity other than a corporation, of an individual who owns, directly or indirectly, more than fifty percent of the capital and profits interest in the entity or, if the employer is an estate or trust, of a grantor, beneficiary or fiduciary of the estate or trust; or

(d) 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 interest in the entity;

(3) "eligible employer" means an employer that:

(a) made more than fifty percent of its sales of goods or services produced in New Mexico to persons outside New Mexico during the applicable qualifying period; or

(b) is certified by the economic development department to be eligible for development training program assistance pursuant to Section 21-19-7 NMSA 1978;

(4) "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;

(5) "new high-wage economic-based job" means a new job created in New Mexico by an eligible employer on or after July 1, 2004 and prior to July 1, 2020

that is occupied for at least forty-eight 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 economic-based 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 economic-based 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;

(6) "qualifying period" means the period of twelve months beginning on the day an eligible employee begins working in a new high-wage economic-based job or the period of twelve months beginning on the anniversary of the day an eligible employee began working in a new high-wage economic-based job; and

(7) "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."

## **Chapter 160 Section 11 Laws 2013**

SECTION 11. A new section of the Municipal Local Option Gross Receipts Taxes Act is enacted to read:

"MUNICIPAL HOLD HARMLESS GROSS RECEIPTS TAX.--

A. The majority of the members of the governing body of any municipality may impose by ordinance an excise tax not to exceed a rate of three-eighths percent of the gross receipts of any person engaging in business in the municipality for the privilege of engaging in business in the municipality. A tax imposed pursuant to this section shall be imposed by the enactment of one or more ordinances, each imposing

any number of gross receipts tax rate increments, but the total gross receipts tax rate imposed by all ordinances pursuant to this section shall not exceed an aggregate rate of three-eighths percent of the gross receipts of a person engaging in business. Municipalities may impose increments of one-eighth of one percent.

B. The tax imposed pursuant to Subsection A of this section may be referred to as the "municipal hold harmless gross receipts tax". The imposition of a municipal hold harmless gross receipts tax is not subject to referendum.

C. The governing body of a municipality may, at the time of enacting an ordinance imposing the tax authorized in Subsection A of this section, dedicate the revenue for a specific purpose or area of municipal government services, including but not limited to police protection, fire protection, public transportation or street repair and maintenance. If the governing body proposes to dedicate such revenue, the ordinance and any revenue so dedicated shall be used by the municipality for that purpose unless a subsequent ordinance is adopted to change the purpose to which the revenue is dedicated or to place the revenue in the general fund of the municipality.

D. Any law that imposes or authorizes the imposition of a municipal hold harmless gross receipts tax or that affects the municipal hold harmless gross receipts tax, or any law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of such municipal hold harmless gross receipts tax unless such outstanding revenue bonds have been discharged in full or provision has been fully made therefor."

## **Chapter 160 Section 12 Laws 2013**

SECTION 12. A new section of the County Local Option Gross Receipts Taxes Act is enacted to read:

### **"COUNTY HOLD HARMLESS GROSS RECEIPTS TAX.--**

A. The majority of the members of the governing body of any county may impose by ordinance an excise tax not to exceed a rate of three-eighths percent of the gross receipts of any person engaging in business in the county for the privilege of engaging in business in the county. A tax imposed pursuant to this section shall be imposed by the enactment of one or more ordinances, each imposing any number of gross receipts tax rate increments, but the total gross receipts tax rate imposed by all ordinances pursuant to this section shall not exceed an aggregate rate of three-eighths percent of the gross receipts of a person engaging in business. Counties may impose increments of one-eighth of one percent.

B. The tax imposed pursuant to Subsection A of this section may be referred to as the "county hold harmless gross receipts tax". The imposition of a county hold harmless gross receipts tax is not subject to referendum.

C. The governing body of a county may, at the time of enacting an ordinance imposing the tax authorized in Subsection A of this section, dedicate the revenue for a specific purpose or area of county government services, including but not limited to police protection, fire protection, public transportation or street repair and maintenance. If the governing body proposes to dedicate such revenue, the ordinance and any revenue so dedicated shall be used by the county for that purpose unless a subsequent ordinance is adopted to change the purpose to which the revenue is dedicated or to place the revenue in the general fund of the county.

D. Any law that imposes or authorizes the imposition of a county hold harmless gross receipts tax or that affects the county hold harmless gross receipts tax, or any law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of such county hold harmless gross receipts tax unless such outstanding revenue bonds have been discharged in full or provision has been fully made therefor."

### **Chapter 160 Section 13 Laws 2013**

SECTION 13. REPEAL.--Laws 2011, Chapter 165, Section 3 is repealed.

### **Chapter 160 Section 14 Laws 2013**

SECTION 14. APPLICABILITY.--The provisions of:

A. Sections 3, 4, 7 and 8 of this act apply to taxable years beginning on or after January 1, 2014;

B. Section 5; Subsections A, B and D through N of Section 6; and Paragraph (1) and Subparagraphs (a) through (d) of Paragraph (2) of Subsection C of Section 6 of this act apply to direct production expenditures and postproduction expenditures made on or after April 15, 2013;

C. Subparagraph (e) of Paragraph (2) of Subsection C of Section 6 of this act applies to productions starting principal photography on or after January 1, 2014.

D. Section 9 of this act applies to gross receipts received on or after July 1, 2013; and

E. Section 10 of this act applies to credit claims received on or after the effective date of Section 10 of this act and to reporting periods beginning on or after that date.

### **Chapter 160 Section 15 Laws 2013**

SECTION 15. CONTINGENT EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1, 2, 4, 9, 11 and 12 of this act is July 1, 2013.

B. The effective date of the provisions of Sections 3, 7 and 8 of this act is January 1, 2014; provided that the provisions of Sections 1, 2, 4, 9, 11 and 12 of this act are in effect on July 1, 2013.

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HBIC/House Bill 641, aa, w/cc, w/o cc

Approved April 4, 2013

## **LAWS 2013, CHAPTER 161**

### AN ACT

RELATING TO TAXATION; PROVIDING FOR AN AUTOMATIC APPLICATION OF THE LIMITATION ON INCREASE IN VALUE FOR SINGLE-FAMILY DWELLINGS OCCUPIED BY LOW-INCOME OWNERS SIXTY-FIVE YEARS OF AGE OR OLDER OR DISABLED; PROVIDING FOR PENALTIES.

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

### **Chapter 161 Section 1 Laws 2013**

SECTION 1. Section 7-36-21.3 NMSA 1978 (being Laws 2000, Chapter 21, Section 1, as amended) is amended to read:

"7-36-21.3. LIMITATION ON INCREASE IN VALUE FOR SINGLE-FAMILY DWELLINGS OCCUPIED BY LOW-INCOME OWNERS SIXTY-FIVE YEARS OF AGE OR OLDER OR DISABLED--REQUIREMENTS--PENALTIES.--

A. For the 2001 and subsequent tax years, the valuation for property taxation purposes of a single-family dwelling owned and occupied by a person who is sixty-five years of age or older and whose modified gross income, as defined in the Income Tax Act, for the prior taxable year did not exceed the greater of eighteen thousand dollars (\$18,000) or the amount calculated pursuant to Subsection I of this section shall not be greater than the valuation of the property for property taxation purposes in the:

(1) 2001 tax year;

(2) year in which the owner's sixty-fifth birthday occurs, if that is after 2001; or

(3) tax year following the tax year in which an owner who turns sixty-five or is sixty-five years of age or older first owns and occupies the property, if that is after 2001.

B. For the 2009 and subsequent tax years, the valuation for property taxation purposes of a single-family dwelling owned and occupied by a person who is sixty-five years of age or older or disabled and whose modified gross income, as defined in the Income Tax Act, for the prior taxable year did not exceed the greater of thirty-two thousand dollars (\$32,000) or the amount calculated pursuant to Subsection I of this section shall not be greater than the valuation of the property for property taxation purposes in:

(1) the 2009 tax year, if the person owns and occupies the property in the 2009 tax year;

(2) the tax year in which the owner's sixty-fifth birthday occurs, if that is after 2009; or

(3) the tax year following the tax year in which an owner who is sixty-five years of age or older first owns and occupies the property, if that is after 2009.

C. For the 2003 and subsequent tax years, the valuation for property taxation purposes of a single-family dwelling owned and occupied by a person who is disabled and whose modified gross income, as defined in the Income Tax Act, for the prior taxable year did not exceed the greater of eighteen thousand dollars (\$18,000) or the amount calculated pursuant to Subsection I of this section shall not be greater than the valuation of the property for property taxation purposes in the:

(1) 2003 tax year;

(2) year in which the owner is determined to be disabled, if that is after 2003; or

(3) tax year following the tax year in which an owner who is disabled or who is determined in that year to be disabled first owns and occupies the property, if that is after 2003.

D. An owner who is entitled to a limitation in valuation pursuant to more than one subsection of this section may designate the subsection pursuant to which the limitation shall be applied.

E. The limitation of value specified in Subsections A, B and C of this section shall be claimed in order to be allowed. The limitations may be claimed by filing proof of eligibility with the county assessor on an application form for the limitation furnished by the assessor. The application form shall be designed by the department and shall provide for proof of age or disability, occupancy and income eligibility. An



owner who applies for the limitation of value specified in this section and files proof of income eligibility for the three consecutive years immediately prior to the tax year for which the application is made need not claim the limitation for subsequent tax years if there is no change in eligibility. The county assessor shall apply that limitation automatically in subsequent tax years until a change in eligibility occurs.

F. An owner who has claimed and been allowed the limitation of value specified in this section for the three consecutive tax years immediately prior to the 2014 tax year need not claim the limitation for subsequent tax years if there is no change in eligibility. The county assessor shall apply that limitation automatically in subsequent tax years until a change in eligibility occurs.

G. A person who has had a limitation applied to a tax year and subsequently becomes ineligible for the limitation because of a change in the person's status or income or a change in the ownership of the property against which the limitation was applied shall notify the county assessor of the loss of eligibility for the limitation by the last day of February of the tax year immediately following the year in which loss of eligibility occurs.

H. A person who knowingly violates the provisions of this section by intentionally claiming and receiving the benefit of a limitation to which the person is not entitled or who fails to comply with the provisions of Subsection G of this section shall be liable for all taxes due, interest and a civil penalty of no more than three times the amount of additional taxes due.

I. For the 2002 tax year and each subsequent tax year, the maximum amount of modified gross income in Subsections A, B and C of this section shall be adjusted to account for inflation. The department shall make the adjustment by multiplying the maximum amount for tax year 2000 by a fraction, the numerator of which is the consumer price index ending during the prior tax year and the denominator of which is the consumer price index ending in tax year 2000. The result of the multiplication shall be rounded down to the nearest one hundred dollars (\$100), except that if the result would be an amount less than the corresponding amount for the preceding tax year, then no adjustment shall be made. For purposes of this subsection, "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. The department shall publish annually the amount determined by the calculation and distribute it to each county assessor no later than December 1 of each tax year.

J. The limitation of value specified in Subsections A, B and C of this section does not apply to:

(1) a change in valuation resulting from any physical improvements made to the property during the year immediately prior to the tax year or a change in the permitted use or zoning of the property during the year immediately prior to the tax year;  
or

(2) a residential property in the first tax year that is valued for property taxation purposes.

K. As used in this section, "disabled" means a person who has been determined to be blind or permanently disabled with medical improvement not expected pursuant to 42USCA 421 for purposes of the federal Social Security Act or is determined to have a permanent total disability pursuant to the Workers' Compensation Act."

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SJC/Senate Bill 289, aa

Approved April 4, 2013

## **LAWS 2013, CHAPTER 162**

### **AN ACT**

RELATING TO BOARDS; ADDING THE POWER TO ISSUE CEASE AND DESIST ORDERS TO THE BOARD OF BARBERS AND COSMETOLOGISTS; ADDING PENALTIES TO THE BODY ART SAFE PRACTICES ACT.

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

### **Chapter 162 Section 1 Laws 2013**

SECTION 1. Section 61-17A-7 NMSA 1978 (being Laws 1993, Chapter 171, Section 7, as amended) is amended to read:

"61-17A-7. BOARD POWERS AND DUTIES.--

A. The board shall:

(1) adopt and file, in accordance with the State Rules Act, rules necessary to carry out the provisions of the Barbers and Cosmetologists Act and the Body Art Safe Practices Act;

(2) establish fees;

(3) provide for the examination, licensure and license renewal of applicants for licensure;

(4) establish standards for and provide for the examination, licensure and license renewal of manicurists-pedicurists, estheticians, electrologists and body artists and operators pursuant to the Body Art Safe Practices Act;

(5) adopt a seal;

(6) furnish copies of rules and sanitary requirements adopted by the board to each owner or manager of an establishment, enterprise or school;

(7) keep a record of its proceedings and a register of applicants for licensure;

(8) provide for the licensure of barbers, cosmetologists, manicurists-pedicurists, estheticians, body artists and operators pursuant to the Body Art Safe Practices Act, electrologists, instructors, schools, enterprises and establishments;

(9) establish administrative penalties and fines;

(10) create and establish standards and fees for special licenses;

(11) establish guidelines for schools to calculate tuition refunds for withdrawing students;

(12) hire an administrator and other such staff as necessary to carry out the provisions of the Body Art Safe Practices Act; and

(13) issue cease and desist orders to persons violating the provisions of the Barbers and Cosmetologists Act or the Body Art Safe Practices Act and rules promulgated in accordance with those acts.

B. The board may establish continuing education requirements as requirements for licensure.

C. A member of the board, its employees or agents may enter and inspect a school, enterprise or establishment at any time during regular business hours for the purpose of determining compliance with the Barbers and Cosmetologists Act and the Body Art Safe Practices Act."

## **Chapter 162 Section 2 Laws 2013**

SECTION 2. Section 61-17B-11 NMSA 1978 (being Laws 2007, Chapter 181, Section 11) is amended to read:

"61-17B-11. ENFORCEMENT--PENALTIES.--

A. The board may seek relief in district court to enjoin the operation of a body art establishment or the practice of a body artist not in compliance with the Body Art Safe Practices Act.

B. The district court may impose a civil penalty not exceeding five hundred dollars (\$500) for a violation of the Body Art Safe Practices Act. Each violation of the provisions of the Body Art Safe Practices Act constitutes a separate offense.

C. The board may promulgate rules imposing a schedule of penalties for violations of the Body Art Safe Practices Act. Except as provided in Subsection D of this section, no penalty shall exceed one hundred fifty dollars (\$150).

D. Penalties for the following violations shall not exceed one thousand dollars (\$1,000):

(1) obtaining or attempting to obtain a license by fraudulent misrepresentation;

(2) willfully falsifying by oath or affirmation information required pursuant to the Body Art Safe Practices Act; or

(3) practicing or attempting to practice under an assumed name or by fraudulent misrepresentation."

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Senate Bill 372

Approved April 4, 2013

## **LAWS 2013, CHAPTER 163**

AN ACT

RELATING TO MOTOR VEHICLES; CLARIFYING PROVISIONS IN THE MOTOR VEHICLE CODE RELATING TO THE SUSPENSION AND REVOCATION OF A DRIVER'S LICENSE.

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

### **Chapter 163 Section 1 Laws 2013**

SECTION 1. Section 66-5-32 NMSA 1978 (being Laws 1978, Chapter 35, Section 254, as amended by Laws 2005, Chapter 241, Section 3 and by Laws 2005, Chapter 269, Section 3) is amended to read:

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

A. The division shall not suspend a driver's license or privilege to drive a motor vehicle on the public highways for a period of more than one year except as

permitted under Subsection C of this section and Sections 60-7B-1, 66-5-5, 66-5-39 and 66-5-39.1 NMSA 1978.

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

C. The suspension period for failure to appear or failure to remit the penalty assessment shall, at the discretion of the director, be extended indefinitely subject to the provisions of Subsection B of Section 66-5-30 NMSA 1978."

## **Chapter 163 Section 2 Laws 2013**

SECTION 2. Section 66-5-39 NMSA 1978 (being Laws 1978, Chapter 35, Section 261, as amended) is amended to read:

"66-5-39. DRIVING WHILE LICENSE SUSPENDED--PENALTIES.--

A. Any person who drives a motor vehicle on any public highway of this state at a time when the person's privilege to do so is suspended and who knows or should have known that the person's license was suspended is guilty of a misdemeanor and shall be charged with a violation of this section. Upon conviction, the person shall be punished, notwithstanding the provisions of Section 31-18-13 NMSA 1978, by imprisonment for not less than four days or more than three hundred sixty-four days or participation for an equivalent period of time in a certified alternative sentencing program, and there may be imposed in addition a fine of not more than one thousand dollars (\$1,000). When a person pays any or all of the cost of participating in a certified alternative sentencing program, the court may apply that payment as a deduction to any fine imposed by the court. Any municipal ordinance prohibiting driving with a suspended license shall provide penalties no less stringent than provided in this section.

B. In addition to any other penalties imposed pursuant to the provisions of this section, when a person is convicted pursuant to the provisions of this section or a municipal ordinance that prohibits driving on a suspended license, the motor vehicle the person was driving may be immobilized by an immobilization device for thirty days, unless immobilization of the motor vehicle poses an imminent danger to the health, safety or employment of the convicted person's immediate family or the family of the owner of the motor vehicle. The convicted person shall bear the cost of immobilizing the motor vehicle.

C. The division, upon receiving a record of the conviction of any person under this section, shall extend the period of suspension for an additional like period."

## **Chapter 163 Section 3 Laws 2013**

SECTION 3. A new Section 66-5-39.1 NMSA 1978 is enacted to read:

"66-5-39.1. DRIVING WHILE LICENSE REVOKED--PENALTIES.--

A. A person who drives a motor vehicle on a public highway of this state at a time when the person's privilege to do so is revoked and who knows or should have known that the person's license was revoked is guilty of a misdemeanor and shall be charged with a violation of this section. Upon conviction, the person shall be punished, notwithstanding the provisions of Section 31-18-13 NMSA 1978, by imprisonment for not less than four days or more than three hundred sixty-four days or by participation for an equivalent period of time in a certified alternative sentencing program, and there may be imposed in addition a fine of not more than one thousand dollars (\$1,000). When a person pays any or all of the cost of participating in a certified alternative sentencing program, the court may apply that payment as a deduction to any fine imposed by the court.

B. Notwithstanding any other provision of law for suspension or deferment of execution of a sentence, if the person's privilege to drive was revoked for driving under the influence of intoxicating liquor or drugs or a violation of the Implied Consent Act, upon conviction pursuant to this section, the person shall be punished by imprisonment for not less than seven consecutive days and shall be fined not less than three hundred dollars (\$300) and not more than one thousand dollars (\$1,000) and the fine and imprisonment shall not be suspended, deferred or taken under advisement. No other disposition by plea of guilty to any other charge in satisfaction of a charge under this section shall be authorized if the person's privilege to drive was revoked for driving under the influence of intoxicating liquor or drugs or a violation of the Implied Consent Act. Any municipal ordinance prohibiting driving with a revoked license shall provide penalties no less stringent than provided in this section.

C. In addition to any other penalties imposed pursuant to this section, when a person is convicted pursuant to the provisions of this section or a municipal ordinance that prohibits driving on a revoked license, the motor vehicle the person was driving shall be immobilized by an immobilization device for thirty days, unless immobilization of the motor vehicle poses an imminent danger to the health, safety or employment of the convicted person's immediate family or the family of the owner of the motor vehicle. The convicted person shall bear the cost of immobilizing the motor vehicle.

D. The division, upon receiving a record of the conviction of any person under this section, shall not issue a new license for an additional period of one year from the date the person would otherwise have been entitled to apply for a new license."

## **Chapter 163 Section 4 Laws 2013**

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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Senate Bill 37

Approved April 4, 2013

## **LAWS 2013, CHAPTER 164**

AN ACT

RELATING TO MUNICIPAL PROCUREMENT; ENACTING A NEW SECTION OF THE PROCUREMENT CODE THAT AUTHORIZES MUNICIPALITIES TO CONTRACT DIRECTLY WITH WATER STORAGE TANK SERVICE PROVIDERS.

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

### **Chapter 164 Section 1 Laws 2013**

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

"WATER STORAGE TANK SERVICE CONTRACTS.--A municipality may, by direct negotiation subsequent to receiving responses to requests for proposals, enter into a multiyear service contract for the engineering, repair and maintenance of a water storage tank and the appurtenant facilities owned, controlled or operated by the municipality; provided that the contract for services includes provisions that:

A. provide that the municipality is not required to make total payments in a single year that exceed the water utility charges received by the municipality for that year;

B. require that the work be performed under the review of a professional engineer licensed in New Mexico who certifies that the work will be performed in compliance with all applicable codes and engineering standards; and

C. provide that if, on the date of commencement of the contract, the water storage tank or appurtenant facilities require engineering, repair or service in order to bring the tank or facilities into compliance with federal, state or local requirements, the party contracting with the municipality shall provide the engineering, repair or service and that the cost of the work necessary to ensure such compliance shall be itemized separately and charged to the municipality in payments spread over a period of not less than three years from the date of commencement of the contract."

## **Chapter 164 Section 2 Laws 2013**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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SFL/Senate Bill 93

Approved April 4, 2013

## **LAWS 2013, CHAPTER 165**

AN ACT

RELATING TO COMMUNITY CORRECTIONS; ELIMINATING THE STATE SELECTION PANEL AND THE LOCAL SELECTION PANEL; MODIFYING THE APPLICATION REVIEW PANEL; CLARIFYING PROVISIONS IN THE ADULT COMMUNITY CORRECTIONS ACT.

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

## **Chapter 165 Section 1 Laws 2013**

SECTION 1. Section 33-9-5 NMSA 1978 (being Laws 1983, Chapter 202, Section 5, as amended) is amended to read:

"33-9-5. CRITERIA FOR APPLICATIONS.--

A. Counties, municipalities or private organizations, individually or jointly, may apply for grants from the fund, including grants for counties or municipalities to purchase contractual services from private organizations, provided that:

(1) the application is for funding a program with priority use being for criminal offenders;

(2) the applicant certifies that it is willing and able to operate the program according to standards provided by the department;

(3) the applicant demonstrates the support of key components of the criminal justice system;

(4) the applicant, if a private organization, demonstrates the support of the county and municipality where the program will provide services;



(5) the applicant certifies that it will utilize volunteer services as an integral portion of the program to the maximum extent feasible; and

(6) no class A county as defined in Section 4-44-1 NMSA 1978, alone or in conjunction with any municipality within a class A county, shall receive more than forty-nine percent of any money appropriated to the fund.

B. The department may use the fund to place individuals eligible for probation or parole in community-based settings. The department may also use the fund to place criminal offenders within twelve months of eligibility for parole in community-based settings; provided that the criminal offender has never been convicted of a felony offense involving the use of a firearm. The adult parole board may, in its discretion, require participation by a criminal offender in a program as a condition of parole pursuant to the provisions of Section 31-21-10 NMSA 1978.

C. The department may authorize use of the fund for adults who are not criminal offenders with prior department approval, if the priority use does not result in full use of the fund or the capacity of a program, or the department may authorize additional programs or additional funding for existing programs.

D. The department may contract directly for programs, including programs for New Mexico Indian tribes and pueblos for diversion of state law offenders, and may establish and operate adult community corrections programs.

E. The department shall establish additional guidelines for allocation of funds under the Adult Community Corrections Act."

## **Chapter 165 Section 2 Laws 2013**

SECTION 2. Section 33-9-6 NMSA 1978 (being Laws 1983, Chapter 202, Section 6, as amended) is amended to read:

"33-9-6. APPLICATION REVIEW PANEL.--The department shall establish a panel to review all applications for grants under the Adult Community Corrections Act. The panel shall make recommendations to the secretary of corrections regarding each application."

## **Chapter 165 Section 3 Laws 2013**

SECTION 3. Section 33-9-9 NMSA 1978 (being Laws 1983, Chapter 202, Section 9, as amended) is amended to read:

"33-9-9. SENTENCING--PLACEMENT OF OFFENDER.--

A. In every case where the commitment of a person to the department is contemplated by a sentencing judge and the offender meets criteria for placement in

community corrections, the adult probation and parole division of the department shall, at the request of the judge, prepare a report containing a recommendation regarding a community corrections placement or complete a diagnostic evaluation containing the recommendation of the department regarding that placement, including a statement that the criminal offender has been approved for a program. The sentencing judge shall consider the report or evaluation prior to making the commitment.

B. At a sentencing hearing, if a judge of a court of competent jurisdiction determines that placement in community corrections is appropriate, the judge shall defer or suspend the sentence and, as a condition of probation, require an individual to serve a period of time in a community corrections program."

### **Chapter 165 Section 4 Laws 2013**

SECTION 4. REPEAL.--Sections 33-9-7 and 33-9-8 NMSA 1978 (being Laws 1983, Chapter 202, Sections 7 and 8, as amended) are repealed.

### **Chapter 165 Section 5 Laws 2013**

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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Senate Bill 145, aa

Approved April 4, 2013

## **LAWS 2013, CHAPTER 166**

AN ACT

RELATING TO STATE AGENCIES; CHANGING AND REPEALING THE SUNSET DATES OF CERTAIN BOARDS AND COMMISSIONS.

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

### **Chapter 166 Section 1 Laws 2013**

SECTION 1. Section 61-13-1 NMSA 1978 (being Laws 1970, Chapter 61, Section 1) is amended to read:

"61-13-1. SHORT TITLE.--Chapter 61, Article 13 NMSA 1978 may be cited as the "Nursing Home Administrators Act"."

## **Chapter 166 Section 2 Laws 2013**

SECTION 2. Section 61-13-17 NMSA 1978 (being Laws 1978, Chapter 206, Section 1, as amended) is amended to read:

"61-13-17. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board of nursing home administrators is terminated on July 1, 2019 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of Chapter 61, Article 13 NMSA 1978 until July 1, 2020. Effective July 1, 2020, Chapter 61, Article 13 NMSA 1978 is repealed."

## **Chapter 166 Section 3 Laws 2013**

SECTION 3. Section 61-17A-1 NMSA 1978 (being Laws 1993, Chapter 171, Section 1) is amended to read:

"61-17A-1. SHORT TITLE.--Chapter 61, Article 17A NMSA 1978 may be cited as the "Barbers and Cosmetologists Act"."

## **Chapter 166 Section 4 Laws 2013**

SECTION 4. Section 61-17A-25 NMSA 1978 (being Laws 1993, Chapter 171, Section 27, as amended) is amended to read:

"61-17A-25. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board of barbers and cosmetologists is terminated on July 1, 2019 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Barbers and Cosmetologists Act until July 1, 2020. Effective July 1, 2020, the Barbers and Cosmetologists Act is repealed."

## **Chapter 166 Section 5 Laws 2013**

SECTION 5. Section 61-24B-17 NMSA 1978 (being Laws 1985, Chapter 151, Section 18, as amended) is amended to read:

"61-24B-17. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board of landscape architects is terminated on July 1, 2019 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Landscape Architects Act until July 1, 2020. Effective July 1, 2020, the Landscape Architects Act is repealed."

## **Chapter 166 Section 6 Laws 2013**

SECTION 6. Section 61-34-1 NMSA 1978 (being Laws 2007, Chapter 248, Section 1) is amended to read:

"61-34-1. SHORT TITLE.--Chapter 61, Article 34 NMSA 1978 may be cited as the "Signed Language Interpreting Practices Act"."

### **Chapter 166 Section 7 Laws 2013**

SECTION 7. Section 69-25A-36 NMSA 1978 (being Laws 1987, Chapter 333, Section 14, as amended) is amended to read:

"69-25A-36. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The coal surface mining commission is terminated on July 1, 2019 pursuant to the Sunset Act. The commission shall continue to operate according to the provisions of the Surface Mining Act until July 1, 2020. Effective July 1, 2020, Section 69-25A-4 NMSA 1978 is repealed."

### **Chapter 166 Section 8 Laws 2013**

SECTION 8. Section 74-6-17 NMSA 1978 (being Laws 1987, Chapter 333, Section 15, as amended) is amended to read:

"74-6-17. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The water quality control commission is terminated on July 1, 2019 pursuant to the Sunset Act. The commission shall continue to operate according to the provisions of Chapter 74, Article 6 NMSA 1978 until July 1, 2020. Effective July 1, 2020, Sections 74-6-3 through 74-6-4 NMSA 1978 are repealed."

### **Chapter 166 Section 9 Laws 2013**

SECTION 9. Section 77-1B-12 NMSA 1978 (being Laws 2007, Chapter 60, Section 12, as amended) is amended to read:

"77-1B-12. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The animal sheltering board is terminated on July 1, 2019 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Animal Sheltering Act until July 1, 2020. Effective July 1, 2020, the Animal Sheltering Act is repealed."

### **Chapter 166 Section 10 Laws 2013**

SECTION 10. REPEAL.--Section 61-34-17 NMSA 1978 (being Laws 2007, Chapter 248, Section 17) is repealed.

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SFC/Senate Bill 163 & SPAC/Senate Bill 174, aa

Approved April 4, 2013

# **LAWS 2013, CHAPTER 167**

## **AN ACT**

RELATING TO REAL ESTATE BROKERS LICENSURE; AMENDING SECTIONS OF CHAPTER 61, ARTICLE 29 NMSA 1978 TO PROVIDE FOR NONRESIDENT BROKER LICENSING; INCREASING THE LIMIT ON LIABILITY INSURANCE PREMIUMS; REVISING PENALTIES FOR VIOLATION OF LICENSURE REQUIREMENTS.

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

### **Chapter 167 Section 1 Laws 2013**

SECTION 1. Section 61-29-1 NMSA 1978 (being Laws 1959, Chapter 226, Section 1, as amended) is amended to read:

"61-29-1. PROHIBITION.--It is unlawful for a person to engage in the business or act in the capacity of real estate associate broker or qualifying broker within New Mexico without a license issued by the commission. A person who engages in the business or acts in the capacity of an associate broker or a qualifying broker in New Mexico, except as otherwise provided in Section 61-29-2 NMSA 1978, with or without a New Mexico real estate broker's license, has thereby submitted to the jurisdiction of the state and to the administrative jurisdiction of the commission and is subject to all penalties and remedies available for a violation of any provision of Chapter 61, Article 29 NMSA 1978."

### **Chapter 167 Section 2 Laws 2013**

SECTION 2. 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) "brokerage" means a licensed qualifying broker and the licensed real estate business represented by the qualifying broker and its affiliated licensees;

(5) "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;

(6) "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;

(7) "commission" means the New Mexico real estate commission;

(8) "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;

(9) "license" means a qualifying broker's license or an associate broker's license issued by the commission;

(10) "licensee" means a person holding a valid qualifying broker's license or an associate broker's license subject to the jurisdiction of the commission;

(11) "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;

(12) "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

(13) "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 (11) 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; or

(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."

### **Chapter 167 Section 3 Laws 2013**

SECTION 3. Section 61-29-4.1 NMSA 1978 (being Laws 1985, Chapter 89, Section 1, as amended) is amended to read:

"61-29-4.1. ADDITIONAL POWERS OF COMMISSION--CONTINUING EDUCATION PROGRAMS--MINIMUM REQUIREMENTS.--The commission shall adopt rules providing for continuing education courses in selling, leasing or managing



residential, commercial and industrial property as well as courses in basic real estate law and practice and other courses prescribed by the commission. The regulations shall require that every licensee except licensees who were already exempted from continuing education requirements prior to July 1, 2011, as a condition of license renewal, successfully complete a minimum of thirty classroom hours of instruction every three years in courses approved by the commission. The rules may prescribe areas of specialty or expertise and may require that part of the classroom instruction be devoted to courses in the area of a licensee's specialty or expertise."

## **Chapter 167 Section 4 Laws 2013**

SECTION 4. Section 61-29-4.2 NMSA 1978 (being Laws 2001, Chapter 216, Section 1, as amended) is amended to read:

"61-29-4.2. ADDITIONAL POWERS OF THE COMMISSION--PROFESSIONAL LIABILITY INSURANCE--MINIMUM COVERAGE.--

A. In addition to the powers and duties granted to the commission pursuant to the provisions of Sections 61-29-4 and 61-29-4.1 NMSA 1978, the commission may adopt rules that require professional liability insurance coverage and may establish the minimum terms and conditions of coverage, including limits of coverage and permitted exceptions. If adopted by the commission, the rules shall require every applicant for an active license and licensee who applies for renewal of an active license to provide the commission with satisfactory evidence that the applicant or licensee has professional liability insurance coverage that meets the minimum terms and conditions required by commission rule.

B. The commission is authorized to solicit sealed, competitive proposals from insurance carriers to provide a group professional liability insurance policy that complies with the terms and conditions established by commission rule. The commission may approve one or more policies that comply with the commission rules; provided that the maximum annual premium shall not exceed five hundred dollars (\$500) for a licensee, that the minimum coverage shall not be less than one hundred thousand dollars (\$100,000) for an individual claim and not less than a five-hundred-thousand-dollar (\$500,000) aggregate limit per policy and that the deductible shall not be greater than one thousand dollars (\$1,000).

C. Rules adopted by the commission shall permit an active licensee to satisfy any requirement for professional liability insurance coverage by purchasing an individual policy.

D. Rules adopted by the commission shall provide that there shall not be a requirement for a licensee to have professional liability insurance coverage during a period when a group policy, as provided in Subsection B of this section, is not in effect."

## **Chapter 167 Section 5 Laws 2013**

SECTION 5. 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 be a legal resident of the United States and 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.

D. The commission shall require the information it deems necessary from every applicant to determine that applicant's honesty, trustworthiness and competency."

**Chapter 167 Section 6 Laws 2013**

SECTION 6. Section 61-29-11 NMSA 1978 (being Laws 1959, Chapter 226, Section 10, as amended) is amended to read:

"61-29-11. ISSUANCE, RENEWAL AND SURRENDER OF LICENSES.--

A. The commission shall issue to each qualified applicant a license in the form and size prescribed by the commission.

B. The license shall show the name and address of the licensee. An associate broker's license shall show the name of the qualifying broker by whom the associate broker is engaged. The commission shall deliver or mail the license of the associate broker to the qualifying broker by whom the associate broker is engaged, and the qualifying broker shall display the license at the brokerage from which the associate broker will be conducting real estate business on behalf of the brokerage. The license of the associate broker shall remain in the custody and control of the qualifying broker as long as the associate broker is engaged by that qualifying broker.

C. Any qualifying broker's or associate broker's license suspended or revoked by an order, stipulated agreement or settlement agreement approved by the commission shall be surrendered to the commission by the broker upon the delivery of the order to the broker by the commission, or on the effective date of the order. All real-estate-related activity conducted under such license shall cease for the duration of the license suspension or revocation, and any associate broker licenses hanging with a qualifying broker whose license is suspended or revoked shall be automatically placed on inactive status until a new qualifying broker or a qualifying broker in charge is designated.

D. Every license shall be renewed every three years on or before the last day of the month following the licensee's month of birth. Upon written request for renewal by the licensee, the commission shall certify renewal of a license if there is no reason or condition that might warrant the refusal of the renewal of a license. The licensee shall provide proof of compliance with continuing education requirements and pay the renewal fee. If a licensee has not made application for renewal of license, furnished proof of compliance with continuing education requirements and paid the renewal fee by the license renewal date, the license shall expire. The commission may require a person whose license has expired to apply for a license as if the person had not been previously licensed under Chapter 61, Article 29 NMSA 1978 and further require that the person be reexamined. The commission shall require a person whose license has expired to pay when the person applies for a license, in addition to any other fee, a late fee. If during a period of one year from the date the license expires the person or the person's spouse is either absent from this state on active duty military service or the person is suffering from an illness or injury of such severity that the person is physically or mentally incapable of making application for a license, payment of the late fee and reexamination shall not be required by the commission if, within three months of the person's permanent return to this state or sufficient recovery from illness or injury to allow the person to make an application, the person makes application to the

commission for a license. A copy of that person's or that person's spouse's military orders or a certificate from the applicant's physician shall accompany the application. A person excused by reason of active duty military service, illness or injury as provided for in this subsection may make application for a license without imposition of the late fee. All fees collected pursuant to this subsection shall be disposed of in accordance with the provisions of Section 61-29-8 NMSA 1978. The revocation of a qualifying broker's license automatically suspends every associate broker's license granted to any person by virtue of association with the qualifying broker whose license has been revoked, pending a change of qualifying broker. Upon the naming of a new qualifying broker, the suspended license shall be reactivated without charge if granted during the three-year renewal cycle.

E. A qualifying broker shall conduct brokerage business under the trade name and from the brokerage address registered with the commission. Every brokerage shall have a qualifying broker in charge. The license of the qualifying broker and each associate broker associated with that qualifying broker shall be prominently displayed in each brokerage office. The address of the office shall be designated in the qualifying broker's license, and a license issued shall not authorize the licensee to transact real estate business at any other address. In case of removal from the designated address, the licensee shall make application to the commission before the removal or within ten days thereafter, designating the new location of the licensee's office and paying the required fee, whereupon the commission shall issue a license for the new location if the new location complies with the terms of Chapter 61, Article 29 NMSA 1978. A qualifying broker shall maintain a sign at the brokerage office of such size and content as the commission prescribes.

F. When an associate broker is discharged or terminates association or employment with the qualifying broker with whom the associate broker is associated, the qualifying broker shall deliver or mail the associate broker's license to the commission within forty-eight hours. The commission shall hold the license on inactive status. It is unlawful for an associate broker to perform any of the acts authorized by Chapter 61, Article 29 NMSA 1978 either directly or indirectly under authority of an inactive license after the associate broker's association with a qualifying broker has been terminated and the associate broker's license has been returned to the commission until the appropriate fee has been paid and the license has been reissued and reactivated by the commission."

## **Chapter 167 Section 7 Laws 2013**

SECTION 7. Section 61-29-16.1 NMSA 1978 (being Laws 2005, Chapter 35, Section 15, as amended) is amended to read:

"61-29-16.1. NONRESIDENT BROKERS--CONSENT TO SERVICE--  
REFERRAL FEES.--

A. An associate broker or qualifying broker with a license application address that is not within the state of New Mexico shall file with the commission an irrevocable consent that lawsuits and actions may be commenced against the associate broker or qualifying broker in the proper court of any county of New Mexico in which a cause of action may arise or in which the plaintiff may reside, by service on the commission of any process or pleadings authorized by the laws of New Mexico, the consent stipulating and agreeing that such service of process or pleadings on the commission is as valid and binding as if personal service had been made upon the associate broker or qualifying broker in New Mexico. Service of process or pleadings shall be served in duplicate upon the commission; one shall be filed in the office of the commission and the other immediately forwarded by certified mail to the main office of the associate broker or qualifying broker against whom the process or pleadings are directed.

B. When a New Mexico associate broker or qualifying broker makes a referral to or receives a referral from a nonresident broker for the purpose of receiving a fee, commission or any other consideration, the qualifying broker of the New Mexico brokerage and the nonresident broker shall execute a written, transaction-specific referral agreement at the time of the referral."

## **Chapter 167 Section 8 Laws 2013**

SECTION 8. Section 61-29-17 NMSA 1978 (being Laws 1965, Chapter 304, Section 8, as amended) is amended to read:

"61-29-17. PENALTY--INJUNCTIVE RELIEF.--

A. Any person who engages in the business or acts in the capacity of an associate broker or a qualifying broker within New Mexico without a license issued by the commission is guilty of a fourth degree felony. Any person who violates any other provision of Chapter 61, Article 29 NMSA 1978 is guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars (\$500) or imprisonment for not more than six months, or both.

B. In the event any person has engaged or proposes to engage in any act or practice violative of a provision of Chapter 61, Article 29 NMSA 1978, the attorney general or the district attorney of the judicial district in which the person resides or the judicial district in which the violation has occurred or will occur may, upon application of the commission, maintain an action in the name of the state to prosecute the violation or to enjoin the proposed act or practice.

C. In any action brought under Subsection B of this section, if the court finds that a person is engaged or has willfully engaged in any act or practice violative of a provision of Sections 61-29-1 through 61-29-18 NMSA 1978, the attorney general or the district attorney of the judicial district in which the person resides or the judicial district in which the violation has occurred or is occurring may, upon petition to the

court, recover on behalf of the state a civil penalty not exceeding five thousand dollars (\$5,000) per violation and attorney fees and costs."

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SJC/Senate Bill 212

Approved April 4, 2013

## **LAWS 2013, CHAPTER 168**

### **AN ACT**

RELATING TO WORKERS' COMPENSATION; AMENDING SECTIONS OF THE WORKERS' COMPENSATION ACT AND A SECTION OF THE NEW MEXICO OCCUPATIONAL DISEASE AND DISABLEMENT LAW TO RAISE LIMITS FOR ATTORNEY FEES; PROVIDING FOR A PARTY WHO ACTS IN BAD FAITH IN A LEGAL ACTION TO PAY ONE HUNDRED PERCENT OF THE ADDITIONAL FEES FOR THE PREVAILING PARTY.

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

### **Chapter 168 Section 1 Laws 2013**

SECTION 1. Section 52-1-54 NMSA 1978 (being Laws 1987, Chapter 235, Section 24, as amended) is amended to read:

"52-1-54. FEE RESTRICTIONS--APPOINTMENT OF ATTORNEYS BY THE DIRECTOR OR WORKERS' COMPENSATION JUDGE--DISCOVERY COSTS--OFFER OF JUDGMENT--PENALTY FOR VIOLATIONS.--

A. It is unlawful for any person to receive or agree to receive any fees or payment directly or indirectly in connection with any claim for compensation under the Workers' Compensation Act except as provided in this section.

B. In all cases where the jurisdiction of the workers' compensation administration is invoked to approve a settlement of a compensation claim under the Workers' Compensation Act, the director or workers' compensation judge, unless the claimant is represented by an attorney, may in the director's or judge's discretion appoint an attorney to aid the workers' compensation judge in determining whether the settlement should be approved and, in the event of an appointment, a reasonable fee for the services of the attorney shall be fixed by the workers' compensation judge, subject to the limitation of Subsection I of this section.

C. In all cases where the jurisdiction of the workers' compensation administration is invoked to approve a settlement of a compensation claim under the

Workers' Compensation Act and the claimant is represented by an attorney, the total amount paid or to be paid by the employer in settlement of the claim shall be stated in the settlement papers. The workers' compensation judge shall determine and fix a reasonable fee for the claimant's attorney, taking into account any sum previously paid, and the fee fixed by the workers' compensation judge shall be the limit of the fee received or to be received by the attorney in connection with the claim, subject to the limitation of Subsection I of this section.

D. The cost of discovery shall be borne by the party who requests it. If, however, the claimant requests any discovery, the employer shall advance the cost of paying for discovery up to a limit of three thousand dollars (\$3,000). If the claimant substantially prevails on the claim, as determined by a workers' compensation judge, any discovery cost advanced by the employer shall be paid by that employer. If the claimant does not substantially prevail on the claim, as determined by a workers' compensation judge, the employer shall be reimbursed for discovery costs advanced according to a schedule for reimbursement approved by a workers' compensation judge.

E. In all cases where compensation to which any person is entitled under the provisions of the Workers' Compensation Act is refused and the claimant thereafter collects compensation through proceedings before the workers' compensation administration or courts in an amount in excess of the amount offered in writing by an employer five business days or more prior to the informal hearing before the administration, the compensation to be paid the attorney for the claimant shall be fixed by the workers' compensation judge hearing the claim or the courts upon appeal in the amount the workers' compensation judge or courts deem reasonable and proper, subject to the limitation of Subsection I of this section. In determining and fixing a reasonable fee, the workers' compensation judge or courts shall take into consideration:

(1) the sum, if any, offered by the employer:

(a) before the worker's attorney was employed;

(b) after the attorney's employment but before proceedings were commenced; and

(c) in writing five business days or more prior to the informal hearing;

(2) the present value of the award made in the worker's favor; and

(3) any failure of a party to participate in a good-faith manner in informal claim resolution methods adopted by the director.

F. After a recommended resolution has been issued and rejected, but more than ten days before a trial begins, the employer or claimant may serve upon the

opposing party an offer to allow a compensation order to be taken against the employer or claimant for the money or property or to the effect specified in the offer, with costs then accrued, subject to the following:

(1) if, within ten days after the service of the offer, the opposing party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof, and thereupon that compensation order may be entered as the workers' compensation judge may direct. An offer not accepted shall be deemed withdrawn, and evidence thereof is not admissible except in a proceeding to determine costs. If the compensation order finally obtained by the party is not more favorable than the offer, that party shall pay the costs incurred by the opposing party after the making of the offer. The fact that an offer has been made but not accepted does not preclude a subsequent offer;

(2) when the liability of one party to another has been determined by a compensation order, but the amount or extent of the liability remains to be determined by further proceedings, the party adjudged liable may make an offer, which shall have the same effect as an offer made before trial if it is served within a reasonable time not less than ten days prior to the commencement of hearings to determine the amount or extent of liability;

(3) if the employer's offer was greater than the amount awarded by the compensation order, the employer shall not be liable for the employer's fifty percent share of the attorney fees to be paid the worker's attorney and the worker shall pay one hundred percent of the attorney fees due to the worker's attorney; and

(4) if the worker's offer was less than the amount awarded by the compensation order, the employer shall pay one hundred percent of the attorney fees to be paid the worker's attorney, and the worker shall be relieved from any responsibility for paying any portion of the worker's attorney fees.

G. In all actions arising under the provisions of Section 52-1-56 NMSA 1978 where the jurisdiction of the workers' compensation administration is invoked to determine the question whether the claimant's disability has increased or diminished and the claimant is represented by an attorney, the workers' compensation judge or courts upon appeal shall determine and fix a reasonable fee for the services of the claimant's attorney only if the claimant is successful in establishing that the claimant's disability has increased or if the employer is unsuccessful in establishing that the claimant's disability has diminished. The fee when fixed by the workers' compensation judge or courts upon appeal shall be the limit of the fee received or to be received by the attorney for services in the action, subject to the limitation of Subsection I of this section.

H. In determining reasonable attorney fees for a claimant, the workers' compensation judge shall consider only those benefits to the worker that the attorney is



responsible for securing. The value of future medical benefits shall not be considered in determining attorney fees.

I. Attorney fees, including, but not limited to, the costs of paralegal services, legal clerk services and any other related legal services costs on behalf of a claimant or an employer for a single accidental injury claim, including representation before the workers' compensation administration and the courts on appeal, shall not exceed twenty-two thousand five hundred dollars (\$22,500). This limitation applies whether the claimant or employer has one or more attorneys representing the claimant or employer and applies as a cumulative limitation on compensation for all legal services rendered in all proceedings and other matters directly related to a single accidental injury to a claimant. The workers' compensation judge may exceed the maximum amount stated in this subsection in awarding a reasonable attorney fee if the judge finds that a claimant, an insurer or an employer acted in bad faith with regard to handling the injured worker's claim and the injured worker or employer has suffered economic loss as a result. However, in no case shall this additional amount exceed five thousand dollars (\$5,000). As used in this subsection, "bad faith" means conduct by the claimant, insurer or employer in the handling of a claim that amounts to fraud, malice, oppression or willful, wanton or reckless disregard of the rights of the worker or employer. Any determination of bad faith shall be made by the workers' compensation judge through a separate fact-finding proceeding. Notwithstanding the provisions of Subsection J of this section, the party found to have acted in bad faith shall pay one hundred percent of the additional fees awarded for representation of the prevailing party in a bad faith action.

J. Except as provided in Paragraphs (3) and (4) of Subsection F of this section, the payment of a claimant's attorney fees determined under this section shall be shared equally by the worker and the employer.

K. It is unlawful for any person except a licensed attorney to receive or agree to receive any fee or payment for legal services in connection with any claim for compensation under the Workers' Compensation Act.

L. Nothing in this section applies to agents, excluding attorneys, representing employers, insurance carriers or the subsequent injury fund in any matter arising from a claim under the Workers' Compensation Act.

M. No attorney fees shall be paid until the claim has been settled or adjudged.

N. Every person violating the provisions of this section is guilty of a misdemeanor and upon conviction shall be fined not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500), to which may be added imprisonment in the county jail for a term not exceeding ninety days.

O. Nothing in this section shall restrict a claimant from being represented before the workers' compensation administration by a nonattorney as long as that nonattorney receives no compensation for that representation from the claimant."

## **Chapter 168 Section 2 Laws 2013**

SECTION 2. Section 52-3-47 NMSA 1978 (being Laws 1987, Chapter 235, Section 41, as amended) is amended to read:

"52-3-47. FEE RESTRICTIONS--APPOINTMENT OF ATTORNEYS BY THE DIRECTOR OR WORKERS' COMPENSATION JUDGE--DISCOVERY COSTS--OFFER OF JUDGMENT--PENALTY FOR VIOLATIONS.--

A. It is unlawful for any person to receive or agree to receive any fees or payment directly or indirectly in connection with any claim for compensation under the New Mexico Occupational Disease Disablement Law except as provided in this section.

B. In all cases where the jurisdiction of the workers' compensation administration is invoked to approve a settlement of a compensation claim under the New Mexico Occupational Disease Disablement Law, the director or workers' compensation judge, unless the claimant is represented by an attorney, may in the director's or judge's discretion appoint an attorney to aid the workers' compensation judge in determining whether the settlement should be approved. In the event of such an appointment, a reasonable fee for the services of the attorney shall be fixed by the workers' compensation judge, subject to the limitation of Subsection I of this section.

C. In all cases where the jurisdiction of the workers' compensation administration is invoked to approve a settlement of a compensation claim under the New Mexico Occupational Disease Disablement Law and the claimant is represented by an attorney, the total amount paid or to be paid by the employer in settlement of the claim shall be stated in the settlement papers, and the workers' compensation judge shall determine and fix a reasonable fee for the claimant's attorney, taking into account any sum previously paid. The fee fixed by the workers' compensation judge shall be the limit of the fee received or to be received by the attorney in connection with the claim, subject to the limitation of Subsection I of this section.

D. The cost of discovery shall be borne by the party who requests it. If, however, the claimant requests any discovery, the employer shall advance the cost of paying for discovery up to a limit of three thousand dollars (\$3,000). If the claimant substantially prevails on the claim, as determined by a workers' compensation judge, any discovery cost advanced by the employer shall be paid by that employer. If the claimant does not substantially prevail on the claim, as determined by a workers' compensation judge, the employer shall be reimbursed for discovery costs advanced according to a schedule for reimbursement approved by a workers' compensation judge.

E. In all cases where compensation to which any person is entitled under the provisions of the New Mexico Occupational Disease Disablement Law is refused and the claimant thereafter collects compensation through proceedings before the workers' compensation administration or courts in an amount in excess of the amount offered in writing by an employer five business days or more prior to the informal hearing before the administration, the compensation to be paid the attorney for the claimant shall be fixed by the workers' compensation judge hearing the claim or the courts upon appeal in the amount the workers' compensation judge or courts deem reasonable and proper, subject to the limitation of Subsection I of this section. In determining and fixing a reasonable fee, the workers' compensation judge or courts shall take into consideration:

(1) the sum, if any, offered by the employer:

(a) before the employee's attorney was employed;

(b) after the attorney's employment but before proceedings were commenced; and

(c) in writing five business days or more prior to the informal hearing;

(2) the present value of the award made in the employee's favor; and

(3) the failure of a party to participate in a good-faith manner in informal claim resolution methods adopted by the director.

F. After a recommended resolution has been issued and rejected, but more than ten days before a trial begins, the employer or claimant may serve upon the opposing party an offer to allow a compensation order to be taken against the employer or claimant for the money or property or to the effect specified in the offer, with costs then accrued, subject to the following:

(1) if, within ten days after the service of the offer, the opposing party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof, and thereupon that compensation order may be entered as the workers' compensation judge may direct. An offer not accepted shall be deemed withdrawn, and evidence thereof is not admissible except in a proceeding to determine costs. If the compensation order finally obtained by the party is not more favorable than the offer, that party shall pay the costs incurred by the opposing party after the making of the offer. The fact that an offer has been made but not accepted does not preclude a subsequent offer;

(2) when the liability of one party to another has been determined by a compensation order, but the amount or extent of the liability remains to be

determined by further proceedings, the party adjudged liable may make an offer, which shall have the same effect as an offer made before trial if it is served within a reasonable time not less than ten days prior to the commencement of hearings to determine the amount or extent of liability;

(3) if the employer's offer was greater than the amount awarded by the compensation order, the employer shall not be liable for the employer's fifty-percent share of the attorney fees to be paid the worker's attorney and the worker shall pay one hundred percent of the attorney fees due to the worker's attorney; and

(4) if the worker's offer was less than the amount awarded by the compensation order, the employer shall pay one hundred percent of the attorney fees to be paid the worker's attorney, and the worker shall be relieved from any responsibility for paying any portion of the worker's attorney fees.

G. In all actions arising under the provisions of Section 52-3-35 NMSA 1978, where the jurisdiction of the workers' compensation administration is invoked to determine the question of whether the claimant's disablement has terminated and the claimant is represented by an attorney, the workers' compensation judge or courts upon appeal shall determine and fix a reasonable fee for the services of the claimant's attorney only if the employer is unsuccessful in establishing that the claimant's disablement has terminated. The fee when fixed by the workers' compensation judge or courts upon appeal shall be taxed as part of the costs against the employer and shall be the limit of the fee received or to be received by the attorney for services in the action, subject to the limitation of Subsection I of this section.

H. In determining reasonable attorney fees for a claimant, the workers' compensation judge shall consider only those benefits to the employee that the attorney is responsible for securing. The value of future medical benefits shall not be considered in determining attorney fees.

I. Attorney fees, including, but not limited to, the costs of paralegal services, legal clerk services and any other related legal services costs on behalf of a claimant or an employer for a single disablement claim, including representation before the workers' compensation administration and the courts on appeal, shall not exceed twenty-two thousand five hundred dollars (\$22,500). This limitation applies whether the claimant or employer has one or more attorneys representing the claimant or employer and applies as a cumulative limitation on compensation for all legal services rendered in all proceedings and other matters directly related to a single occupational disease of a claimant. The workers' compensation judge may exceed the maximum amount stated in this subsection in awarding a reasonable attorney fee if the judge finds that a claimant, an insurer or an employer acted in bad faith with regard to handling the disabled employee's claims and the employer or disabled employee has suffered economic loss as a result thereof. However, in no case shall this additional amount exceed five thousand dollars (\$5,000). As used in this subsection, "bad faith" means conduct by the claimant, insurer or employer in the handling of a claim that amounts to fraud, malice,

oppression or willful, wanton or reckless disregard of the rights of the employee or employer. Any determination of bad faith shall be made by the workers' compensation judge through a separate fact-finding proceeding. Notwithstanding the provisions of Subsection J of this section, the party found to have acted in bad faith shall pay one hundred percent of the additional fees awarded for representation of the prevailing party in a bad faith action.

J. Except as provided in Paragraphs (3) and (4) of Subsection F of this section, the payment of a claimant's attorney fees determined under this section shall be shared equally by the employee and the employer.

K. It is unlawful for any person except a licensed attorney to receive or agree to receive any fee or payment for legal services in connection with any claim for compensation under the New Mexico Occupational Disease Disablement Law.

L. Nothing in this section applies to agents, excluding attorneys, representing employers, insurance carriers or the subsequent injury fund in any matter arising from a claim under the New Mexico Occupational Disease Disablement Law.

M. No attorney fees shall be paid until the claim has been settled or adjudged.

N. Every person violating the provisions of this section is guilty of a misdemeanor and upon conviction shall be fined not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500), to which may be added imprisonment in the county jail for a term not exceeding ninety days.

O. Nothing in this section shall restrict a claimant from being represented before the workers' compensation administration by a nonattorney as long as that nonattorney receives no compensation for representation from the claimant."

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Senate Bill 233

Approved April 4, 2013

## **LAWS 2013, CHAPTER 169**

AN ACT

RELATING TO LOCAL GOVERNMENT; CHANGING PROVISIONS OF THE WATERSHED DISTRICT ACT THAT ALLOW THE REMOVAL OF LANDS FROM WATERSHED DISTRICTS OR DISCONTINUANCE OF WATERSHED DISTRICTS.

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

## **Chapter 169 Section 1 Laws 2013**

SECTION 1. Section 73-20-22 NMSA 1978 (being Laws 1957, Chapter 210, Section 21, as amended) is amended to read:

"73-20-22. DETACHING LAND.--The owner or owners of land who have not been, are not and cannot be benefited by their inclusion in the watershed district and whose lands do not contribute to the district's purposes may petition the board of supervisors to have the lands withdrawn. The petitions shall be filed with the board of supervisors and the board of directors and shall describe the lands and state the reasons why they should be withdrawn. If it is determined by the board of supervisors that the lands shall be withdrawn, the determination shall be certified to the county clerk of each county in which any portion of the lands lie. After recording, the certification shall be filed with the New Mexico department of agriculture."

## **Chapter 169 Section 2 Laws 2013**

SECTION 2. Section 73-20-23 NMSA 1978 (being Laws 1957, Chapter 210, Section 22, as amended) is amended to read:

"73-20-23. DISCONTINUANCE OF DISTRICTS.--

A. At any time after five years from the organization of a watershed district, a majority of the landowners in the district may file a petition with the board of supervisors and the board of directors requesting that the existence of the district be discontinued if all obligations of the district have been met. The petition shall state the reasons for discontinuance and demonstrate that all obligations of the district have been met.

B. After giving notice as defined in Section 73-20-8 NMSA 1978, the board of supervisors may conduct hearings on the petition as may be necessary to assist it in making a determination.

C. Within sixty days after petition is filed, a referendum shall be held under the supervision of the board of supervisors as provided in Section 73-20-14 NMSA 1978. No informalities in the conduct of the referendum or in any matters relating to the referendum shall invalidate it or its result if notice of the referendum has been given substantially as provided in Subsection B of this section.

D. If a majority of the votes cast in the referendum favor the discontinuance of the district and it is found that all obligations have been met, the board of supervisors shall make a determination that the watershed district shall be discontinued. A copy of the determination shall be certified by the clerk of the county involved for recording. After recording, the certification shall be filed with the New Mexico department of agriculture."

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Senate Bill 283

Approved April 4, 2013

## **LAWS 2013, CHAPTER 170**

AN ACT

RELATING TO HEALTH INSURANCE; ENACTING SECTIONS OF THE PUBLIC ASSISTANCE ACT, THE NEW MEXICO DRUG, DEVICE AND COSMETIC ACT, THE PHARMACY ACT, THE NEW MEXICO INSURANCE CODE, THE HEALTH MAINTENANCE ORGANIZATION LAW AND THE NONPROFIT HEALTH CARE PLAN LAW TO REQUIRE CERTAIN PROCEDURES FOR REVIEW OF PRIOR AUTHORIZATIONS FOR PRESCRIPTION DRUG COVERAGE.

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

### **Chapter 170 Section 1 Laws 2013**

SECTION 1. A new section of the Public Assistance Act is enacted to read:

"MEDICAL ASSISTANCE--PRESCRIPTION DRUGS--PRIOR AUTHORIZATION REQUEST FORM--PRIOR AUTHORIZATION PROTOCOLS.--

A. Beginning January 1, 2014, the department shall require its medicaid contractors to accept the uniform prior authorization form developed pursuant to Sections 2 and 3 of this 2013 act. The department shall require its medicaid contractors to accept the uniform prior authorization form as sufficient to request prior authorization for prescription drug benefits on behalf of recipients.

B. The department shall require its medicaid contractors to respond within three business days upon receipt of a uniform prior authorization form. The department shall require each of its medicaid contractors to deem a prior authorization as having been granted if the contractor has failed to respond to the prior authorization request within three business days."

### **Chapter 170 Section 2 Laws 2013**

SECTION 2. A new section of the New Mexico Insurance Code is enacted to read:

"PRIOR AUTHORIZATION REQUEST FORM--DEVELOPMENT.--

A. On or before January 1, 2014, the division shall jointly develop with the board of pharmacy a uniform prior authorization form that, notwithstanding any other provision of law, a prescribing practitioner in the state shall use to request prior authorization for coverage of prescription drugs. The uniform prior authorization form shall:

(1) not exceed two pages;

(2) be made electronically available on the web site of the division and on the web site of each health insurer, health care plan or health maintenance organization that uses the form;

(3) be developed with input received from interested parties pursuant to at least one public meeting; and

(4) take into consideration the following:

(a) any existing prior authorization forms that the federal centers for medicare and medicaid services or the human services department has developed; and

(b) any national standards pertaining to electronic prior authorization for prescription drugs.

B. As used in this section, "prescribing practitioner" means a person that is licensed or certified to prescribe and administer drugs that are subject to the New Mexico Drug, Device and Cosmetic Act."

### **Chapter 170 Section 3 Laws 2013**

SECTION 3. A new section of the Pharmacy Act is enacted to read:

"PRIOR AUTHORIZATION REQUEST FORM--DEVELOPMENT.--

A. On or before January 1, 2014, the board shall jointly develop with the insurance division of the public regulation commission a uniform prior authorization form that, notwithstanding any other provision of law, a prescribing practitioner in the state shall use to request prior authorization for coverage of prescription drugs. The uniform prior authorization form shall:

(1) not exceed two pages;

(2) be made electronically available on the web site of the insurance division and on the web site of each health insurer, plan or health maintenance organization that uses the form;



(3) be developed with input received from interested parties pursuant to at least one public meeting; and

(4) take into consideration the following:

(a) any existing prior authorization forms that the federal centers for medicare and medicaid services or the human services department has developed; and

(b) any national standards pertaining to electronic prior authorization for prescription drugs.

B. As used in this section, "prescribing practitioner" means a person that is licensed or certified to prescribe and administer drugs that are subject to the New Mexico Drug, Device and Cosmetic Act."

## **Chapter 170 Section 4 Laws 2013**

SECTION 4. A new section of the New Mexico Drug, Device and Cosmetic Act is enacted to read:

### **"PRESCRIPTION DRUG PRIOR AUTHORIZATION PROTOCOLS.--**

A. After January 1, 2014, a prescribing practitioner seeking prior authorization from a health insurer may use the uniform prior authorization form developed pursuant to Sections 2 and 3 of this 2013 act.

B. As used in this section:

(1) "health insurer" means a health insurer; a nonprofit health service provider; a health maintenance organization; a managed care organization; or a provider service organization. "Health insurer" does not include:

(a) a person that delivers, issues for delivery or renews an individual policy intended to supplement major medical group-type coverages such as medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or other limited-benefit health insurance policy;

(b) a physician or a physician group to which a health insurer has delegated financial risk for prescription drugs and that does not use a prior authorization process for prescription drugs; or

(c) a health insurer or its affiliated providers if the health insurer owns and operates its pharmacies and does not use a prior authorization process for prescription drugs; and

(2) "prescribing practitioner" means a person that is licensed or certified to prescribe and administer drugs that are subject to the New Mexico Drug, Device and Cosmetic Act."

## **Chapter 170 Section 5 Laws 2013**

SECTION 5. A new section of Chapter 59A, Article 22 NMSA 1978 is enacted to read:

### **"PRESCRIPTION DRUG PRIOR AUTHORIZATION PROTOCOLS.--**

A. After January 1, 2014, a health insurer shall accept the uniform prior authorization form developed pursuant to Sections 2 and 3 of this 2013 act as sufficient to request prior authorization for prescription drug benefits.

B. No later than twenty-four months after the adoption of national standards for electronic prior authorization, a health insurer shall exchange prior authorization requests with providers who have e-prescribing capability.

C. If a health insurer fails to use or accept the uniform prior authorization form or fails to respond within three business days upon receipt of a uniform prior authorization form, the prior authorization request shall be deemed to have been granted.

D. As used in this section, "health insurer":

(1) means:

- (a) a health insurer;
- (b) a nonprofit health service provider;
- (c) a health maintenance organization;
- (d) a managed care organization; or
- (e) a provider service organization; and

(2) does not include:

(a) a person that delivers, issues for delivery or renews an individual policy intended to supplement major medical group-type coverages such as medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or other limited-benefit health insurance policy;

(b) a physician or a physician group to which a health insurer has delegated financial risk for prescription drugs and that does not use a prior authorization process for prescription drugs; or

(c) a health insurer or its affiliated providers if the health insurer owns and operates its pharmacies and does not use a prior authorization process for prescription drugs."

## **Chapter 170 Section 6 Laws 2013**

SECTION 6. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

### **"PRESCRIPTION DRUG PRIOR AUTHORIZATION PROTOCOLS.--**

A. After January 1, 2014, an insurer shall accept the uniform prior authorization form developed pursuant to Sections 2 and 3 of this 2013 act as sufficient to request prior authorization for prescription drug benefits.

B. No later than twenty-four months after the adoption of national standards for electronic prior authorization, a health insurer shall exchange prior authorization requests with providers who have e-prescribing capability.

C. If an insurer fails to use or accept the uniform prior authorization form or fails to respond within three business days upon receipt of a uniform prior authorization form, the prior authorization request shall be deemed to have been granted.

D. As used in this section, "insurer":

(1) means:

(a) an insurer;

(b) a nonprofit health service provider;

(c) a health maintenance organization;

(d) a managed care organization; or

(e) a provider service organization; and

(2) does not include:

(a) a person that delivers, issues for delivery or renews an individual policy intended to supplement major medical group-type coverages such as

medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or other limited-benefit health insurance policy;

(b) a physician or a physician group to which a health insurer has delegated financial risk for prescription drugs and that does not use a prior authorization process for prescription drugs; or

(c) an insurer or its affiliated providers, if the insurer owns and operates its pharmacies and does not use a prior authorization process for prescription drugs."

## **Chapter 170 Section 7 Laws 2013**

SECTION 7. A new section of the Health Maintenance Organization Law is enacted to read:

### **"PRESCRIPTION DRUG PRIOR AUTHORIZATION PROTOCOLS.--**

A. After January 1, 2014, a health maintenance organization shall accept the uniform prior authorization form developed pursuant to Sections 2 and 3 of this 2013 act as sufficient to request prior authorization for prescription drug benefits.

B. No later than twenty-four months after the adoption of national standards for electronic prior authorization, a health insurer shall exchange prior authorization requests with providers who have e-prescribing capability.

C. If a health maintenance organization fails to use or accept the uniform prior authorization form or fails to respond within three business days upon receipt of a uniform prior authorization form, the prior authorization request shall be deemed to have been granted.

D. As used in this section, "health maintenance organization":

(1) means:

(a) a health maintenance organization; or

(b) a managed care organization; and

(2) does not include:

(a) a person that delivers, issues for delivery or renews an individual policy intended to supplement major medical group-type coverages such as medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or other limited-benefit health insurance policy;

(b) a physician or a physician group to which a health maintenance organization has delegated financial risk for prescription drugs and that does not use a prior authorization process for prescription drugs; or

(c) a health maintenance organization or its affiliated providers if the health maintenance organization owns and operates its pharmacies and does not use a prior authorization process."

## **Chapter 170 Section 8 Laws 2013**

SECTION 8. A new section of the Nonprofit Health Care Plan Law is enacted to read:

### **"PRESCRIPTION DRUG PRIOR AUTHORIZATION PROTOCOLS.--**

A. After January 1, 2014, a health care plan shall accept the uniform prior authorization form developed pursuant to Sections 2 and 3 of this 2013 act as sufficient to request prior authorization for prescription drug benefits.

B. No later than twenty-four months after the adoption of national standards for electronic prior authorization, a health insurer shall exchange prior authorization requests with providers who have e-prescribing capability.

C. If a health care plan fails to use or accept the uniform prior authorization form or fails to respond within three business days upon receipt of a uniform prior authorization form, the prior authorization request shall be deemed to have been granted.

D. As used in this section, "health care plan" means a nonprofit corporation authorized by the superintendent to enter into contracts with subscribers and to make health care expense payments but does not include:

(1) a person that only issues a limited-benefit policy intended to supplement major medical coverage, including medicare supplement, vision, dental, disease-specific, accident-only or hospital indemnity-only insurance policies, or that only issues policies for long-term care or disability income;

(2) a physician or a physician group to which a health care plan has delegated financial risk for prescription drugs and that does not use a prior authorization process for prescription drugs; or

(3) a health care plan or its affiliated providers, if the health care plan owns and operates its pharmacies and does not use a prior authorization process."

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Senate Bill 296, aa

Approved April 4, 2013

## **LAWS 2013, CHAPTER 171**

AN ACT

RELATING TO HIGHER EDUCATION; INCREASING THE FAMILY INCOME FOR ELIGIBILITY FOR THE NEW MEXICO SCHOLARS ACT SCHOLARSHIPS.

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

### **Chapter 171 Section 1 Laws 2013**

SECTION 1. Section 21-21H-1 NMSA 1978 (being Laws 1989, Chapter 212, Section 1) is amended to read:

"21-21H-1. SHORT TITLE.--Chapter 21, Article 21H NMSA 1978 may be cited as the "New Mexico Scholars Act"."

### **Chapter 171 Section 2 Laws 2013**

SECTION 2. Section 21-21H-3 NMSA 1978 (being Laws 1989, Chapter 212, Section 3) is amended to read:

"21-21H-3. DEFINITIONS.--As used in the New Mexico Scholars Act:

A. "academic year" means any consecutive period of two semesters, three quarters or other comparable units commencing with the fall term each year;

B. "award recipient" means a student awarded a New Mexico Scholars Act scholarship;

C. "department" means the higher education department;

D. "eligible institution" means any degree-granting educational institution in New Mexico accredited by the north central association of colleges and secondary schools;

E. "satisfactory academic progress" means completion of at least twenty-four credit hours per year and maintenance of a cumulative grade point average of a minimum of 3.0 or higher on a scale of 4.0; and

F. "scholarship" means a scholarship awarded pursuant to the New Mexico Scholars Act."

### **Chapter 171 Section 3 Laws 2013**

SECTION 3. Section 21-21H-4 NMSA 1978 (being Laws 1989, Chapter 212, Section 4) is amended to read:

"21-21H-4. CREATION OF SCHOLARSHIP.--There are established "New Mexico Scholars Act scholarships" administered by the department."

### **Chapter 171 Section 4 Laws 2013**

SECTION 4. Section 21-21H-5 NMSA 1978 (being Laws 1989, Chapter 212, Section 5, as amended) is amended to read:

"21-21H-5. CONDITIONS FOR FIRST YEAR ELIGIBILITY.--A scholarship may be awarded to a New Mexico high school graduate who:

- A. is a resident of New Mexico as determined by the definition of residency for tuition purposes as established by the department;
- B. will graduate or has graduated from a New Mexico high school and who enrolls in an eligible institution by the end of the graduate's twenty-first birthday;
- C. has met the admission requirements and is accepted for enrollment as a full-time undergraduate student at an eligible institution;
- D. has maintained a level of performance in high school reflected by an overall score of at least twenty-five on the American college test or SAT equivalent or a high school class rank in the top five percent of the student's high school graduating class in either the student's junior or senior year;
- E. has a total combined family income of no more than sixty thousand dollars (\$60,000) per year adjusted annually on January 1 to reflect any change from the previous year's then-current consumer price index for all urban consumers published by the bureau of labor statistics of the United States department of labor in either of the calendar years ending within the student's junior or senior years in high school or in the case of a student whose immediate family has more than one family member enrolled full time in an eligible institution of post-secondary education, a total combined family income of no more than an amount as determined by the department to be equivalent to a sixty-thousand dollar (\$60,000) total combined family income;
- F. has complied with all the rules adopted by the department for award of the scholarship and the provisions regarding the administration of scholarships adopted pursuant to the New Mexico Scholars Act; and

G. is a citizen of the United States or has a permanent resident visa."

### **Chapter 171 Section 5 Laws 2013**

SECTION 5. Section 21-21H-8 NMSA 1978 (being Laws 1989, Chapter 212, Section 8, as amended) is amended to read:

"21-21H-8. TERMINATION OF SCHOLARSHIPS.--A scholarship is terminated upon the substantial noncompliance by the award recipient with the New Mexico Scholars Act or the rules promulgated by the department pursuant to that act."

### **Chapter 171 Section 6 Laws 2013**

SECTION 6. Section 21-21H-9 NMSA 1978 (being Laws 1989, Chapter 212, Section 9, as amended) is amended to read:

"21-21H-9. RULES.--The department may adopt such rules as necessary or appropriate to implement the provisions of the New Mexico Scholars Act. A financial aid officer may exercise professional judgment when special circumstances exist to adjust the cost of attendance or the expected family contribution or to modify other factors that make the program responsive to a student's special financial circumstances and for which documentation exists in the student's file within the parameters authorized for this program."

### **Chapter 171 Section 7 Laws 2013**

SECTION 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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Senate Bill 301

Approved April 4, 2013

## **LAWS 2013, CHAPTER 172**

AN ACT

RELATING TO MOTOR VEHICLES; ELIMINATING CERTAIN EXCEPTIONS TO THE PROHIBITION AGAINST OPEN CONTAINERS OF ALCOHOLIC BEVERAGES IN A MOTOR VEHICLE.

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



## Chapter 172 Section 1 Laws 2013

SECTION 1. Section 66-8-138 NMSA 1978 (being Laws 1989, Chapter 316, Section 2, as amended by Laws 2001, Chapter 28, Section 1 and also by Laws 2001, Chapter 120, Section 1) is amended to read:

"66-8-138. CONSUMPTION OR POSSESSION OF ALCOHOLIC BEVERAGES IN OPEN CONTAINERS IN A MOTOR VEHICLE PROHIBITED--EXCEPTIONS.--

A. No person shall knowingly drink any alcoholic beverage while in a motor vehicle upon any public highway within this state.

B. No person shall knowingly have in the person's possession on the person's body, while in a motor vehicle upon any public highway within this state, any bottle, can or other receptacle containing any alcoholic beverage that has been opened or had its seal broken or the contents of which have been partially removed.

C. It is unlawful for the registered owner of any motor vehicle to knowingly keep or allow to be kept in a motor vehicle, when the vehicle is upon any public highway within this state, any bottle, can or other receptacle containing any alcoholic beverage that has been opened or had its seal broken or the contents of which have been partially removed, unless the container is kept in:

(1) the trunk of the vehicle or in some other area of the vehicle not normally occupied by the driver or passengers if the vehicle is not equipped with a trunk. A utility or glove compartment shall be deemed to be within the area occupied by the driver and passengers;

(2) the living quarters of a motor home or recreational vehicle;

(3) a truck camper; or

(4) the bed of a pick-up truck when the bed is not occupied by passengers.

D. This section does not apply to any passenger in a bus, taxicab or limousine for hire licensed to transport passengers pursuant to the Motor Carrier Act or proper legal authority."

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Senate Bill 345

Approved April 4, 2013

**LAWS 2013, CHAPTER 173**

## AN ACT

RELATING TO WATER; REQUIRING SUBDIVIDERS TO PROVE ADEQUATE WATER SUPPLIES ON LAND FROM WHICH IRRIGATION WATER RIGHTS HAVE BEEN SEVERED BEFORE FINAL PLAT APPROVAL OF A PROPOSED SUBDIVISION; DECLARING AN EMERGENCY.

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

### **Chapter 173 Section 1 Laws 2013**

SECTION 1. A new section of Chapter 3, Article 20 NMSA 1978 is enacted to read:

"PLAT APPROVAL--PROOF OF ADEQUATE WATER SUPPLY ON LANDS FROM WHICH IRRIGATION WATER RIGHTS HAVE BEEN SEVERED.--

A. Before approving the final plat for a subdivision of land from which irrigation water rights appurtenant to the land have been severed, the appropriate approval authority shall require that the subdivider provide proof of a service commitment from a water provider and an opinion from the state engineer that the subdivider can fulfill the requirements of Paragraph (1) of Subsection F of Section 47-6-11 NMSA 1978 or acquire sufficient water rights through a permit issued pursuant to Section 72-5-1, 72-5-23, 72-5-24, 72-12-3 or 72-12-7 NMSA 1978 for subdivision water use. In acting on the permit application, the state engineer shall determine whether the amount of water permitted is sufficient in quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses. A final plat shall not be approved unless the state engineer has so issued a permit for the subdivision water use or the subdivider has provided proof of a service commitment from a water provider and the state engineer has provided an opinion that the subdivider can fulfill the requirements of Paragraph (1) of Subsection F of Section 47-6-11 NMSA 1978. The appropriate approval authority shall not approve the final plat based on the use of water from any permit issued pursuant to Section 72-12-1.1 NMSA 1978.

B. The provisions of this section shall only apply to land from which irrigation water rights that are appurtenant to that land are severed after the effective date of this section."

### **Chapter 173 Section 2 Laws 2013**

SECTION 2. A new section of the New Mexico Subdivision Act is enacted to read:

"PLAT APPROVAL--PROOF OF ADEQUATE WATER SUPPLY ON LANDS FROM WHICH IRRIGATION WATER RIGHTS HAVE BEEN SEVERED.--

A. Before approving the final plat for a subdivision of land from which irrigation water rights appurtenant to the land have been severed, the board of county commissioners shall require that the subdivider provide proof of a service commitment from a water provider and an opinion from the state engineer that the subdivider can fulfill the requirements of Paragraph (1) of Subsection F of Section 47-6-11 NMSA 1978 or acquire sufficient water rights through a permit issued pursuant to Section 72-5-1, 72-5-23, 72-5-24, 72-12-3 or 72-12-7 NMSA 1978 for subdivision water use. In acting on the permit application, the state engineer shall determine whether the amount of water permitted is sufficient in quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses. The board of county commissioners shall not approve the final plat unless the state engineer has so issued a permit for the subdivision water use or the subdivider has provided proof of a service commitment from a water provider and the state engineer has provided an opinion that the subdivider can fulfill the requirements of Paragraph (1) of Subsection F of Section 47-6-11 NMSA 1978. The board of county commissioners shall not approve the final plat based on the use of water from any permit issued pursuant to Section 72-12-1.1 NMSA 1978.

B. The provisions of this section shall only apply to land from which irrigation water rights that are appurtenant to that land are severed after the effective date of this section."

## **Chapter 173 Section 3 Laws 2013**

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

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SJC/SCONC/Senate Bill 479, aa, w/ec

Approved April 4, 2013

## **LAWS 2013, CHAPTER 174**

AN ACT

RELATING TO PUBLIC BUILDINGS; AMENDING THE PROPERTY CONTROL RESERVE FUND TO INCLUDE FUNDING FOR RENOVATING AND PLANS FOR RENOVATING OR CONSTRUCTING STATE OFFICE BUILDINGS; REMOVING THE RESTRICTION THAT FUNDING BE LIMITED TO BUILDINGS AND LAND IN SANTA FE; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

## **Chapter 174 Section 1 Laws 2013**

SECTION 1. Section 15-3B-20 NMSA 1978 (being Laws 1998, Chapter 58, Section 1, as amended) is amended to read:

"15-3B-20. PROPERTY CONTROL RESERVE FUND--CREATED--PURPOSE.-- The "property control reserve fund" is created in the state treasury. The purpose of the fund is to provide a reserve account from which the division can purchase, construct or renovate or plan for the construction or renovation of state office buildings, in particular to alleviate the state's reliance on leased office space. The fund shall consist of appropriations, money from the sale of real property under the jurisdiction of the division, gifts, grants, donations, bequests and income from investment of the fund. Money in the fund shall not revert to the general fund at the end of any fiscal year. The division shall administer the fund subject to appropriation by the legislature. The legislature shall appropriate money in the fund to the division to purchase or acquire land and purchase, construct or renovate or plan for the construction or renovation of state office buildings in accordance with the state's four-year major capital improvements plan. Disbursements from the fund shall be made on warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the director or the director's authorized representative."

## **Chapter 174 Section 2 Laws 2013**

SECTION 2. APPROPRIATION.--Two million three hundred thousand dollars (\$2,300,000) is appropriated from the property control reserve fund to the property control division of the general services department for expenditure in fiscal year 2013 and subsequent fiscal years for the purchase and renovation and plans for the renovation of a state office building and appurtenant land in Bernalillo county. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the property control reserve fund.

## **Chapter 174 Section 3 Laws 2013**

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

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Senate Bill 572, w/ec

Approved April 4, 2013

# **LAWS 2013, CHAPTER 175**

AN ACT

RELATING TO PUBLIC SCHOOLS; CHANGING ELIGIBILITY AND TESTING REQUIREMENTS FOR THE K-3 PLUS PROGRAM; USING TENTH-DAY ENROLLMENT DATA FOR FUNDING; CLARIFYING NOTICE OF APPLICATION DEADLINES; DECLARING AN EMERGENCY.

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

## **Chapter 175 Section 1 Laws 2013**

SECTION 1. Section 22-13-28 NMSA 1978 (being Laws 2007, Chapter 12, Section 1, as amended) is amended to read:

"22-13-28. K-3 PLUS--ELIGIBILITY--APPLICATION--REPORTING AND EVALUATION.--

A. The six-year K-3 plus pilot project has demonstrated that increased time in kindergarten and the early grades narrows the achievement gap between disadvantaged students and other students and increases cognitive skills and leads to higher test scores for all participants.

B. The "K-3 plus" program is created in the department to provide funding for additional educational time for disadvantaged students in kindergarten through third grade. K-3 plus shall be administered by the department and shall provide the funding for approved full-day kindergarten and grades one through three to be extended by at least twenty-five instructional days, beginning up to two months earlier than the regular school years.

C. K-3 plus shall be conducted in high-poverty public schools. For the purposes of K-3 plus, "high-poverty public school" means a public school in which eighty percent or more of the students are eligible for free or reduced-fee lunch at the time the public school applies for the program or an elementary school with a D or F grade the previous year.

D. The department shall promulgate rules for application requirements and procedures and criteria for evaluating applications. In evaluating applications for K-3 plus, the department shall grant priority to those schools with research-based, scientific reading strategies and programs. An applicant shall demonstrate that its K-3 plus program will meet all department standards and employ only qualified teachers and other staff.

E. K-3 plus programs shall be funded at no less than thirty percent of the unit value per student. Up to two percent of the money received by a school district shall be used for student recruitment and to ensure regular attendance by K-3 plus students. Funding for individual school programs shall be based on enrollment on the fifteenth day of the program.

F. School districts and charter schools that meet the qualifications for K-3 plus funding may submit applications by March 15 for the succeeding fiscal year. The department shall notify all school districts and charter schools by February 1 that applications will be accepted until March 15 and that final funding is contingent on the final unit value set by the secretary. The notification shall include the application and any requirements for supplementary documentation. Applications may be submitted electronically or by mail or other delivery. Schools that are awarded funding for K-3 plus for the next school year shall be notified by April 15 of the calendar year.

G. The department shall provide additional professional development for K-3 plus teachers in how young children learn to read. Teachers and educational assistants shall be paid at the same rate and under the same terms for K-3 plus as teachers and educational assistants are paid for regular educational programs.

H. Students participating in K-3 plus shall be evaluated at the beginning of K-3 plus, and their progress shall be measured through department-approved summative and formative assessments.

I. The department shall establish reporting and evaluation requirements for participating schools, including student and program assessments. The department shall report annually to the legislature and the governor on the efficacy of K-3 plus.

J. The department may use up to four percent of any appropriation made by the legislature for K-3 plus for professional development for participating educators and department administrative costs.

K. The department shall develop and disseminate information on best practices in the areas of student recruitment, retention and academic success of early learners.

L. The secretary shall appoint a "K-3 plus advisory committee" composed of representatives of school districts that participate in K-3 plus and other stakeholders. The advisory committee shall meet twice a year to advise the department on K-3 plus implementation."

## **Chapter 175 Section 2 Laws 2013**

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

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SEC/House Bill 310, aa, w/ec

Approved April 4, 2013

# **LAWS 2013, CHAPTER 176**

## **AN ACT**

RELATING TO THE COMPILATION OF STATUTES; PROVIDING FOR THE COMPILATION OF MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW WHEN THEIR PROVISIONS ARE DEEMED RECONCILABLE; DECLARING AN EMERGENCY.

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

### **Chapter 176 Section 1 Laws 2013**

SECTION 1. Section 12-1-8 NMSA 1978 (being Laws 1977, Chapter 74, Section 5) is amended to read:

"12-1-8. RULES OF CONSTRUCTION GOVERNING COMPILATION OF STATUTES.--In carrying out the duties provided by law and contract, absent an expressed contrary legislative intent, the secretary of the New Mexico compilation commission and the advisory committee of the supreme court shall be governed by the following rules:

A. if two or more acts are enacted during the same session of the legislature amending the same section of the NMSA, regardless of the effective date of the acts, the act last signed by the governor shall be compiled in the NMSA and, if the New Mexico compilation commission, after consultation with the legislative council service, determines that the provisions of one or more of the earlier signed acts can be reconciled with the act that is to be compiled, those provisions shall be incorporated in the last-signed act and compiled in the NMSA. The history following the amended section shall set forth the section, chapter and year of all acts amending the section. A compiler's note shall be included in the annotations setting forth the nature of the difference between the acts or sections, if any; and

B. if two or more irreconcilable acts dealing with the same section of law are enacted by the same session of the legislature, the last act signed by the governor shall be presumed to be the law. The act last signed by the governor shall be compiled in the NMSA with an annotation following the compiled section setting forth in full the text of any conflicting section of any earlier signed act."

### **Chapter 176 Section 2 Laws 2013**

SECTION 2. TEMPORARY PROVISION.--Multiple amendments to the same section of law that were enacted before the effective date of this act may be reconciled and compiled in accordance with the provisions of Section 1 of this act.

## **Chapter 176 Section 3 Laws 2013**

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

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House Bill 546, aa, w/ec

Approved April 4, 2013

## **LAWS 2013, CHAPTER 177**

AN ACT

RELATING TO EDUCATION; ENACTING THE TEACHER LOAN REPAYMENT ACT; CREATING THE TEACHER LOAN REPAYMENT FUND; MAKING AN APPROPRIATION.

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

### **Chapter 177 Section 1 Laws 2013**

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

"SHORT TITLE.--This act may be cited as the "Teacher Loan Repayment Act"."

### **Chapter 177 Section 2 Laws 2013**

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

"PURPOSE.--The purpose of the Teacher Loan Repayment Act is to increase the number of teachers in designated high-risk teacher positions in public schools through an educational loan repayment program. The act provides for repayment of the principal and reasonable interest accrued on loans obtained from the federal government for teacher education purposes."

### **Chapter 177 Section 3 Laws 2013**

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

"DEFINITIONS.--As used in the Teacher Loan Repayment Act:

A. "department" means the higher education department;



B. "designated high-risk teacher positions" means teacher positions in specific public schools that:

(1) have been designated by the public education department as schools with a high percentage of students who are not meeting acceptable academic proficiency levels; and

(2) are located in geographic areas with a high rate of poverty; and

C. "loan" means a grant of money to defray the costs incidental to a teacher education, under a contract between the federal government and a teacher, requiring repayment of principal and interest."

### **Chapter 177 Section 4 Laws 2013**

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

"DEPARTMENT POWERS AND DUTIES--TEACHER ELIGIBILITY--QUALIFICATIONS.--

A. The department may grant a loan repayment award to repay loans obtained for the teacher educational expenses of a teacher upon such terms and conditions as may be imposed by rules of the department.

B. Applicants shall be licensed New Mexico teachers and shall be bona fide citizens and residents of the United States and of New Mexico. Applicants shall declare their intent to practice as teachers in designated high-risk teacher positions in the state.

C. The department and the public education department shall jointly make a full and careful investigation of the ability and qualifications of each applicant and determine the fitness of a teacher to participate in the teacher loan repayment program."

### **Chapter 177 Section 5 Laws 2013**

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

"LOAN REPAYMENT AWARD CRITERIA--CONTRACT TERMS--PAYMENT.--

A. Loan repayment award criteria shall provide that:

(1) award amounts shall be dependent upon a specific public school's need for the designated high-risk teacher position, as determined by the public education department, the teacher's total teacher education indebtedness and available balances in the teacher loan repayment fund;

(2) preference in making awards shall be to teachers who have graduated from a New Mexico public post-secondary educational institution;

(3) awards shall be made to eligible teachers who fill a designated high-risk teacher position;

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

(5) the total amount of awards made to any one teacher shall not exceed the total teacher education indebtedness of that teacher.

B. The following teacher education debts are not eligible for repayment pursuant to the Teacher Loan Repayment Act:

(1) amounts incurred as a result of participation in state loan-for-service programs or other state programs whose purpose states that service be provided in exchange for financial assistance;

(2) scholarships that have a service component or obligation;

(3) loans from a commercial lender;

(4) personal loans from friends or relatives; and

(5) loans that exceed individual standard school expense levels.

C. Every loan repayment award shall be evidenced by a contract between the teacher and the department acting on behalf of the state. The contract shall provide for the payment by the state of a stated sum to the teacher's federal government lender and shall state the obligations of the teacher under the program, including a minimum two-school-year period of service in a designated high-risk teacher position, quarterly reporting requirements and other obligations established by the department.

D. Teachers who serve a complete school year in a designated high-risk teacher position shall receive credit for one year for the purpose of calculating any loan repayment award amounts. The minimum loan repayment award amount to be paid for each school year completed shall be established by the department.

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

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

G. The department, after consulting with the public education department, shall adopt rules to implement the provisions of the Teacher Loan Repayment Act. The rules:

(1) shall provide a procedure for determining the amount of a loan that will be repaid for each year of service in a designated high-risk teacher position; and

(2) may provide for the disbursement of loan repayment awards to a teacher's federal government lender in annual or other periodic installments."

### **Chapter 177 Section 6 Laws 2013**

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

"CONTRACTS--ENFORCEMENT.--The general form of a contract required pursuant to the Teacher Loan Repayment Act shall be prepared and approved by the attorney general, and each contract shall be signed by the teacher and the designated representative of the department on behalf of the state. The department is vested with full and complete authority and power to sue in its own name for any balance due the state from a teacher under any such contract."

### **Chapter 177 Section 7 Laws 2013**

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

"TEACHER LOAN REPAYMENT FUND CREATED--METHOD OF PAYMENT.--The "teacher loan repayment fund" is created in the state treasury. All money appropriated for the teacher loan repayment program shall be credited to the fund, and any repayment of awards and interest received by the department shall be credited to the fund. Income from the fund shall be credited to the fund, and balances in the fund shall not revert to any other fund. Money in the fund is appropriated to the department for making loan repayment awards pursuant to the Teacher Loan Repayment Act. All payments for loan repayment awards shall be made upon vouchers signed by the designated representative of the department and upon a warrant issued by the secretary of finance and administration."

### **Chapter 177 Section 8 Laws 2013**

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

"CANCELLATION.--The department may cancel any contract made between it and a teacher pursuant to the Teacher Loan Repayment Act for any reasonable cause deemed sufficient by the department."

### **Chapter 177 Section 9 Laws 2013**

SECTION 9. A new section of Chapter 21 NMSA 1978 is enacted to read:

"REPORTS.--Prior to each regular session of the legislature, the department shall make annual reports to the governor and the legislature of the department's activities pertaining to the Teacher Loan Repayment Act; the loan repayment awards granted; the names and addresses of teachers who received loan repayment awards; the names and locations of the positions filled by those teachers; and the name of each teacher who received a loan repayment award who is not serving in a designated high-risk teacher position, the reason the teacher is not serving in a designated high-risk teacher position, the amount owed on the teacher's loan and the amount paid on the teacher's loan by any loan repayment awards."

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House Bill 53

Approved April 4, 2013

## **LAWS 2013, CHAPTER 178**

AN ACT

RELATING TO PUBLIC EDUCATION; REQUIRING LOCAL SCHOOL BOARDS TO PROMULGATE CYBERBULLYING PREVENTION POLICIES.

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

### **Chapter 178 Section 1 Laws 2013**

SECTION 1. Section 22-2-21 NMSA 1978 (being Laws 2011, Chapter 50, Section 1) is amended to read:

"22-2-21. BULLYING AND CYBERBULLYING PREVENTION PROGRAMS.--

A. The department shall establish guidelines for bullying prevention policies to be promulgated by local school boards. Every local school board shall

promulgate a bullying prevention policy by August 2011. Every public school shall implement a bullying prevention program by August 2012.

B. Every local school board shall promulgate a specific cyberbullying prevention policy by August 2013. Cyberbullying prevention policies shall require that:

(1) all licensed school employees complete training on how to recognize signs that a person is being cyberbullied;

(2) any licensed school employee who has information about or a reasonable suspicion that a person is being cyberbullied report the matter immediately to the school principal or the local superintendent or both;

(3) any school administrator or local superintendent who receives a report of cyberbullying take immediate steps to ensure prompt investigation of the report; and

(4) school administrators take prompt disciplinary action in response to cyberbullying confirmed through investigation. Disciplinary action taken pursuant to this subsection must be by the least restrictive means necessary to address a hostile environment on the school campus resulting from the confirmed cyberbullying and may include counseling, mediation and appropriate disciplinary action that is consistent with the legal rights of the involved students.

C. Each local school board shall make any necessary revisions to its disciplinary policies to ensure compliance with the provisions of this section.

D. As used in this section, "cyberbullying" means electronic communication that:

(1) targets a specific student;

(2) is published with the intention that the communication be seen by or disclosed to the targeted student;

(3) is in fact seen by or disclosed to the targeted student; and

(4) creates or is certain to create a hostile environment on the school campus that is so severe or pervasive as to substantially interfere with the targeted student's educational benefits, opportunities or performance."

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House Bill 54, aa

Approved April 4, 2013

# **LAWS 2013, CHAPTER 179**

AN ACT

RELATING TO TAXATION; LIMITING THE TAX CREDIT PAID TO ANOTHER STATE TO THE AMOUNT OF TAX LIABILITY IN NEW MEXICO.

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

## **Chapter 179 Section 1 Laws 2013**

SECTION 1. Section 7-2-13 NMSA 1978 (being Laws 1965, Chapter 202, Section 11, as amended) is amended to read:

"7-2-13. CREDIT FOR TAXES PAID OTHER STATES BY RESIDENT INDIVIDUALS.--When a resident individual is liable to another state for tax upon income derived from sources outside this state but also included in net income under the Income Tax Act as income allocated or apportioned to New Mexico pursuant to Section 7-2-11 NMSA 1978, the individual, upon filing with the secretary satisfactory evidence of the payment of the tax to the other state, shall receive a credit against the tax due this state in the amount of the tax paid the other state with respect to income that is required to be either allocated or apportioned to New Mexico. However, in no case shall the credit exceed the amount of the taxpayer's New Mexico income tax liability on that portion of income that is required to be either allocated or apportioned to New Mexico on which the tax payable to the other state was determined. The credit provided by this section does not apply to or include income taxes paid to any municipality, county or other political subdivision of a state."

## **Chapter 179 Section 2 Laws 2013**

SECTION 2. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2013.

## **Chapter 179 Section 3 Laws 2013**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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House Bill 172

Approved April 4, 2013

# **LAWS 2013, CHAPTER 180**

## AN ACT

RELATING TO ELECTIONS; ENACTING THE SCHOOL DISTRICT CAMPAIGN REPORTING ACT; REQUIRING REPORTING OF CERTAIN CAMPAIGN CONTRIBUTIONS AND EXPENDITURES; PROVIDING COMPLIANCE PROCEEDINGS; PROVIDING FOR PENALTIES.

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

### **Chapter 180 Section 1 Laws 2013**

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

"SHORT TITLE.--This act may be cited as the "School District Campaign Reporting Act"."

### **Chapter 180 Section 2 Laws 2013**

SECTION 2. A new section of the Election Code is enacted to read:

"DEFINITIONS.--As used in the School District Campaign Reporting Act:

A. "campaign committee" means one or more persons authorized by a candidate to raise, collect or expend contributions on the candidate's behalf for the purpose of electing the candidate to office;

B. "candidate" means a person who seeks or considers an office in an election covered by the School District Campaign Reporting Act, who either has filed a declaration of candidacy or has received contributions or made expenditures of five hundred dollars (\$500) or more or authorized another person or campaign committee to receive contributions or make expenditures of five hundred dollars (\$500) or more for the purpose of seeking election to a covered office;

C. "contribution" means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made or received for a political purpose, including payment of a debt incurred in an election campaign, but "contribution" does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or campaign committee;

D. "covered office" means the position of board of education member of a school district that has an enrollment of twelve thousand students or more or the position of board member of a community college organized or operating pursuant to the provisions of Chapter 21, Article 13 or Article 16 NMSA 1978;

E. "election cycle" means the period beginning thirty days after an election for an office and ending on the subsequent election day for that office;

F. "expenditure" means a payment, transfer or distribution or obligation or promise to pay, transfer or distribute any money or other thing of value for a political purpose, including payment of a debt incurred in an election campaign;

G. "political purpose" means advocating the election or defeat of a candidate in an election;

H. "prescribed form" means a form or electronic format prepared and prescribed by the secretary of state; and

I. "reporting individual" means a candidate or treasurer of a campaign committee."

## **Chapter 180 Section 3 Laws 2013**

SECTION 3. A new section of the Election Code is enacted to read:

"REPORTS REQUIRED--TIME AND PLACE OF FILING.--

A. A candidate or campaign committee that has received contributions or made expenditures of five hundred dollars (\$500) or more shall file with the secretary of state a report of all contributions received and expenditures made on a prescribed form, and the report shall be filed in the same or similar electronic system as that used for the Campaign Reporting Act. Except as otherwise provided in this section, all reports pursuant to the School District Campaign Reporting Act shall be filed electronically and electronically authenticated by the candidate using an electronic signature in conformance with the Electronic Authentication of Documents Act and the Uniform Electronic Transactions Act.

B. A candidate or campaign committee shall file a campaign report of all contributions received and expenditures made during an election cycle and not previously reported by midnight on the second Monday in April.

C. If a reporting date set by Subsection B of this section falls on a weekend or holiday, the report shall be filed on the next business day.

D. If a candidate or campaign committee has not received any contributions and has not made any expenditures since the last report filed with the secretary of state, the candidate or campaign committee shall only be required to file a statement of no activity, which shall not be required to be notarized, in lieu of a full report when that report would otherwise be due.



E. A report of expenditures and contributions filed after a deadline set forth in this section shall not be deemed to have been timely filed.

F. Except for candidates and campaign committees that file a statement of no activity, each candidate or campaign committee shall file a report of expenditures and contributions pursuant to the filing schedules set forth in this section, regardless of whether any expenditures were made or contributions were received during the reporting period. Reports shall be required until the candidate or campaign committee delivers a report to the secretary of state stating that:

(1) there are no outstanding campaign debts;  
(2) all money has been expended in accordance with the provisions of Section 6 of the School District Campaign Reporting Act; and

(3) the bank account for campaign funds maintained by the candidate or campaign committee has been closed.

G. A candidate who does not ultimately file a declaration of candidacy and does not file a statement of no activity shall file reports in accordance with Subsection B of this section.

H. A candidate may apply to the secretary of state for exemption from electronic filing in case of hardship, which shall be defined by the secretary of state."

## **Chapter 180 Section 4 Laws 2013**

SECTION 4. A new section of the Election Code is enacted to read:

"CONTENTS OF REPORT.--

A. Each required report of expenditures and contributions shall be typed or printed legibly, or on a computer disc or format approved by the secretary of state, and shall include:

(1) the name and address of the person to whom an expenditure was made or from whom a contribution was received; provided that for contributors, the name of the legal entity or the first and last names of the individual shall be the full name of the legal entity or individual, and initials only shall not constitute a full name unless that is the complete legal name;

(2) the occupation and type and name of business, if any, of any person making contributions of two hundred fifty dollars (\$250) or more in the aggregate per election;

(3) the amount of the expenditure or contribution or value thereof;

(4) the purpose of the expenditure; and

(5) the date that the expenditure was made or the contribution was received.

B. Each report shall contain an opening and closing cash balance for the bank account maintained for campaign funds by the reporting individual during the reporting period and the name of the financial institution.

C. Each report shall specify the amount of each unpaid debt and the identity of the person to whom the debt is owed."

## **Chapter 180 Section 5 Laws 2013**

SECTION 5. A new section of the Election Code is enacted to read:

"ANONYMOUS CONTRIBUTIONS--SPECIAL EVENT FUNDRAISERS.--

A. No anonymous contributions may be accepted in excess of one hundred dollars (\$100). The aggregate amount of anonymous contributions received by a candidate in an election cycle shall not exceed five hundred dollars (\$500).

B. Cash contributions received at special events that are unidentifiable as to a specific contributor but identifiable as to the special event are not subject to the anonymous contribution limits provided for in this section so long as no single special event raises, after expenses, more than one thousand dollars (\$1,000) in such cash contributions. For those contributions, due diligence and best efforts shall be made to disclose on a special prescribed form with the sponsor, date, place, total amount received, expenses incurred, estimated number of persons in attendance and other identifiable factors that describe the special event. For purposes of this subsection, "special event" means an event such as a barbecue or similar fundraiser where tickets costing twenty-five dollars (\$25.00) or less are sold or an event such as a coffee, tea or similar reception.

C. Any contributions received pursuant to this section in excess of the limits established in Subsections A and B of this section shall be donated to the state general fund or an organization to which a federal income tax deduction would be available under Subparagraph (A) of Paragraph (1) of Subsection (b) of Section 170 of the Internal Revenue Code of 1986, as amended."

## **Chapter 180 Section 6 Laws 2013**

SECTION 6. A new section of the Election Code is enacted to read:

"VOLUNTARY COMPLIANCE--COMPLAINTS AND INVESTIGATIONS--  
ARBITRATION--REFERRALS FOR ENFORCEMENT.--

A. The secretary of state may initiate investigations to determine whether any provision of the School District Campaign Reporting Act has been violated. Additionally, any person who believes that a provision of that act has been violated may file a written complaint with the secretary of state any time prior to ninety days after an election, except that no complaints from the public may be filed within eight days prior to an election. The secretary of state shall adopt procedures for issuing advisory opinions and processing complaints and notifications of violations.

B. The secretary of state shall at all times seek to ensure voluntary compliance with the provisions of the School District Campaign Reporting Act. If the secretary of state determines that a provision of that act for which a penalty may be imposed has been violated, the secretary of state shall by written notice set forth the violation and the fine imposed and inform the reporting individual that the individual has ten working days from the date of the letter to correct the matter 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 fine imposed, the secretary of state may by a written notice of final action partially or fully waive any fine imposed for any late, incomplete or false report or statement of exception. A written notice of final action shall be sent by certified mail.

C. Upon receipt of the notice of final action, the person against whom the penalty has been imposed may protest the secretary of state's determination by submitting on a prescribed form a written request for binding arbitration to the secretary of state within ten working days of the date of the notice of final action. Any fine imposed shall be due and payable within ten working days of the date of notice of final action. No additional fine shall accrue pending the issuance of the arbitration decision. Fines paid pursuant to a notice of final action that are subsequently reduced or dismissed shall be reimbursed with interest within ten working days after the filing of the arbitration decision with the secretary of state. Interest on the reduced or dismissed portion of the fine shall be the same as the rate of interest earned by the secretary of state's escrow account to be established by the department of finance and administration.

D. An arbitration hearing shall be conducted by a single arbitrator selected within ten days by the person against whom the penalty has been imposed from a list of five arbitrators provided by the secretary of state. Neither the secretary of state nor a person subject to the School District Campaign Reporting Act, Campaign Reporting Act Lobbyist Regulation Act or Financial Disclosure Act may serve as an arbitrator. Arbitrators shall be considered to be independent contractors, not public officers or employees, and shall not be paid per diem and mileage.

E. The arbitrator shall conduct the hearing within thirty days of the request for arbitration. The arbitrator may impose any penalty the secretary of state is authorized to impose. The arbitrator shall state the reasons for the arbitrator's decision in a written document that shall be a public record. The decision shall be final and binding. The decision shall be issued and filed with the secretary of state within thirty

days of the conclusion of the hearing. Unless otherwise provided for in this section or by rule or regulation adopted by the secretary of state, the procedures for the arbitration shall be governed by the Uniform Arbitration Act. No arbitrator shall be subject to liability for actions taken pursuant to this section.

F. The secretary of state may refer a matter to the attorney general or a district attorney for a civil injunction or other appropriate order or for criminal enforcement."

## **Chapter 180 Section 7 Laws 2013**

SECTION 7. A new section of the Election Code is enacted to read:

"REPORTS AND STATEMENTS--LATE FILING PENALTY--FAILURE TO FILE.--

A. If a statement of no activity or a report of expenditures and contributions contains false or incomplete information or is filed after any deadline imposed by the School District Campaign Reporting Act, the candidate, in addition to any other penalties or remedies prescribed by the Election Code, 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 School District Campaign Reporting Act for the filing of statements of no activity or reports of expenditures and contributions until the complete or true statement or report is filed, up to a maximum of five thousand dollars (\$5,000).

B. All sums collected for the penalty shall be deposited in the general fund for credit to the current school fund. A report or statement of exception shall be deemed timely filed only if it is received by the secretary of state by the date and time prescribed by law.

C. 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 School District 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 or through the final date for the withdrawal of candidates; or

(2) be issued a certificate of 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 School District Campaign Reporting Act and pays all penalties owed.

D. 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 School District 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."

## **Chapter 180 Section 8 Laws 2013**

SECTION 8. A new section of the Election Code is enacted to read:

"CIVIL PENALTIES.--

A. If the secretary of state reasonably believes that a person committed, or is about to commit, a violation of the School District Campaign Reporting Act, the secretary of state shall refer the matter to the attorney general or a district attorney for enforcement.

B. The attorney general or district attorney may institute a civil action in district court for any violation of the School District 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 two hundred fifty dollars (\$250) for each violation not to exceed five thousand dollars (\$5,000), 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. The attorney general or district attorney may institute a civil action in district court if a violation has occurred or to prevent a violation of any provision of the School District 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 fifty dollars (\$50.00) for each violation not to exceed five thousand dollars (\$5,000)."

## **Chapter 180 Section 9 Laws 2013**

SECTION 9. A new section of the Election Code is enacted to read:

"PENALTIES--CRIMINAL ENFORCEMENT.--

A. Any person who knowingly and willfully violates any provision of the School District 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 School District Campaign Reporting Act may be enforced by the attorney general or the district attorney in the county where the candidate resides or where the violation occurred."

## **Chapter 180 Section 10 Laws 2013**

SECTION 10. A new section of the Election Code is enacted to read:

"CAMPAIGN FUNDS--LIMITATIONS ON USE.--It is unlawful for a candidate or the candidate's agent to make an expenditure of contributions received, except for the following purposes:

A. expenditures of the campaign;

B. donations to the state general fund;

C. donations to an organization to which a federal income tax deduction would be permitted under Subparagraph (A) of Paragraph (1) of Subsection (b) of Section 170 of the Internal Revenue Code of 1986, as amended;

D. expenditures to eliminate the campaign debt of the candidate for the office sought or expenditures incurred by the candidate when seeking election to another public office;

E. donations to a political committee or to another candidate seeking election to a public office that is subject to the reporting provisions of the School District Campaign Reporting Act or the Campaign Reporting Act; or

F. disbursements to return unused funds pro rata to the contributors if no campaign debt exists."

## **Chapter 180 Section 11 Laws 2013**

SECTION 11. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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HVEC/House Bill 232, aa

Approved April 4, 2013

# **LAWS 2013, CHAPTER 181**

AN ACT

RELATING TO PUBLIC FINANCES; PERMITTING THE STATE INVESTMENT COUNCIL TO INVEST IN NEW MEXICO BUSINESSES THAT PERFORM TECHNOLOGY TRANSFER, RESEARCH AND DEVELOPMENT, RESEARCH COMMERCIALIZATION, MANUFACTURING, TRAINING, MARKETING OR PUBLIC RELATIONS IN THE FIELDS OF SCIENCE AND TECHNOLOGY ON STATE LANDS; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2007.

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

## **Chapter 181 Section 1 Laws 2013**

SECTION 1. Section 7-27-5.15 NMSA 1978 (being Laws 1990, Chapter 126, Section 5, as amended by Laws 2007, Chapter 355, Section 1 and by Laws 2007, Chapter 359, Section 1 and also by Laws 2007, Chapter 360, Section 1) is amended to read:

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

A. No more than nine percent of the market value of the severance tax permanent fund may be invested in New Mexico private equity funds or New Mexico businesses under this section.

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

C. The state investment officer shall make investments pursuant to Subsection A of this section only upon approval of the council, upon review of the recommendation of the private equity investment advisory committee and within guidelines and policies established by the council.

D. As used in this section:

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

(2) "New Mexico private equity fund" means a limited partnership, limited liability company or corporation organized and operating in the United States and maintaining an office staffed by a full-time investment officer in New Mexico that:

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

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

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

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

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

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

(1) the investments are made:

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

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

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



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

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

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

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

(b) is necessary to protect the investment; and

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

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

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

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House Bill 401, aa

Approved April 4, 2013

## **LAWS 2013, CHAPTER 182**

### **AN ACT**

RELATING TO LABOR AND EMPLOYMENT; AMENDING THE MINIMUM WAGE ACT TO CREATE A PREFERENCE FOR CIVIL ACTIONS AND APPEALS BROUGHT TO COLLECT UNPAID OR UNDERPAID WAGES TO BE HEARD BY THE COURT TO THE SAME EXTENT AS CIVIL ACTIONS TO COLLECT UNEMPLOYMENT CONTRIBUTIONS; AMENDING THE UNEMPLOYMENT COMPENSATION LAW TO PROVIDE THAT CIVIL ACTIONS TO COLLECT UNEMPLOYMENT CONTRIBUTIONS SHALL HAVE A PREFERENCE, TO THE SAME EXTENT AS CIVIL ACTIONS AND APPEALS BROUGHT TO COLLECT UNPAID OR UNDERPAID WAGES, TO BE HEARD BY THE COURT.

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

### **Chapter 182 Section 1 Laws 2013**

SECTION 1. Section 50-4-26 NMSA 1978 (being Laws 1955, Chapter 200, Section 5, as amended) is amended to read:

"50-4-26. ENFORCEMENT--PENALTIES--EMPLOYEES' REMEDIES.--

A. An employer who violates any of the provisions of the Minimum Wage Act is guilty of a misdemeanor and upon conviction shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

B. The director of the labor relations division of the workforce solutions department shall enforce and prosecute violations of the Minimum Wage Act. The director may institute in the name of the state an action in the district court of the county wherein the employer who has failed to comply with the Minimum Wage Act resides or has a principal office or place of business, for the purpose of prosecuting violations. The district attorney for the district wherein any violation hereof occurs shall aid and assist the director in the prosecution.

C. In addition to penalties provided pursuant to this section, an employer who violates any provision of Section 50-4-22 NMSA 1978 shall be liable to the employees affected in the amount of their unpaid or underpaid minimum wages plus interest, and in an additional amount equal to twice the unpaid or underpaid wages.

D. An action to recover such liability may be maintained in any court of competent jurisdiction by any one or more employees for and on behalf of the employee or employees and for other employees similarly situated, or such employee or employees may designate an agent or representative to maintain such action on behalf of all employees similarly situated.

E. The court in any action brought under Subsection D of this section shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow costs of the action and reasonable attorney fees to be paid by the defendant. In any proceedings brought pursuant to the provisions of this section, the employee shall not be required to pay any filing fee or other court costs necessarily incurred in such proceedings.

F. In addition to any remedy or punishment provided pursuant to the Minimum Wage Act, a court may order appropriate injunctive relief, including requiring an employer to post in the place of business a notice describing violations by the employer as found by the court or a copy of a cease and desist order applicable to the employer.

G. Civil actions and appeals of civil actions brought to collect unpaid or underpaid wages, interest and any other amounts due under this section shall be heard by the court at the earliest possible date and shall be entitled to a preference over all other civil actions, to the same extent as civil actions to collect contributions pursuant to Section 51-1-36 NMSA 1978, on the calendar of the court."

## **Chapter 182 Section 2 Laws 2013**

SECTION 2. Section 51-1-36 NMSA 1978 (being Laws 1936 (S.S.), Chapter 1, Section 14, as amended) is amended to read:

"51-1-36. COLLECTION OF CONTRIBUTIONS.--

A. Contributions unpaid on the date on which they are due and payable shall bear interest at the rate of one percent per month from and after such date until payment is received by the division. Interest collected pursuant to this subsection shall be paid into the employment security department fund.

B. If, after due notice, any employer defaults in any payment of contributions or interest thereon, the amount due shall be collected by civil action in the name of the division, and the employer adjudged in default shall pay the costs of such action. Civil actions brought under this section to collect contributions or interest thereon from an employer shall be heard by the court at the earliest possible date and shall be entitled to preference on the calendar of the court, to the same extent as civil actions and appeals of civil actions brought to collect unpaid or underpaid wages, interest and any other amounts due under Section 50-4-26 NMSA 1978, over all other civil actions except petitions for judicial review under this act and worker's compensation cases arising under Chapter 52, Article 1 NMSA 1978 or in the discretion of the secretary, if

any contribution or any portion thereof or any interest or penalty imposed by the Unemployment Compensation Law is not paid within thirty days after the same becomes due, the secretary shall, after due notice and opportunity to be heard in accordance with regulations, issue a warrant under its official seal, directed to the sheriff of any county of the state commanding the sheriff to levy upon and sell the real and personal property of the person owning the same, found within that county, of the payment of the amount due and an added amount of ten percent of the contribution in addition to any other penalties imposed and costs of executing the warrant, and to return such warrant to the secretary and pay to the secretary the money collected by virtue thereof, by the time to be specified, not more than thirty days from the date of the warrant. In the event the division does not know the amount of contribution due, and the employer from whom the same is due refuses or fails to make reports showing what the employer or the division claims for the amount of contributions that the division believes to be due, and the division files the warrant for the estimated amount, mailing notice to the employer stating that the division is estimating the amount of contribution due and giving the estimated amount in the notice, the warrant and estimated amount shown shall have the same effect as any other warrant issued under this subsection. If the employer does not make a showing to the satisfaction of the secretary that the estimated amount is incorrect within thirty days after the warrant is filed with the county clerk, then the estimated amount shown in the warrant shall be and become the amount of the contribution due for the period stated in the warrant. The sheriff to whom any warrant, issued under this section, is directed shall, within five days after receipt of the same, file with the county clerk of the sheriff's county a copy thereof, for which the clerk shall make no charge, and thereupon the county clerk shall record the same upon the clerk's records and the day when such copy is filed. Thereupon the amount of the warrant so filed and entered shall become a lien upon all property, real and personal, of the person against whom it is issued, including choses in action, except negotiable instruments not past due; provided, however, that such lien shall be inferior to all other valid liens, encumbrances, mortgages, judgments and assessments that are filed or placed of record prior to the filing of such warrant. The sheriff or a representative of the division thereupon shall levy upon any property of the taxpayer, including negotiable instruments, and the property so levied on shall be sold in all respects with the like effect, and in the same manner as is prescribed by law with respect to executions against property upon judgments of a court of record, and the remedies of garnishment shall apply. Whenever any property or right to property upon which levy has been made is not sufficient to satisfy the claim for which levy is made, the sheriff or a representative of the division may thereafter, and as often as may be necessary, proceed to levy in like manner upon any other property or rights to property subject to levy of the person against whom the claim exists, until the amount due from the person is fully paid. The sheriff shall be entitled to the general fees for services in executing the warrant as now allowed by law for like services, to be collected in the same manner as now provided by law for like services. All costs of executing warrants including mileage of the sheriff serving and executing the same and all other costs in connection with the levy, including advertising or publication costs upon the sale of any property levied upon, shall be collected by the department from the employer from whom contribution is due.

C. In the event of any distribution of an employer's assets pursuant to an order of any court under the laws of this state, including any receivership, assignment for benefit of creditors, adjudicated insolvency, composition or similar proceeding, contributions then or thereafter due shall be paid in full prior to all other claims except taxes and claims for remuneration of not more than two hundred fifty dollars (\$250) to each claimant, earned within six months of the commencement of the proceeding. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the Federal Bankruptcy Code 11 U.S.C. Sec. 101 et seq., contributions then or thereafter due shall be entitled to such priority as is provided in the Federal Bankruptcy Code U.S.C. Title 11, Sec. 507.

D. If, not later than four years after the date on which any contributions or interest thereon are paid, an employing unit that has paid such contributions or interest makes application for an adjustment in connection with subsequent contribution payments or for a refund because such adjustment cannot be made, and the secretary determines that such contributions or interest or any portion was erroneously collected, the secretary shall allow the employing unit to make an adjustment, without interest, in connection with subsequent contribution payments by the employing unit, or if such adjustment cannot be made, the secretary shall refund the amount, without interest, from the fund to which the amount was deposited. For like cause and within the same period, adjustment or refund may be so made on the secretary's own initiative.

E. Any person, group of individuals, partnership or employing unit that acquires the organization, trade or business or substantially all the assets thereof from an employer shall notify the division in writing by registered mail not later than five days prior to the acquisition. Unless such notice is given, such acquisition shall be void as against the division, if, at the time of the acquisition, any contributions are due and unpaid by the previous employer, and the secretary shall have the right to proceed against such employer either in personam or in rem and the assets so acquired shall be subject to attachment for such debt."

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House Bill 443

Approved April 4, 2013

## **LAWS 2013, CHAPTER 183**

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;  
REQUIRING REGISTRATION OF FETAL DEATH FOR CERTAIN SPONTANEOUS  
FETAL DEATHS; PROVIDING FOR CERTIFICATES OF STILL BIRTH; IMPOSING A  
FEE; MAKING AN APPROPRIATION.

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

## **Chapter 183 Section 1 Laws 2013**

SECTION 1. Section 24-14-1 NMSA 1978 (being Laws 1961, Chapter 44, Section 1) is amended to read:

"24-14-1. SHORT TITLE.--Chapter 24, Article 14 NMSA 1978 may be cited as the "Vital Statistics Act"."

## **Chapter 183 Section 2 Laws 2013**

SECTION 2. Section 24-14-22 NMSA 1978 (being Laws 1961, Chapter 44, Section 20, as amended) is amended to read:

"24-14-22. REPORTS OF SPONTANEOUS FETAL DEATH.--

A. Each spontaneous fetal death that occurs in this state after the fetus has attained a gestational age of at least twenty weeks, or if gestational age is unknown when the fetus weighs not less than three hundred fifty grams, shall be reported to the state registrar within ten days of fetal death with the bureau or as the state registrar directs.

B. The state registrar shall incorporate registrations of fetal death into the vital records of the bureau.

C. When a spontaneous fetal death required to be reported by this section occurs in an institution, the person in charge of the institution or the designated representative of that person shall report the spontaneous fetal death and shall advise the woman who delivered under circumstances in which spontaneous fetal death occurred, or a family member whom the woman designates, of the option to request a report of spontaneous fetal death and a certificate of still birth.

D. When a spontaneous fetal death for which a report of spontaneous fetal death is required occurs on a moving conveyance and the fetus is first removed from the conveyance in this state, the fetal death shall be reported in this state. The place where the fetus was first removed from the conveyance shall be considered the place of fetal death.

E. When a spontaneous fetal death required to be reported by this section occurs and the place of the spontaneous fetal death is unknown, the place where the dead fetus was found shall be considered the place of spontaneous fetal death.

F. When a spontaneous fetal death required to be reported by this section occurs without medical attendance at or immediately after the delivery or when inquiry is

required by law, the state medical investigator shall investigate the cause of fetal death and shall prepare and file the report.

G. The name of the woman who delivered under circumstances in which a spontaneous fetal death occurred and, if the woman requests it, the name of the father or second parent shall be entered on the spontaneous fetal death report in accordance with the provisions of Section 24-14-13 NMSA 1978.

H. When a spontaneous fetal death occurs, the state registrar shall record the name of the fetus upon the registration of spontaneous fetal death when requested by the woman who delivered under circumstances in which the spontaneous fetal death occurred, or when requested by a family member whom the woman designates.

I. A delayed registration of spontaneous fetal death may be filed in accordance with Section 24-14-21 NMSA 1978; provided that the woman who delivered under circumstances in which a spontaneous fetal death occurred, or a family member whom the woman designates, may present a copy of the report of spontaneous fetal death or other medical records by the woman's health care provider, who attended the delivery or who has received the woman's medical records as they pertain to the delivery, to substantiate the alleged facts of the spontaneous fetal death as the state registrar establishes by rule.

J. When the bureau has in its files a registration of spontaneous fetal death or receives evidence of a spontaneous fetal death, the state registrar shall produce a copy of a report of spontaneous fetal death upon the request of the woman who delivered under circumstances in which a spontaneous fetal death occurred, or upon the request of a family member whom the woman designates, without regard to the date on which a report of spontaneous fetal death was filed or when the spontaneous fetal death was registered.

K. For purposes of this section, "still birth" means an unintended, intrauterine spontaneous fetal death that occurs:

(1) after the fetus has attained a gestational age of at least twenty weeks; or

(2) when the fetus has attained a weight of not less than three hundred fifty grams, if gestational age is unknown."

### **Chapter 183 Section 3 Laws 2013**

SECTION 3. 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.

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."

## **Chapter 183 Section 4 Laws 2013**

SECTION 4. A new section of the Vital Statistics Act is enacted to read:

"CERTIFICATES OF STILL BIRTH.--

A. The state registrar shall establish a certificate of still birth. A person required to report a spontaneous fetal death shall inform a woman who has delivered under circumstances in which a spontaneous fetal death has occurred, or a family member whom the woman designates, that the report of spontaneous fetal death and a certificate of still birth are available from the bureau upon request. Upon the request of a woman who delivered under circumstances in which a spontaneous fetal death occurred, or the request of a family member whom the woman designates, a certificate of still birth shall be completed and filed in accordance with Section 24-14-13 NMSA 1978.



B. Notwithstanding the provisions of Subsection A of this section, and upon the request of a woman who delivered under circumstances in which a spontaneous fetal death occurred, or the request of a family member whom the woman designates, the state registrar shall issue a certificate of still birth without regard to the date on which a report of spontaneous fetal death was filed, when the spontaneous fetal death was registered or when a report of spontaneous fetal death was issued.

C. A certificate of still birth shall include:

(1) the following sentence: "THIS CERTIFICATE OF STILL BIRTH CANNOT BE USED AS PROOF OF A LIVE BIRTH, FOR IDENTIFICATION OR FOR ANY OTHER PURPOSE."; and

(2) only those of the following that are requested by the woman who delivered under circumstances in which a spontaneous fetal death occurred:

(a) the sex of the still-born fetus;

(b) the record number of the report of spontaneous fetal death;

(c) the date and time of delivery;

(d) the county of delivery; or

(e) the full name, birth date and birthplace of the woman who delivered under circumstances in which a spontaneous fetal death occurred.

D. Upon the request of the woman who delivered under circumstances in which a spontaneous fetal death occurred, the certificate of still birth shall include a name for the fetus delivered under circumstances in which the spontaneous fetal death occurred.

E. A certificate of still birth shall not be used to calculate live birth statistics.

F. This section provides for a person's right to request a certificate of still birth and the procedures pursuant to which a person may obtain a certificate of still birth. The provisions of this section shall not be construed to create any other right, privilege or entitlement or to abrogate any existing right, privilege or entitlement.

G. For purposes of this section, "still birth" means an unintended, intrauterine spontaneous fetal death that occurs:

(1) after the fetus has attained a gestational age of at least twenty weeks; or

(2) when the fetus has attained a weight of not less than three hundred fifty grams, if gestational age is unknown."

## **Chapter 183 Section 5 Laws 2013**

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2014.

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HJC/HCPAC/House Bill 658

Approved April 4, 2013

## **LAWS 2013, CHAPTER 184**

AN ACT

RELATING TO ELECTIONS; PROVIDING FOR ELECTRONIC SUBMITTAL OF A VOTER'S CERTIFICATE OF REGISTRATION FORM BY THE MOTOR VEHICLE DIVISION OF THE TAXATION AND REVENUE DEPARTMENT.

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

## **Chapter 184 Section 1 Laws 2013**

SECTION 1. Section 1-4-47 NMSA 1978 (being Laws 1991, Chapter 80, Section 4, as amended) is amended to read:

"1-4-47. DRIVER'S LICENSE VOTER REGISTRATION.--

A. Every person who is a qualified elector and is applying for a driver's license, to renew a driver's license or for an identification card shall, if qualified to register to vote, with the consent of the applicant be simultaneously registered to vote.

B. The secretary of taxation and revenue shall select certain employees of the motor vehicle division of the taxation and revenue department or employees of entities on contract to provide field services to the motor vehicle division to provide assistance to any applicant requesting voter registration assistance.

C. Every motor vehicle division office, field office or contract field office of the division shall display within the offices clearly visible signs stating "voter registration assistance available" and:

(1) personnel in each office shall advise each person who is a qualified elector and an applicant for licensure or renewal or for an identification card that initial voter registration or a change of address for voter registration may be made simultaneously with the motor vehicle application;

(2) voter registration shall be conducted in a manner such that the applicant completes the full certificate of registration electronically; and

(3) the applicant's digital signature shall be affixed to the certificate of registration using an electronic signature in conformance with the Electronic Authentication of Documents Act and the Uniform Electronic Transactions Act.

D. A motor vehicle division employee or contractor shall not intentionally influence the prospective registrant in the selection of political party, or independent status, by word or act. A motor vehicle division employee or contractor shall not reveal the existence of or the nature of the voter registration to anyone other than a registration officer.

E. Any voter registration made or accepted at a motor vehicle division office or motor vehicle division field office shall be transmitted to the secretary of state and the appropriate registration officer within seven calendar days.

F. The secretary of state shall work with the motor vehicle division to:

(1) ensure compliance in the application of the provisions of this section with the federal National Voter Registration Act of 1993;

(2) ensure consistent implementation in the various counties, based on county classification and developing technology; and

(3) develop procedures to ensure that, once voter registration information is transmitted to the appropriate registration officer, the voter's certificate of registration is printed and placed in the county's register of voters."

## **Chapter 184 Section 2 Laws 2013**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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HVEC/House Bill 225, aa

Approved April 4, 2013

## **LAWS 2013, CHAPTER 185**

AN ACT

RELATING TO HEALTH CARE COVERAGE; ENACTING A NEW SECTION OF THE HEALTH CARE PURCHASING ACT TO REQUIRE THAT GROUP HEALTH COVERAGE INCLUDE COVERAGE FOR DIAGNOSIS AND TREATMENT OF AUTISM SPECTRUM DISORDER.

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

**Chapter 185 Section 1 Laws 2013**

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

"COVERAGE FOR AUTISM SPECTRUM DISORDER DIAGNOSIS AND TREATMENT--PERMISSIBLE LIMITATIONS.--

A. Group health coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act shall provide coverage for an eligible individual who is nineteen years of age or younger, or an eligible individual who is twenty-two years of age or younger and is enrolled in high school, for:

(1) well-baby and well-child screening for diagnosing the presence of autism spectrum disorder; and

(2) treatment of autism spectrum disorder through speech therapy, occupational therapy, physical therapy and applied behavioral analysis.

B. Coverage required pursuant to Subsection A of this section:

(1) shall be limited to treatment that is prescribed by the insured's treating physician in accordance with a treatment plan;

(2) shall not be denied on the basis that the services are habilitative or rehabilitative in nature;

(3) may be subject to other general exclusions of the group health coverage, including coordination of benefits, participating provider requirements, restrictions on services provided by family or household members and utilization review of health care services, including the review of medical necessity, case management and other managed care provisions; and

(4) may be limited to exclude coverage for services received under the federal Individuals with Disabilities Education Improvement Act of 2004 and related state laws that place responsibility on state and local school boards for providing specialized education and related services to children three to twenty-two years of age who have autism spectrum disorder.

C. The coverage required pursuant to Subsection A of this section shall not be subject to deductibles or coinsurance provisions that are less favorable to a covered individual than the deductibles or coinsurance provisions that apply to physical illnesses that are generally covered under the group health coverage, except as otherwise provided in Subsection B of this section.

D. A group health plan shall not deny or refuse health coverage for medically necessary services or refuse to contract with, renew, reissue or otherwise terminate or restrict health coverage for an individual because the individual is diagnosed as having autism spectrum disorder.

E. The treatment plan required pursuant to Subsection B of this section shall include all elements necessary for the group health coverage to pay claims appropriately. These elements include, but are not limited to:

- (1) the diagnosis;
- (2) the proposed treatment by types;
- (3) the frequency and duration of treatment;
- (4) the anticipated outcomes stated as goals;
- (5) the frequency with which the treatment plan will be updated; and
- (6) the signature of the treating physician.

F. This section shall not be construed as limiting benefits and coverage otherwise available to an insured under group health coverage.

G. The provisions of this section shall not apply to policies intended to supplement major medical group-type coverages such as medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or other limited-benefit health insurance policies.

H. As used in this section:

(1) "autism spectrum disorder" means a condition that meets the diagnostic criteria for the pervasive developmental disorders published in the *Diagnostic and Statistical Manual of Mental Disorders*, current edition, published by the American psychiatric association, including autistic disorder; Asperger's disorder; pervasive development disorder not otherwise specified; Rett's disorder; and childhood disintegrative disorder;

(2) "habilitative or rehabilitative services" means treatment programs that are necessary to develop, maintain and restore to the maximum extent practicable the functioning of an individual; and

(3) "high school" means a school providing instruction for any of the grades nine through twelve."

## **Chapter 185 Section 2 Laws 2013**

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

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House Bill 22, aa

Approved April 5, 2013

## **LAWS 2013, CHAPTER 186**

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE; MAKING CHANGES TO CERTAIN GROUP HEALTH PREMIUMS; INCLUDING THE GROUP SELF-INSURANCE FUND AS ONE OF THE FUNDS AMONG WHICH THE RISK MANAGEMENT DIVISION OF THE GENERAL SERVICES DEPARTMENT MAY TEMPORARILY TRANSFER; DECLARING AN EMERGENCY.

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

## **Chapter 186 Section 1 Laws 2013**

SECTION 1. Section 10-7-4 NMSA 1978 (being Laws 1941, Chapter 188, Section 1, as amended) is amended to read:

"10-7-4. GROUP INSURANCE--CAFETERIA PLAN--CONTRIBUTIONS FROM PUBLIC FUNDS.--

A. All state departments and institutions and all political subdivisions of the state, excluding municipalities, counties and political subdivisions of the state with twenty-five employees or fewer, shall cooperate in providing group term life, medical or disability income insurance for the benefit of eligible employees or salaried officers of the respective departments, institutions and subdivisions.

B. The group insurance contributions of the state or any of its departments or institutions, including institutions of higher education and the public schools, shall be made as follows:

(1) at least seventy-five percent of the cost of the insurance of an employee whose annual salary is less than fifteen thousand dollars (\$15,000);

(2) at least seventy percent of the cost of the insurance of an employee whose annual salary is fifteen thousand dollars (\$15,000) or more but less than twenty thousand dollars (\$20,000);

(3) at least sixty-five percent of the cost of the insurance of an employee whose annual salary is twenty thousand dollars (\$20,000) or more but less than twenty-five thousand dollars (\$25,000); and

(4) at least sixty percent of the cost of the insurance of an employee whose annual salary is twenty-five thousand dollars (\$25,000) or more.

C. Effective July 1, 2004, the group insurance contributions of the state or any of its executive, judicial or legislative departments, including agencies, boards or commissions, shall be made as follows; provided that the contribution percentage shall be the same for all affected public employees in a given salary bracket:

(1) up to eighty percent of the cost of the insurance of an employee whose annual salary is less than thirty thousand dollars (\$30,000);

(2) up to seventy percent of the cost of the insurance of an employee whose annual salary is thirty thousand dollars (\$30,000) or more but less than forty thousand dollars (\$40,000); and

(3) up to sixty percent of the cost of the insurance of an employee whose annual salary is forty thousand dollars (\$40,000) or more.

D. Effective July 1, 2005, the group insurance contributions of the state or any of its executive, judicial or legislative departments, including agencies, boards or commissions, shall be made as follows; provided that the contribution percentage shall be the same for all affected public employees in a given salary bracket:

(1) up to eighty percent of the cost of the insurance of an employee whose annual salary is less than fifty thousand dollars (\$50,000);

(2) up to seventy percent of the cost of the insurance of an employee whose annual salary is fifty thousand dollars (\$50,000) or more but less than sixty thousand dollars (\$60,000); and

(3) up to sixty percent of the cost of the insurance of an employee whose annual salary is sixty thousand dollars (\$60,000) or more.

E. Effective July 1, 2013, the employer shall pay one hundred percent of basic life insurance premiums for employees, and employees who choose to carry disability insurance shall pay one hundred percent of the premium.

F. The state shall not make any group insurance contributions for legislators. A legislator shall be eligible for group benefits only if the legislator contributes one hundred percent of the cost of the insurance.

G. As used in this section, "cost of the insurance" means the premium required to be paid to provide coverages. Any contributions of the political subdivisions of the state, except the public schools and political subdivisions of the state with twenty-five employees or fewer, shall not exceed sixty percent of the cost of the insurance.

H. When a public employee elects to participate in a cafeteria plan as authorized by the Cafeteria Plan Act and enters into a salary reduction agreement with the governmental employer, the provisions of Subsections B through F of this section with respect to the maximum contributions that can be made by the employer are not violated and will still apply. The employer percentage or dollar contributions as provided in Subsections B through D of this section shall be determined by the employee's gross salary prior to any salary reduction agreement.

I. Any group medical insurance plan offered pursuant to this section shall include effective cost-containment measures to control the growth of health care costs. The responsible public body that administers a plan offered pursuant to this section shall report annually by September 1 to appropriate interim legislative committees on the effectiveness of the cost-containment measures required by this subsection.

J. Within available revenue, school districts, charter schools, participating entities pursuant to the Public School Insurance Authority Act and institutions of higher education may contribute up to eighty percent of the cost of the insurance of all employees."

## **Chapter 186 Section 2 Laws 2013**

SECTION 2. Section 15-7-11 NMSA 1978 (being Laws 1983, Chapter 292, Section 1, as amended) is amended to read:

"15-7-11. TEMPORARY TRANSFER OF MONEY AMONG FUNDS ADMINISTERED BY RISK MANAGEMENT DIVISION.--

A. The director of the risk management division of the general services department may transfer money in accordance with this section among the following funds:



fund;

- (1) the local public body unemployment compensation reserve
- (2) the public liability fund;
- (3) the public property reserve fund;

fund;

- (4) the state government unemployment compensation reserve
- (5) the surety bond fund;
- (6) the workers' compensation retention fund; and
- (7) the group self-insurance fund.

B. Money may be transferred among the funds specified in Subsection A of this section only upon the director's written certification that:

- (1) the money is required to maintain the financial stability and liquidity of the fund to which the money is to be transferred;
- (2) the money is not required to maintain the financial stability and liquidity of any fund from which the money is to be transferred;
- (3) the fund to which the money is to be transferred can reasonably be expected to have sufficient balances within one year of the date of the transfer to repay the amount transferred in full plus interest; and
- (4) all other requirements of this section will be fulfilled prior to transfer.

C. The secretary of general services and the state board of finance shall approve in advance any transfer of money pursuant to this section.

D. The total amount of money that may be transferred out of a particular fund shall not at any time exceed thirty percent of the total balance deposited in the fund, including any money owed to the fund pursuant to this section.

E. Amounts of money transferred pursuant to this section shall be repaid to any fund from which transferred within one year from the date of transfer, together with interest. Interest shall be calculated on the basis of the average interest earned on money remaining in the fund during the duration of the transfer.

F. If amounts owing any fund cannot be repaid in accordance with this section, the director of the risk management division shall so certify to the secretary of

general services and to the state board of finance. Repayment shall then be made as soon as money becomes available therefor.

G. Repayment of money to a particular fund shall not be deemed a transfer subject to the requirements of this section."

### **Chapter 186 Section 3 Laws 2013**

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

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HHGIC/House Bill 654, aa, w/ec

Approved April 5, 2013

## **LAWS 2013, CHAPTER 187**

AN ACT

RELATING TO PUBLIC SCHOOLS; PROVIDING FLEXIBILITY TO SCHOOL DISTRICTS TO MEET STATE FISCAL SOLVENCY REQUIREMENTS.

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

### **Chapter 187 Section 1 Laws 2013**

SECTION 1. Section 22-1-10 NMSA 1978 (being Laws 2010, Chapter 68, Section 1, as amended) is amended to read:

"22-1-10. WAIVER OF REQUIREMENTS--TEMPORARY PROVISION.--The legislature finds that funding constraints require school districts to have financial flexibility to meet increased state educational requirements. For the 2013-2014 school year, the secretary may waive requirements of the Public School Code and rules promulgated in accordance with that code pertaining to individual class load, teaching load, length of school day, staffing patterns, subject areas and purchases of instructional materials. The department shall monitor such waivers, and the secretary shall report to the legislative education study committee and the legislative finance committee on any issues or actions of a school district that appear to adversely affect student learning."

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House Bill 462, aa

Approved April 5, 2013

## **LAWS 2013, CHAPTER 188**

AN ACT

RELATING TO COUNTIES; INCREASING THE SALARY LIMIT FOR ELECTED COUNTY OFFICIALS; ELIMINATING CERTAIN COUNTY CLASSES; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

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

### **Chapter 188 Section 1 Laws 2013**

SECTION 1. Section 4-44-1 NMSA 1978 (being Laws 1957, Chapter 196, Section 1, as amended) is amended to read:

"4-44-1. CLASSIFICATION FOR SALARY PURPOSES.--

A. For the purpose of fixing salaries of county officers, the several counties of the state, except "H" class counties, are hereby classified as follows:

(1) those having a final, full assessed valuation of over seventy-five million dollars (\$75,000,000) and having a population of one hundred thousand persons or more as determined by the most current annual population data or estimate available from the United States census bureau, as class "A" counties;

(2) those having a final, full assessed valuation in excess of seventy-five million dollars (\$75,000,000) with a population of less than one hundred thousand persons as determined by the most current annual population data or estimate available from the United States census bureau, as class "B" counties; and

(3) those having a final, full assessed valuation equal to or less than seventy-five million dollars (\$75,000,000) with a population of less than one hundred thousand persons as determined by the most current annual population data or estimate available from the United States census bureau, as class "C" counties.

B. The assessed valuation for each year shall be the full valuation as finally fixed for that year."

### **Chapter 188 Section 2 Laws 2013**

SECTION 2. Section 4-44-4 NMSA 1978 (being Laws 1957, Chapter 196, Section 2, as amended) is amended to read:

"4-44-4. CLASS A COUNTIES--SALARIES.--The annual salaries of elected officers of class A counties shall not exceed:

- A. county commissioners, thirty-four thousand five dollars (\$34,005) each;
- B. treasurer, seventy-five thousand three hundred twenty-seven dollars (\$75,327);
- C. assessor, seventy-five thousand three hundred twenty-seven dollars (\$75,327);
- D. sheriff, seventy-eight thousand five hundred fifty-five dollars (\$78,555);
- E. county clerk, seventy-five thousand three hundred twenty-seven dollars (\$75,327); and
- F. probate judge, thirty-three thousand one hundred forty-three dollars (\$33,143)."

### **Chapter 188 Section 3 Laws 2013**

SECTION 3. Section 4-44-4.1 NMSA 1978 (being Laws 1986, Chapter 67, Section 2, as amended) is amended to read:

"4-44-4.1. CLASS B COUNTIES--OVER THREE HUNDRED MILLION DOLLARS (\$300,000,000) VALUATION--SALARIES.--The annual salaries of elected officers of class B counties with an assessed valuation of over three hundred million dollars (\$300,000,000) shall not exceed:

- A. county commissioners, twenty-six thousand two hundred fifty-seven dollars (\$26,257) each;
- B. treasurer, sixty-five thousand eight hundred fifty-five dollars (\$65,855);
- C. assessor, sixty-five thousand eight hundred fifty-five dollars (\$65,855);
- D. sheriff, sixty-eight thousand six hundred fifty-four dollars (\$68,654);
- E. county clerk, sixty-five thousand eight hundred fifty-five dollars (\$65,855); and
- F. probate judge, twenty-three thousand twenty-eight dollars (\$23,028)."

### **Chapter 188 Section 4 Laws 2013**

SECTION 4. Section 4-44-5 NMSA 1978 (being Laws 1957, Chapter 196, Section 3, as amended) is amended to read:

"4-44-5. CLASS B COUNTIES--SALARIES.--The annual salaries of elected officers of class B counties with an assessed valuation of over seventy-five million dollars (\$75,000,000) but under three hundred million dollars (\$300,000,000) shall not exceed:

A. county commissioners, eighteen thousand seven hundred twenty-five dollars (\$18,725) each;

B. treasurer, fifty-six thousand three hundred eighty-six dollars (\$56,386);

C. county assessor, fifty-six thousand three hundred eighty-six dollars (\$56,386);

D. county sheriff, fifty-eight thousand nine hundred sixty-nine dollars (\$58,969);

E. county clerk, fifty-six thousand three hundred eighty-six dollars (\$56,386); and

F. probate judge, thirteen thousand one hundred twenty-nine dollars (\$13,129)."

### **Chapter 188 Section 5 Laws 2013**

SECTION 5. Section 4-44-6 NMSA 1978 (being Laws 1957, Chapter 196, Section 4, as amended) is amended to read:

"4-44-6. CLASS C COUNTIES--SALARIES.--The annual salaries of elected officers of class C counties shall not exceed:

A. county commissioners, eighteen thousand seven hundred twenty-five dollars (\$18,725) each;

B. county treasurer, fifty-six thousand three hundred eighty-six dollars (\$56,386);

C. county assessor, fifty-six thousand three hundred eighty-six dollars (\$56,386);

D. county sheriff, fifty-eight thousand nine hundred sixty-nine dollars (\$58,969);

E. county clerk, fifty-six thousand three hundred eighty-six dollars (\$56,386); and

F. probate judge, thirteen thousand one hundred twenty-nine dollars (\$13,129)."

### **Chapter 188 Section 6 Laws 2013**

SECTION 6. Section 4-44-12.3 NMSA 1978 (being Laws 1991, Chapter 91, Section 1, as amended) is amended to read:

"4-44-12.3. LEGISLATIVE INTENT--UNIFORM SALARY CHANGES.--

A. The intent of the legislature when enacting salary increases for elected county officials is to provide for equitable salary increases.

B. In accordance with Sections 4-44-3 through 4-44-6 NMSA 1978, the majority of a board of county commissioners may provide for salary increases for elected county officials; provided, however, that no salary increase shall take effect until the first day of the term of an elected county official who takes office after the date that salary increase is approved."

### **Chapter 188 Section 7 Laws 2013**

SECTION 7. Section 4-44-14 NMSA 1978 (being Laws 1955, Chapter 4, Section 2, as amended) is amended to read:

"4-44-14. H CLASS COUNTIES--SALARIES AND EXPENSES.--

A. Officers elected or appointed in a county of the H class shall receive no more than the following annual salaries:

(1) county commissioners, thirteen thousand seven hundred seventy-seven dollars (\$13,777);

(2) treasurer, six thousand eight hundred eighty-nine dollars (\$6,889);

(3) assessor, six thousand eight hundred eighty-nine dollars (\$6,889);

(4) sheriff, six thousand eight hundred eighty-nine dollars (\$6,889);

(5) county clerk, six thousand eight hundred eighty-nine dollars (\$6,889); and

(6) probate judge, four thousand thirty-one dollars (\$4,031).

B. The governing body of an H class county shall provide for salaries for the elected officials of the county pursuant to Section 4-44-12.3 NMSA 1978."

### **Chapter 188 Section 8 Laws 2013**

SECTION 8. REPEAL.--Sections 4-44-7, 4-44-8, 4-44-12.1, 4-44-12.2, 4-44-13 and 4-44-17 NMSA 1978 (being Laws 1957, Chapter 196, Sections 5 and 6, Laws 1982, Chapter 39, Sections 10 and 12, Laws 1957, Chapter 196, Section 12 and Laws 1953, Chapter 59, Section 1, as amended) are repealed.

### **Chapter 188 Section 9 Laws 2013**

SECTION 9. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 through 5, 7 and 8 of this act is January 1, 2014.

B. The effective date of the provisions of Section 6 of this act is July 1, 2013.

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House Bill 334, aa

Approved April 5, 2013

## **LAWS 2013, CHAPTER 189**

AN ACT

RELATING TO ELECTIONS; REQUIRING ADEQUATE RESOURCES IN POLLING PLACES TO AVOID DELAY IN VOTING ON ELECTION DAY.

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

### **Chapter 189 Section 1 Laws 2013**

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

"ELECTION-DAY POLLING PLACES--ADEQUATE RESOURCES.--

A. Each election-day polling place in a primary or general election that does not contain mail ballot election precincts or precincts consolidated pursuant to Section 1-3-4 NMSA 1978 shall comply with the requirements for polling places and precincts as provided in Subsections B and C of this section, unless the county clerk receives a written waiver from the secretary of state specifying the location and specific provision being waived.

B. Each polling place shall:

(1) have at least one voting system available to assist disabled voters to cast and record their votes; and

(2) be in a location that is accessible and compliant with the requirements of the federal Americans with Disabilities Act of 1990.

C. Each precinct polling place located within a single polling place shall have:

(1) a separate precinct board and signature roster for the precinct;

(2) at least one optical scan tabulator for the precinct; and

(3) sufficient spaces for at least five voters to simultaneously and privately mark their ballots, with at least one of those spaces wheelchair-accessible, for the precinct."

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HVEC/House Bill 219

Approved April 5, 2013

## **LAWS 2013, CHAPTER 190**

AN ACT

RELATING TO LOCAL GOVERNMENTS; EXPANDING THE SCOPE OF THE CONVENTION CENTER FINANCING ACT TO CIVIC CENTERS AND TO ALL MUNICIPALITIES.

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

### **Chapter 190 Section 1 Laws 2013**

SECTION 1. Section 5-13-2 NMSA 1978 (being Laws 2003, Chapter 87, Section 2) is amended to read:



"5-13-2. DEFINITIONS.--As used in the Convention Center Financing Act:

A. "convention center" includes a civic center or convention center and any facility that includes space for rent by the public for the primary purpose of increasing tourism;

B. "convention center fee" means the fee imposed by a local governmental entity pursuant to the Convention Center Financing Act on vendees for the use of lodging facilities;

C. "local governmental entity" means a qualified municipality or a county authorized by the Convention Center Financing Act to impose convention center fees;

D. "lodging facility" means a hotel, motel or motor hotel, a bed and breakfast facility, an inn, a resort or other facility offering rooms for payment of rent or other consideration;

E. "qualified municipality" means an incorporated municipality or an H class county;

F. "room" means a unit of a lodging facility, such as a hotel room;

G. "vendee" means a person who rents or pays consideration to a vendor for use of a room; and

H. "vendor" means a person or the person's agent who furnishes rooms for occupancy for consideration."

## **Chapter 190 Section 2 Laws 2013**

SECTION 2. Section 5-13-3 NMSA 1978 (being Laws 2003, Chapter 87, Section 3) is amended to read:

"5-13-3. AUTHORIZED LOCAL GOVERNMENTAL ENTITIES.--

A. The following local governmental entities are authorized to impose convention center fees:

(1) a qualified municipality if the governing body of the qualified municipality has enacted an ordinance to impose a convention center fee; and

(2) a county in which a qualified municipality is located, provided that:

(a) a qualified municipality within the county has enacted an ordinance to impose a convention center fee;

(b) the board of county commissioners of the county has enacted an ordinance to impose a convention center fee;

(c) the qualified municipality and the county have entered into a joint powers agreement pursuant to the Joint Powers Agreements Act to collect the revenue from the convention center fee and to expend the revenue as required in the Convention Center Financing Act; and

(d) the fee shall only apply to lodging facilities located within twenty miles of the corporate limits of the qualified municipality.

B. Two qualified municipalities may enter into a joint powers agreement pursuant to the Joint Powers Agreements Act to collect revenue from a convention center fee and to expend the revenue as required by the Convention Center Financing Act if the municipalities:

(1) are located in the same county within twenty miles of the corporate limits of each other; and

(2) have each enacted an ordinance to impose a convention center fee."

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House Bill 73, aa

Approved April 5, 2013

## **LAWS 2013, CHAPTER 191**

### **AN ACT**

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE; MAKING APPROPRIATIONS FOR SPECIAL EDUCATION MAINTENANCE OF EFFORT IN THE EVENT OTHER APPROPRIATIONS ARE INSUFFICIENT OR THE STATE'S PROPOSAL FOR FUNDING IS DENIED; DECLARING AN EMERGENCY.

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

### **Chapter 191 Section 1 Laws 2013**

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

A. If, after final negotiation and settlement with the United States department of education, the state is required to make up funding for state-level special education maintenance of effort as required by Part B of the federal Individuals with

Disabilities Education Act and the appropriations for that purpose provided in the general appropriation acts of 2012 and 2013 are insufficient, up to the following amounts are appropriated from the operating reserve to the public education department, subject to the provisions of Subsections B and C of this section:

(1) twenty million dollars (\$20,000,000) for fiscal year 2013; and

(2) sixteen million dollars (\$16,000,000) for fiscal year 2014.

B. Prior to the transfer of any amount of the appropriations in Subsection A of this section, the public education department shall:

(1) certify to the state board of finance that all means and efforts to make sufficient funding available to meet special education maintenance of effort requirements in the named fiscal years have been taken and the appropriations provided in the general appropriation acts of 2012 and 2013 are insufficient; and

(2) review its certification to the state board of finance with the legislative education study committee and the legislative finance committee.

C. The public education department shall distribute the required amount of the appropriations provided in Subsection A of this section to each school district and charter school in the same manner and on the same basis as the state equalization guarantee distribution, and the department shall not distribute more than is necessary to meet the maintenance of effort requirement.

D. If the state transferred money from the state equalization guarantee distribution to meet the state-level special education maintenance of effort requirement as provided in Subsection A of this section and the United States department of education rejects that transfer after final negotiation and settlement, the amount transferred, up to twenty million dollars (\$20,000,000) for fiscal year 2013 and up to sixteen million dollars (\$16,000,000) for fiscal year 2014, shall be appropriated from the operating reserve to the state equalization guarantee distribution.

E. If any part of the fiscal year 2013 appropriation provided in Subsection D of this section is required to satisfy the state-level special education maintenance of effort requirement pursuant to final negotiation and settlement, and if the secretary of public education had reset the final unit value pursuant to the special education maintenance of effort contingent appropriation in the General Appropriation Act of 2013 for that fiscal year, the secretary shall adjust the final unit value in accordance with the amount transferred from the fiscal year 2013 appropriation in that subsection, and that amount shall be distributed to school districts and charter schools through the state equalization guarantee distribution.

F. If any part of the fiscal year 2014 appropriation provided in Subsection D of this section is required to satisfy the state-level special education maintenance of

effort requirement pursuant to final negotiation and settlement, and if the secretary of public education had reset the final unit value pursuant to the special education maintenance of effort contingent appropriations in the General Appropriation Act of 2013 for that fiscal year, the secretary shall adjust the final unit value in accordance with the amount transferred from the fiscal year 2014 appropriation in that subsection, and the amount shall be distributed to school districts and charter schools through the state equalization guarantee distribution.

## **Chapter 191 Section 2 Laws 2013**

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

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HAFC/House Bill 628, w/ec

Approved April 5, 2013

## **LAWS 2013, CHAPTER 192**

AN ACT

RELATING TO COURTS; PROVIDING FOR THE USE OF MUNICIPAL COURT CORRECTIONS FEES AND MUNICIPAL COURT PENALTY ASSESSMENT FEES.

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

## **Chapter 192 Section 1 Laws 2013**

SECTION 1. Section 35-14-11 NMSA 1978 (being Laws 1983, Chapter 134, Section 6, as amended) is amended to read:

"35-14-11. MUNICIPAL ORDINANCE--COURT COSTS--COLLECTION--PURPOSE.--

A. Every municipality shall enact an ordinance requiring assessment of corrections fees, judicial education fees and court automation fees to be collected as court costs and used as provided in this section.

B. A municipal judge shall collect the following costs:

(1) a corrections fee of twenty dollars (\$20.00);

(2) a judicial education fee of three dollars (\$3.00); and

(3) a court automation fee of six dollars (\$6.00).

C. The fees are to be collected upon conviction from persons convicted of violating any ordinance relating to the operation of a motor vehicle or any ordinance that may be enforced by the imposition of a term of imprisonment.

D. All money collected pursuant to Paragraph (1) of Subsection B of this section shall be deposited in a special fund in the municipal treasury and shall be used for:

(1) municipal jailer or juvenile detention officer training;

(2) the construction planning, construction, operation and maintenance of a municipal jail or juvenile detention facility;

(3) paying the cost of housing municipal prisoners in a county jail or detention facility or housing juveniles in a detention facility;

(4) complying with match or contribution requirements for the receipt of federal funds relating to jails or juvenile detention facilities;

(5) providing inpatient treatment or other substance abuse programs in conjunction with or as an alternative to jail sentencing;

(6) defraying the cost of transporting prisoners to jails or juveniles to juvenile detention facilities; or

(7) providing electronic monitoring systems.

E. If a municipality with a population less than three thousand according to the most recent federal decennial census has a balance in its special fund pursuant to Subsection D of this section that is over the amount projected to be needed for the next fiscal year for the purposes set forth in that subsection, the municipality may transfer the unneeded balance to the municipality's general fund.

F. A municipality may credit the interest collected from fees deposited in the special fund pursuant to Subsection D of this section to the municipality's general fund.

G. All money collected pursuant to Paragraph (2) of Subsection B of this section shall be remitted monthly to the state treasurer for credit to the judicial education fund and shall be used for the education and training, including production of bench books and other written materials, of municipal judges and other municipal court employees.

H. All money collected pursuant to Paragraph (3) of Subsection B of this section shall be remitted monthly to the state treasurer for credit to the municipal court automation fund and shall be used for the purchase, maintenance and operation of court automation systems in the municipal courts. Operation includes staff expenses, temporary or otherwise, and costs as needed to comply with Section 35-14-12 NMSA 1978. The court automation systems shall have the capability of providing, on a timely basis, electronic records in a format specified by the judicial information systems council.

I. As used in this section, "convicted" means the defendant has been found guilty of a criminal charge by a municipal judge, either after trial, a plea of guilty or a plea of nolo contendere."

## **Chapter 192 Section 2 Laws 2013**

SECTION 2. Section 66-8-130 NMSA 1978 (being Laws 1978, Chapter 35, Section 538, as amended) is amended to read:

"66-8-130. ALL TRAFFIC CITATIONS TO CONFORM--MUNICIPALITIES MAY PASS ORDINANCE TO ESTABLISH SIMILAR PROGRAM.--

A. The uniform traffic citation shall be used by all state and local agencies enforcing laws and ordinances relating to motor vehicles. Any municipality may, by passage of an ordinance, establish a municipal penalty assessment program similar to that established in Sections 66-8-116 through 66-8-117 NMSA 1978 for violations of provisions of the Motor Vehicle Code. Every municipality that has adopted an ordinance to establish a penalty assessment program shall assess on all penalty assessment misdemeanors after January 1, 1984, in addition to the penalty assessment, a penalty assessment fee of ten dollars (\$10.00) to be deposited in a special fund in the municipal treasury for use by the municipality only for municipal jailer training; for the construction planning, construction, operation and maintenance of the municipal jail; for paying the costs of housing that municipality's prisoners in other detention facilities in the state; or for complying with match or contribution requirements for the receipt of federal funds relating to jails. Such a municipal program shall be limited to violations of municipal traffic ordinances.

B. If a municipality with a population less than three thousand according to the most recent federal decennial census has a balance in its special fund pursuant to Subsection A of this section that is over the amount projected to be needed for the next fiscal year for the purposes set forth in that subsection, the municipality may transfer the unneeded balance to the municipality's general fund.

C. All penalty assessments under a municipal program authorized by this section shall be processed by the municipal court, and all fines and fees collected shall be deposited in the treasury of the municipality. A copy of each penalty assessment processed shall be forwarded to the division within ten days of completion of local

processing for posting to the driver's record. With the prior approval of the director, the required information may be submitted to the division by electronic means in lieu of forwarding copies of the penalty assessments.

D. Each agency shall provide itself with copies conforming exactly in size and format with the uniform traffic citation prescribed by the director, and any alterations to conform with local conditions must be approved by the director."

### **Chapter 192 Section 3 Laws 2013**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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HJC/House Bill 107

Approved April 5, 2013

## **LAWS 2013, CHAPTER 193**

AN ACT

RELATING TO MILITARY AFFAIRS; ALLOWING FOR THE SUSPENSION OF SOME OR ALL MUNICIPAL OR COUNTY SERVICES, PUBLIC UTILITIES AND TELECOMMUNICATIONS SERVICES PROVIDED BY PERSONS WHOSE RATES ARE REGULATED BY THE MUNICIPALITY, COUNTY OR THE PUBLIC REGULATION COMMISSION WHEN A RESIDENT IS DEPLOYED OR TEMPORARILY ASSIGNED; REQUIRING RECONNECTION OR NEW CONNECTION WITHOUT CHARGE.

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

### **Chapter 193 Section 1 Laws 2013**

SECTION 1. MILITARY DEPLOYMENT--MUNICIPAL OR COUNTY SERVICES AND UTILITIES DISCONTINUED.--

A. When a resident is a member of a branch of the United States armed forces, the reserves or the New Mexico national guard and is deployed or on temporary duty assignment outside the resident's community for more than thirty days, the resident may suspend some or all municipal or county services, public utilities or telecommunications services provided by persons whose rates are regulated by the municipality, the county or the public regulation commission for the home of the resident

without a penalty. The resident shall certify to the municipality, county or other service providers that:

(1) the resident has orders to deploy or to be temporarily assigned outside the resident's community;

(2) the service is in the resident's name;

(3) the resident owns the home or has a lease that does not preclude suspension of municipal or county services or utilities; and

(4) family members or other persons will not be staying in the home during the time the resident is deployed or temporarily assigned.

B. Upon return from deployment or temporary duty assignment, the resident shall be allowed to reconnect the suspended municipal or county services, public utilities or telecommunications services without having to pay a reconnection fee. Except for new equipment or installation of equipment, the resident may establish new service at a new address without paying a connection fee.

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HJC/House Bill 175, aa

Approved April 5, 2013

## **LAWS 2013, CHAPTER 194**

AN ACT

RELATING TO RURAL TELECOMMUNICATIONS; AMENDING THE RURAL TELECOMMUNICATIONS ACT OF NEW MEXICO TO AMEND REGULATION OF INCUMBENT RURAL TELECOMMUNICATIONS CARRIERS.

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

### **Chapter 194 Section 1 Laws 2013**

SECTION 1. Section 63-9H-1 NMSA 1978 (being Laws 1999, Chapter 295, Section 1) is amended to read:

"63-9H-1. SHORT TITLE.--Chapter 63, Article 9H NMSA 1978 may be cited as the "Rural Telecommunications Act of New Mexico"."

### **Chapter 194 Section 2 Laws 2013**



SECTION 2. Section 63-9H-3 NMSA 1978 (being Laws 1999, Chapter 295, Section 3) 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. "eligible telecommunications carrier" means an eligible telecommunications carrier as defined in the federal act;

F. "federal act" means the federal Telecommunications Act of 1996;

G. "fund" means the state rural universal service fund;

H. "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;

I. "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 regulations commission;

J. "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;

K. "local exchange service" means the transmission of two-way interactive switched voice communications furnished by a telecommunications carrier within a local exchange area;

L. "long distance service" means telecommunications service between local exchange areas that originate and terminate within the state;

M. "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;

N. "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

O. "telecommunications carrier" means a person that provides public telecommunications service."

## **Chapter 194 Section 3 Laws 2013**

SECTION 3. Section 63-9H-4 NMSA 1978 (being Laws 1999, Chapter 295, Section 4) is amended to read:

"63-9H-4. REGULATION BY COMMISSION.--

A. Except as otherwise provided in the Rural Telecommunications Act of New Mexico or the federal act, each public telecommunications service is declared to be affected with the public interest and, as such, subject to the provisions of those acts, including the regulation thereof as provided in those acts.

B. The commission has exclusive jurisdiction to regulate incumbent rural telecommunications carriers only in the manner and to the extent authorized by the Rural Telecommunications Act of New Mexico, and Section 63-7-1.1 NMSA 1978 does not apply; provided, however, that the commission's jurisdiction includes the regulation of wholesale rates, including access charges and interconnection agreements

consistent with federal law and its enforcement and a determination of participation in low-income telephone service assistance programs pursuant to the Low Income Telephone Service Assistance Act.

C. The commission shall adopt rules consistent with the requirement for relaxed regulation for incumbent rural telecommunications carriers set forth in the Rural Telecommunications Act of New Mexico that provide for:

(1) reduced filing requirements for applicants in rate increase proceedings under the Rural Telecommunications Act of New Mexico and proceedings under that act seeking payments from the fund; and

(2) expedited consideration in all proceedings initiated pursuant to the Rural Telecommunications Act of New Mexico in order to reduce the cost and burden for incumbent rural telecommunications carriers and other applicants."

## **Chapter 194 Section 4 Laws 2013**

SECTION 4. 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. No later than January 1, 2000, the commission shall implement a "state rural universal service fund" to maintain and support at affordable rates those public telecommunications services and comparable retail alternative services provided by telecommunications carriers that have been designated as eligible telecommunications carriers, including commercial mobile radio services carriers, as are determined by the commission. All of the balances in the existing New Mexico universal service fund as of July 1, 1999 shall be transferred into the state rural universal service fund.

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 and to comparable retail alternative services provided by telecommunications carriers, including commercial mobile radio services, at a competitively and technologically neutral rate or rates to be determined by the commission. In prescribing competitively and technologically neutral surcharge rates, the commission may make distinctions between services subject to a surcharge, but it shall require all carriers subject to the surcharge to apply uniform surcharge rates for the same or comparable services. 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; or to an Indian nation, tribe or pueblo.

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 reduces intrastate switched access charges to interstate switched access charge levels in a revenue-neutral manner and 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 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 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 shall consider at least the following items:

(1) whether granting eligible carrier status to multiple carriers in a designated area is likely to result in more customer choice;

(2) the impact of designation of an additional eligible carrier on the size of the fund;

(3) the unique advantages and disadvantages of the competitor's service offering;

(4) any commitments made regarding the quality of telephone service; and

(5) the competitive carrier's willingness and ability to offer service throughout the designated service areas within a reasonable time frame.

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 and 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 local telecommunications service as determined by the commission at affordable rates in rural high cost areas of the state.

I. Beginning April 1, 2006, the commission shall commence the phase-in of reductions in intrastate switched access charges. By May 1, 2008, 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 after May 1, 2008.

J. To ensure that providers of intrastate retail communications service contribute to the fund and to further ensure that the surcharge to be paid by the end-user customer will be held to a minimum, no later than November 1, 2005, the commission shall adopt rules, or take other appropriate action, to require all such providers to participate in a plan to ensure accurate reporting, and shall establish a cap on the surcharge.

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, in an amount equal to the reduction in revenues that occurs as a result of reduced intrastate switched access charges. The commission shall determine the methodology to be used to authorize payments to all other carriers that apply for and receive eligible carrier status. Any reductions in charges for access services resulting from compliance with this section shall be passed on for the benefit of consumers in New Mexico.

L. 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 high-cost areas of the state upon a finding, based on factors that may include a carrier's revenues, expenses or investment, by the commission that such payments are needed to ensure the widespread availability and affordability of residential local exchange 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.

M. By December 1, 2008, the fund administrator shall make a report to the commission and the legislature. The report shall include the effects of access reductions. The report shall also make recommendations for any changes to the structure, size or purposes of the fund."

## **Chapter 194 Section 5 Laws 2013**

SECTION 5. Section 63-9H-7 NMSA 1978 (being Laws 1999, Chapter 295, Section 7, as amended) is amended to read:

"63-9H-7. REGULATION OF RETAIL RATES OF INCUMBENT RURAL TELECOMMUNICATIONS CARRIER.--

A. Rates for retail rural public telecommunications services provided by an incumbent rural telecommunications carrier shall be subject to regulation by the commission only in the manner and to the extent authorized by this section.

B. An incumbent rural telecommunications carrier shall file tariffs for all retail public telecommunications services that, other than residential local exchange service, shall be effective after ten days' notice to its customers and the commission. An incumbent rural telecommunications carrier shall remain subject to complaint by an interested party subject to Section 63-9H-10 NMSA 1978.

C. An incumbent rural telecommunications carrier may increase its rates for residential local exchange service in the manner provided in Subsection B of this

section to comply with requirements imposed by any federal or state law or rule. The procedures of Subsections D, E and F of this section shall not apply to increases under this subsection.

D. Except as provided in Subsection C of this section, rates for residential local exchange service may be increased by an incumbent rural telecommunications carrier only after sixty days' notice to all affected subscribers. The notice of increase shall include:

- (1) the reasons for the rate increase;
- (2) a description of the affected service;
- (3) an explanation of the right of the subscriber to petition the commission for a public hearing on the rate increase;
- (4) a list of local exchange areas that are affected by the proposed rate increase; and
- (5) the dates, times and places for the public informational meetings required by this section.

E. An incumbent rural telecommunications carrier that proposes to increase its rates for residential local exchange service pursuant to Subsection D of this section shall hold at least one public informational meeting in each public regulation commissioner's district as established by the Public Regulation Commission Apportionment Act in which there is a local exchange area affected by the rate change.

F. Residential local exchange service rates increased by an incumbent rural telecommunications carrier pursuant to Subsections D and E of this section shall be reviewed by the commission only upon written protest signed by two and one-half percent of all affected subscribers or upon the commission staff's own motion for good cause. The protest shall specifically set forth the particular rate or charge as to which review is requested, the reasons for the requested review and the relief that the persons protesting desire. If a proper protest is presented to the commission within sixty days from the date notice of the rate change was sent to affected subscribers of an incumbent rural telecommunications carrier, the commission may accept and file the complaint and, upon proper notice, may suspend the rates at issue during the pendency of the proceedings and reinstate the rates previously in effect and shall hold and complete a hearing thereon within ninety days after filing to determine if the rates as proposed are fair, just and reasonable. The commission may, within sixty days after close of the hearing, enter an order adjusting the rates at issue, except that the commission shall not set any rate below the intrastate cost of providing the service, which shall include the cost methodology and rate of return authorized by the federal communications commission. In the order, the commission may order a refund of amounts collected in excess of the rates and charges as approved at the hearing, which

may be paid as a credit against billings for future services. If the complaint is denied, the commission shall enter an order denying the complaint within sixty days after the close of the hearing, and the rates shall be deemed approved. For purposes of this section, cost shall also include a reasonable amount of joint and common costs incurred by the telecommunications carrier in its operations and may include other accounting adjustments authorized by the commission.

G. An incumbent rural telecommunications carrier may at any time elect to file an application with the commission requesting the commission to prescribe fair, just and reasonable rates for the carrier, based on the carrier's revenue, expenses and investment in accordance with traditional rate-making principles factors that may include the carrier's revenues, expenses or investment, in a manner consistent with the policy calling for relaxed regulation of incumbent rural telecommunications carriers expressed in Section 63-9H-2 NMSA 1978 and Subsection C of Section 63-9H-4 NMSA 1978. The commission shall decide cases filed under this subsection with reasonable promptness but no later than nine months following the filing of an application, 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.

H. Rates for local exchange, vertical and long distance service to retail end-user customers may be reduced to a level equal to, but not below, the intrastate cost, which shall include the cost methodology and rate of return authorized by the federal communications commission. If an incumbent rural telecommunications carrier loses its exemption pursuant to Section 251 of the federal act, the rate for a service, excluding basic service, must cover the cost of the service, including the imputed rate of wholesale service elements as may be required by the commission. The cost of long distance service must also include any interexchange access rates charged to another telecommunications carrier for the service.

I. An incumbent rural telecommunications carrier operating pursuant to this section shall have the ability to offer or discontinue offering special incentives, discounts, packaged offerings, temporary rate waivers or other promotions, or to offer individual contracts."

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House Bill 58, aa

Approved April 5, 2013

## **LAWS 2013, CHAPTER 195**

AN ACT

RELATING TO THE PUBLIC DEFENDER; CREATING THE PUBLIC DEFENDER COMMISSION TO OVERSEE THE OPERATION OF THE PUBLIC DEFENDER



DEPARTMENT AS AN INDEPENDENT STATE AGENCY AND TO DEVELOP STANDARDS; MODIFYING THE APPOINTMENT, QUALIFICATIONS AND REMOVAL OF THE CHIEF PUBLIC DEFENDER; DETACHING THE PUBLIC DEFENDER DEPARTMENT FROM THE CORRECTIONS DEPARTMENT; PROVIDING TEMPORARY PROVISIONS.

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

### **Chapter 195 Section 1 Laws 2013**

SECTION 1. Section 9-3-11 NMSA 1978 (being Laws 1977, Chapter 257, Section 12) is amended to read:

"9-3-11. ADMINISTRATIVE ATTACHMENT.--

A. The following entities are administratively attached to the corrections department:

(1) the adult parole board; and

(2) the governor's organized crime prevention commission.

B. All powers and duties vested in the entities enumerated in this section shall remain unamended by the provisions of the Corrections Department Act."

### **Chapter 195 Section 2 Laws 2013**

SECTION 2. Section 31-15-1 NMSA 1978 (being Laws 1973, Chapter 156, Section 1) is amended to read:

"31-15-1. SHORT TITLE.--Chapter 31, Article 15 NMSA 1978 may be cited as the "Public Defender Act"."

### **Chapter 195 Section 3 Laws 2013**

SECTION 3. Section 31-15-2 NMSA 1978 (being Laws 1973, Chapter 156, Section 2, as amended) is amended to read:

"31-15-2. DEFINITIONS.--As used in the Public Defender Act:

A. "chief" means the chief public defender;

B. "commission" means the public defender commission;

C. "court" means the district, metropolitan and magistrate courts of this state;

D. "department" means the public defender department;

E. "district" means a public defender district; and

F. "judge" means a judge of the district or metropolitan court or a magistrate."

## **Chapter 195 Section 4 Laws 2013**

SECTION 4. A new section of the Public Defender Act is enacted to read:

"PUBLIC DEFENDER COMMISSION--MEMBERSHIP--TERMS--REMOVAL.--

A. The public defender commission, created pursuant to Article 6, Section 39 of the constitution of New Mexico, consists of eleven members. Members shall be appointed as follows:

(1) the governor shall appoint one member;

(2) the chief justice of the supreme court shall appoint three members;

(3) the dean of the university of New Mexico school of law shall appoint three members;

(4) the speaker of the house of representatives shall appoint one member;

(5) the majority floor leaders of each chamber shall each appoint one member; and

(6) the president pro tempore of the senate shall appoint one member.

B. The appointments made by the chief justice of the supreme court and the dean of the university of New Mexico school of law shall follow the appointments made by the other appointing authorities and shall be made in such a manner so that each of the two largest major political parties, as defined in the Election Code, shall be equally divided on the commission.

C. Initial appointments to the commission shall be made by July 1, 2013. If a position remains vacant on July 1, 2013, the supreme court shall fill the vacancy. Initial terms of members appointed by the dean of the university of New Mexico school of law, the speaker of the house of representatives and the majority floor leader of the senate shall be for three years; and initial terms of members appointed by the governor and the chief justice of the supreme court shall be for two years.

D. Subsequent terms shall be for four years. A commission member shall not serve more than two consecutive terms. A commission member shall serve until the member's successor has been appointed and qualified. A vacancy on the commission shall be filled by the appointing authority for the remainder of the unexpired term.

E. A member may be removed by the commission for malfeasance, misfeasance or neglect of duty. If a member's professional status changes to render the member ineligible pursuant to the Public Defender Act, the member shall resign immediately.

F. Members of the commission are entitled to compensation pursuant to the provisions of the Per Diem and Mileage Act and shall receive no other perquisite, compensation or allowance.

G. The commission is administratively attached to the department, and staff for the commission shall be provided by the department."

## **Chapter 195 Section 5 Laws 2013**

SECTION 5. A new section of the Public Defender Act is enacted to read:

"PUBLIC DEFENDER COMMISSION--MEMBER QUALIFICATIONS.--

A. A person appointed to the commission shall have:

(1) significant experience in the legal defense of criminal or juvenile justice cases; or

(2) demonstrated a commitment to quality indigent defense representation or to working with and advocating for the population served by the department.

B. The following persons shall not be appointed to and shall not serve on the commission:

(1) current prosecutors, law enforcement officials or employees of prosecutors or law enforcement officials;

(2) current public defenders or other employees of the department;

(3) current judges, judicial officials or employees of judges or judicial officials;

(4) current elected officials or employees of elected officials; or

(5) persons who currently contract with or receive funding from the department or employees of such persons."

## **Chapter 195 Section 6 Laws 2013**

SECTION 6. A new section of the Public Defender Act is enacted to read:

"PUBLIC DEFENDER COMMISSION--ORGANIZATION--MEETINGS.--

A. The commission shall hold its first meeting by September 1, 2013 and shall organize and elect a chair at that meeting. Three subsequent meetings shall be held in 2013. Thereafter, the commission shall meet at least four times a year, as determined by a majority of commission members. Meetings shall be held at the call of the chair or the chief or at the request of four commission members.

B. The commission shall appoint the chief by October 15, 2013.

C. A majority of commission members constitutes a quorum for the transaction of business, and an action by the commission is not valid unless six or more members concur.

D. The commission may adopt rules and shall keep a record of its proceedings.

E. A commission member may select a designee to serve in the member's stead only once per year."

## **Chapter 195 Section 7 Laws 2013**

SECTION 7. A new section of the Public Defender Act is enacted to read:

"PUBLIC DEFENDER COMMISSION--POWERS AND DUTIES--RESTRICTION ON INDIVIDUAL MEMBER.--

A. The commission shall exercise independent oversight of the department, set representation standards for the department and provide guidance and support to the chief in the administration of the department and the representation of indigent persons pursuant to the Public Defender Act.

B. The commission shall develop fair and consistent standards for the operation of the department and the provision of services pursuant to the Public Defender Act, including standards relating to:

(1) the minimum experience, training and qualifications for appointed, contract and staff attorneys in both adult and juvenile cases in coordination with the state personnel office;

(2) monitoring and evaluating appointed, contract and staff attorneys;

(3) ethically responsible caseload and workload levels and workload monitoring protocols for staff attorneys, contract attorneys and district defender offices;

(4) the competent and efficient representation of clients whose cases present conflicts of interest; and

(5) qualifications and performance of appointed, contract and staff attorneys in capital cases at the trial, appellate and post-conviction levels.

C. An individual member of the commission shall not interfere with the discretion, professional judgment or advocacy of a public defender, a public defender office, a public defender contractor or an assigned counsel in the representation of a public defender client."

## **Chapter 195 Section 8 Laws 2013**

SECTION 8. Section 31-15-4 NMSA 1978 (being Laws 1973, Chapter 156, Section 4, as amended) is amended to read:

"31-15-4. CHIEF PUBLIC DEFENDER--APPOINTMENT--QUALIFICATIONS--REMOVAL.--

A. The chief shall be the administrative head of the department. The commission shall appoint a chief for a term of four years by approval of two-thirds of its members. The commission may reappoint a chief for subsequent terms. A vacancy in the office of the chief shall be filled by appointment by the commission.

B. The commission shall appoint as chief only a person with the following qualifications:

(1) an attorney licensed to practice law in New Mexico or who will be so licensed within one year of appointment;

(2) an attorney whose practice of law has been active for at least five years immediately preceding the date of this appointment;

(3) an attorney whose practice of law has included a minimum of five years' experience in defense of persons accused of crime; and

(4) an attorney who has clearly demonstrated management or executive experience.

C. The chief may be removed by the commission; provided, however, that no removal shall be made without notice of hearing and an opportunity to be heard having been first given to the chief."

### **Chapter 195 Section 9 Laws 2013**

SECTION 9. Section 31-15-5 NMSA 1978 (being Laws 1978, Chapter 14, Section 1) is amended to read:

"31-15-5. PUBLIC DEFENDER DEPARTMENT--ADMINISTRATION--FINANCE.-

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A. The headquarters of the department shall be maintained at Santa Fe.

B. All salaries and other expenses of the department shall be paid by warrants of the secretary of finance and administration, supported by vouchers signed by the chief or the chief's authorized representative and in accordance with budgets approved by the state budget division of the department of finance and administration."

### **Chapter 195 Section 10 Laws 2013**

SECTION 10. Section 31-15-5.1 NMSA 1978 (being Laws 1993, Chapter 79, Section 2) is amended to read:

"31-15-5.1. PUBLIC DEFENDER AUTOMATION FUND CREATED--  
ADMINISTRATION--DISTRIBUTION.--

A. The "public defender automation fund" is created in the state treasury. The fund shall be administered by the department. The department shall report on the status of the fund to the legislative finance committee during each legislative interim.

B. All balances in the public defender automation fund are appropriated to the department for the purchase and maintenance of automation systems for the department.

C. Payments from the public defender automation fund shall be made pursuant to vouchers issued and signed by the chief upon warrants drawn by the secretary of finance and administration. Any purchase or lease-purchase agreement entered into pursuant to this section shall be entered into in accordance with the Procurement Code."

### **Chapter 195 Section 11 Laws 2013**

SECTION 11. Section 31-15-7 NMSA 1978 (being Laws 1973, Chapter 156, Section 7, as amended) is amended to read:

"31-15-7. CHIEF PUBLIC DEFENDER--GENERAL DUTIES AND POWERS.--

A. The chief is responsible to the commission for the operation of the department. It is the chief's duty to manage all operations of the department and to:

(1) administer and carry out the provisions of the Public Defender Act with which the chief is charged;

(2) exercise authority over and provide general supervision of employees of the department; and

(3) represent and advocate for the department and its clients.

B. To perform the chief's duties, the chief has every power implied as necessary for that purpose, those powers expressly enumerated in the Public Defender Act or other laws and full power and authority to:

(1) exercise general supervisory authority over all employees of the department subject to the Personnel Act;

(2) delegate authority to subordinates as the chief deems necessary and appropriate;

(3) within the limitations of applicable appropriations and applicable laws, employ and fix the compensation of those persons necessary to discharge the chief's duties;

(4) organize the department into those units the chief deems necessary and appropriate to carry out the chief's duties;

(5) conduct research and studies that will improve the operation of the department and the administration of the Public Defender Act;

(6) provide courses of instruction and practical training for employees of the department that will improve the operation of the department and the administration of the Public Defender Act;

(7) purchase or lease personal property and lease real property for the use of the department;

(8) maintain records and statistical data that reflect the operation and administration of the department;

(9) submit an annual report and budget covering the operation of the department together with appropriate recommendations to the commission and, upon approval by the commission, to the legislature and the governor;

(10) serve as defense counsel under the Public Defender Act as necessary and appropriate;

(11) formulate a fee schedule for attorneys who are not employees of the department who serve as counsel for indigent persons under the Public Defender Act;

(12) adopt a standard to determine indigency;

(13) provide for the collection of reimbursement from each person who has received legal representation or another benefit under the Public Defender Act after a determination is made that the person was not indigent according to the standard for indigency adopted by the department. Any amounts recovered shall be paid to the state treasurer for credit to the general fund;

(14) require each person who desires legal representation or another benefit under the Public Defender Act to enter into a contract with the department agreeing to reimburse the department if a determination is made that the person was not indigent according to the standard for indigency adopted by the department; and

(15) certify contracts and expenditures for litigation expenses, including contracts and expenditures for professional and nonprofessional experts, investigators and witness fees, but not including attorney contracts, pursuant to the provisions of the Procurement Code."

## **Chapter 195 Section 12 Laws 2013**

SECTION 12. TEMPORARY PROVISION.--The chief public defender serving on the effective date of this act shall continue serving until a chief public defender is appointed by the public defender commission, but shall not serve after January 1, 2014. Nothing in this act prohibits the public defender commission from reappointing the chief public defender serving on the effective date of this act.

## **Chapter 195 Section 13 Laws 2013**

SECTION 13. TEMPORARY PROVISION.--Existing contracts, agreements and other obligations in effect for the public defender department shall continue to be binding on the public defender department on and after the effective date of this act.

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HAFC/HJC/House Bill 483, aa, wo/ec

Approved April 5, 2013



# LAWS 2013, CHAPTER 196

## AN ACT

RELATING TO EDUCATION; PROVIDING FOR PUBLIC SCHOOL AND PUBLIC POST-SECONDARY EDUCATIONAL INSTITUTION ACCOUNTABILITY REPORTS TO INCLUDE STUDENT ACHIEVEMENT DISAGGREGATED BY CERTAIN FACTORS.

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

### Chapter 196 Section 1 Laws 2013

SECTION 1. Section 21-1-26.7 NMSA 1978 (being Laws 1990 (1st S.S.), Chapter 4, Section 2, as amended) is amended to read:

"21-1-26.7. ANNUAL ACCOUNTABILITY REPORT.--

A. The higher education department shall submit an annual accountability report to the governor and to the legislature by December 31. Prior to publication, the department shall distribute a draft of the accountability report to all public post-secondary educational institutions and shall allow comment upon the draft report.

B. The department in consultation with each public post-secondary educational institution shall develop and adopt the content and a format for the report, including the following information:

(1) student progress and success disaggregated by gender and by ethnicity and race as follows:

(a) Caucasian, non-Hispanic;

(b) Hispanic;

(c) African American;

(d) American Indian or Alaska Native;

(e) Native Hawaiian or other Pacific Islander;

(f) Asian;

(g) two or more races; and

(h) other; provided that if the sample of students in any category enumerated in Subparagraphs (a) through (g) of this paragraph is so small that

a student in the sample may be personally identifiable in violation of the federal Family Educational Rights and Privacy Act, the report may combine that sample into the "other" category;

(2) student access and diversity;

(3) affordability and cost of educational services;

(4) public and community service by the institution; and

(5) faculty, compensation and benefits practices, including:

(a) number and percentage of part-time and full-time faculty;

(b) per-credit-hour pay rate for full-time instructors or lecturers and per-credit-hour pay rate for part-time faculty;

(c) percent salary increase for full-time faculty and percent salary increase for part-time faculty; and

(d) description of the institution's policy for offering benefits to full-time faculty and to part-time faculty.

C. The department shall make no funding recommendation, capital outlay recommendation, distribution or certification on behalf of any public post-secondary educational institution that has not submitted the information required pursuant to this section."

## **Chapter 196 Section 2 Laws 2013**

SECTION 2. Section 22-2C-11 NMSA 1978 (being Laws 2003, Chapter 153, Section 20, as amended) is amended to read:

"22-2C-11. ASSESSMENT AND ACCOUNTABILITY SYSTEM REPORTING--  
PARENT SURVEY--DATA SYSTEM--FISCAL INFORMATION.--

A. The department shall:

(1) issue a state identification number for each public school student for use in the accountability data system;

(2) adopt the format for reporting individual student assessments to parents. The student assessments shall report each student's progress and academic needs as measured against state standards;

(3) adopt the format for reporting annual yearly progress of public schools, school districts, state-chartered charter schools and the department. A school district's report shall include reports of all locally chartered charter schools in the school district. If the department has adopted a state improving schools program, the annual accountability report shall include the results of that program for each public school. The annual accountability report format shall be clear, concise and understandable to parents and the general public. All annual accountability reports shall ensure that the privacy of individual students is protected;

(4) require that when public schools, school districts, state-chartered charter schools and the state disaggregate and report school data for demographic subgroups, they include data disaggregated by ethnicity, race, limited English proficiency, students with disabilities, poverty and gender; provided that ethnicity and race shall be reported using the following categories:

(a) Caucasian, non-Hispanic;

(b) Hispanic;

(c) African American;

(d) American Indian or Alaska Native;

(e) Native Hawaiian or other Pacific Islander;

(f) Asian;

(g) two or more races; and

(h) other; provided that if the sample of students in any category enumerated in Subparagraphs (a) through (g) of this paragraph is so small that a student in the sample may be personally identifiable in violation of the federal Family Educational Rights and Privacy Act, the report may combine that sample into the "other" category;

(5) report cohort graduation data annually for the state, for each school district and for each state-chartered charter school and each public high school, based on information provided by all school districts and state-chartered charter schools according to procedures established by the department; provided that the report shall include the number and percentage of students in a cohort who:

(a) have graduated by August 1 of the fourth year after entering the ninth grade;

(b) have graduated in more than four years, but by August 1 of the fifth year after entering ninth grade;

(c) have received a state certificate by exiting the school system at the end of grade twelve without having satisfied the requirements for a high school diploma as provided in Section 22-13-1.1 NMSA 1978 or completed all course requirements but have not passed the graduation assessment or portfolio of standards-based indicators pursuant to Section 22-13-1.1 NMSA 1978;

(d) have dropped out or whose status is unknown;

(e) have exited public school and indicated an intent to pursue a general educational development certificate; or

(f) are still enrolled in public school;

(6) report annually, based on data provided by school districts and state-chartered charter schools, the number and percentage of public school students in each cohort in the state in grades nine through twelve who have advanced to the next grade or graduated on schedule, who remain enrolled but have not advanced to the next grade on schedule, who have dropped out or whose other educational outcomes are known to the department; and

(7) establish technical criteria and procedures to define which students are included or excluded from a cohort.

B. Local school boards and governing boards of charter schools may establish additional indicators through which to measure the school district's or charter school's performance in areas other than adequate yearly progress.

C. The school district's or state-chartered charter school's annual accountability report shall include a report of four- and five-year graduation rates for each public high school in the school district or state-chartered charter school. All annual accountability reports shall ensure that the privacy of individual students is protected. As part of the graduation rate data, the school district or state-chartered charter school shall include data showing the number and percentage of students in the cohort:

(1) who have received a state certificate by exiting the school system at the end of grade twelve without having satisfied the requirements for a high school diploma as provided in Section 22-13-1.1 NMSA 1978 or completed all course requirements but have not passed the graduation assessment or portfolio of standards-based indicators pursuant to Section 22-13-1.1 NMSA 1978;

(2) who have dropped out or whose status is unknown;

(3) who have exited public school and indicated an intent to pursue a general educational development certificate;

(4) who are still enrolled; and

(5) whose other educational outcomes are known to the school district.

D. The school district's or state-chartered charter school's annual accountability report shall include the results of a survey of parents' views of the quality of their children's school. The survey shall be conducted each year in time to include the results in the annual accountability report. The survey shall compile the results of a written questionnaire that shall be sent home with the students to be given to their parents. The survey may be completed anonymously. The survey shall be no more than one page, shall be clearly and concisely written and shall include not more than twenty questions that shall be answered with options of a simple sliding scale ranging from "strongly agree" to "strongly disagree" and shall include the optional response "don't know". The survey shall also include a request for optional written comments, which may be written on the back of the questionnaire form. The questionnaire shall include questions in the following areas:

(1) parent-teacher-school relationship and communication;

(2) quality of educational and extracurricular programs;

(3) instructional practices and techniques;

(4) resources;

(5) school employees, including the school principal; and

(6) parents' views of teaching staff expectations for the students.

E. The department shall develop no more than ten of the survey questions, which shall be reviewed by the legislative education study committee prior to implementation. No more than five survey questions shall be developed by the local school board or governing body of a state-chartered charter school, and no more than five survey questions shall be developed by the staff of each public school; provided that at least one-half of those questions shall be developed by teachers rather than school administrators, in order to gather information that is specific to the particular community surveyed. The questionnaires shall indicate the public school site and shall be tabulated by the department within thirty days of receipt and shall be returned to the respective schools to be disseminated to all parents.

F. The school district's or state-chartered charter school's annual accountability report shall be adopted by the local school board or governing body of the state-chartered charter school, shall be published no later than November 15 of each year and shall be published at least once each school year in a newspaper of general circulation in the county where the school district or state-chartered charter school is

located. In publication, the report shall be titled "The School District Report Card" or "The Charter School Report Card" and disseminated in accordance with guidelines established by the department to ensure effective communication with parents, students, educators, local policymakers and business and community organizations.

G. The annual accountability report shall include the names of those members of the local school board or the governing body of the charter school who failed to attend annual mandatory training.

H. The annual accountability report shall include data on expenditures for central office administration and expenditures for the public schools of the school district or charter school.

I. The department shall create an accountability data system through which data from each public school and each school district or state-chartered charter school may be compiled and reviewed. The department shall provide the resources to train school district and charter school personnel in the use of the accountability data system.

J. The department shall verify data submitted by the school districts and state-chartered charter schools.

K. At the end of fiscal year 2005, after the budget approval cycle, the department shall produce a report to the legislature that shows for all school districts using performance-based program budgeting the relationship between that portion of a school district's program cost generated by each public school in the school district and the budgeted expenditures for each public school in the school district as reported in the district's performance-based program budget. At the end of fiscal year 2006 and subsequent fiscal years, after the budget approval cycle, the department shall report on this relationship in all public schools in all school districts in the state.

L. When all public schools are participating in performance-based budgeting, the department shall recommend annually to the legislature for inclusion in the general appropriation act the maximum percentage of appropriations that may be expended in each school district for central office administration.

M. The department shall disseminate its statewide accountability report to school districts and charter schools; the governor, legislators and other policymakers; and business and economic development organizations.

N. As used in this section, "cohort" means a group of students who enter grade nine for the first time at the same time, plus those students who transfer into the group in later years and minus those students who leave the cohort for documented excusable reasons."

## **Chapter 196 Section 3 Laws 2013**

SECTION 3. Section 22-2E-4 NMSA 1978 (being Laws 2011, Chapter 10, Section 4) is amended to read:

"22-2E-4. ANNUAL RATINGS--LETTER GRADES--RATINGS BASED ON STANDARDS-BASED ASSESSMENTS--RIGHT TO SCHOOL CHOICE--DISTANCE LEARNING--RESPONSIBILITY FOR COST--USE OF FUNDS--ADDITIONAL REMEDY.--

A. All public schools shall be graded annually by the department.

B. The department shall assign a letter grade of A, B, C, D or F to each public school pursuant to criteria established by department rules, after input from the secretary's superintendents' council, that include as a minimum a combination of the following factors in a public school's grade:

(1) for elementary and middle schools:

(a) student proficiency, including achievement on the New Mexico standards-based assessments;

(b) student growth in reading and mathematics; and

(c) growth of the lowest twenty-fifth percentile of students in the public school in reading and mathematics; and

(2) for high schools:

(a) student proficiency, including achievement on the New Mexico standards-based assessments;

(b) student growth in reading and mathematics;

(c) growth of the lowest twenty-fifth percentile of students in the high school in reading and mathematics; and

(d) additional academic indicators such as high school graduation rates, growth in high school graduation rates, advanced placement and international baccalaureate courses, dual enrollment courses and SAT and ACT scores.

C. The New Mexico standards-based assessments used for rating a school are those administered annually to students in grades three, four, five, six, seven, eight, nine and eleven pursuant to Section 22-2C-4 NMSA 1978.

D. In addition to any rights a parent may have pursuant to federal law, the parent of a student enrolled in a public school rated F for two of the last four years has the right to transfer the student in the same grade to any public school in the state not

rated F or the right to have the student continue schooling by means of distance learning offered through the statewide or a local cyber academy. The school district or charter school in which the student is enrolled is responsible for the cost of distance learning.

E. The department shall ensure that a local school board or governing body of a charter school is prioritizing resources of a public school rated D or F toward proven programs and methods linked to improved student achievement until the public school earns a grade of C or better for two consecutive years.

F. The school options available pursuant to the

A-B-C-D-F Schools Rating Act are in addition to any remedies provided for in the Assessment and Accountability Act for students in schools in need of improvement or any other interventions prescribed by the federal No Child Left Behind Act of 2001.

G. When reporting a school's grade, the department shall include student data disaggregated by ethnicity, race, limited English proficiency, students with disabilities, poverty and gender; provided that ethnicity and race shall be reported using the following categories:

- (1) Caucasian, non-Hispanic;
- (2) Hispanic;
- (3) African American;
- (4) American Indian or Alaska Native;
- (5) Native Hawaiian or other Pacific Islander;
- (6) Asian;
- (7) two or more races; and

(8) other; provided that if the sample of students in any category enumerated in Paragraphs (1) through (7) of this subsection is so small that a student in the sample may be personally identifiable in violation of the federal Family Educational Rights and Privacy Act, the report may combine that sample into the "other" category."

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HEC/House Bill 112

Approved April 5, 2013



# LAWS 2013, CHAPTER 197

## AN ACT

RELATING TO CRIMINAL CITATIONS; PROVIDING FOR THE USE OF ELECTRONIC CITATIONS.

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

### **Chapter 197 Section 1 Laws 2013**

SECTION 1. Section 31-1-6 NMSA 1978 (being Laws 1973, Chapter 73, Section 4, as amended) is amended to read:

"31-1-6. CITATION IN LIEU OF ARREST WITHOUT A WARRANT.--

A. A law enforcement officer who arrests a person without a warrant for a petty misdemeanor or any offense under Chapter 17 NMSA 1978 may offer the person arrested the option of accepting a citation to appear in lieu of taking the person to jail.

B. A citation issued pursuant to this section shall contain the name and address of the cited person, the offense charged and the time and place to appear. The citation may be a paper citation or an electronic version of a paper citation. Unless the person requests an earlier date, the time specified in the citation shall be at least three days after issuance of the citation. The law enforcement officer shall explain the person's rights not to sign a citation, the effect of not signing the citation, the effect of signing the citation and the effect of failing to appear at the time and place stated on the citation.

C. The person's signature on the citation constitutes a promise to appear at the time and place stated in the citation. One copy of the citation to appear shall be delivered to the person cited, and the law enforcement officer shall keep a duplicate copy for filing with the court as soon as practicable.

D. A law enforcement officer who prepares a citation pursuant to this section may use a paper citation form or an electronic citation form to record the information required by this section. Regardless of the form of citation used, a physical copy of the citation shall be delivered to the person cited as required by this section. An electronic citation may be signed electronically and the law enforcement officer's copy of a citation may be filed with the court electronically.

E. A citation issued pursuant to this section is a valid complaint if the person receives and signs the citation in paper or electronic form.

F. It is a petty misdemeanor for a person signing a citation not to appear at the time and place stated in the citation regardless of the disposition of the offense for

which the citation was issued. A written promise to appear may be complied with by appearance of counsel."

## **Chapter 197 Section 2 Laws 2013**

SECTION 2. Section 66-8-123 NMSA 1978 (being Laws 1978, Chapter 35, Section 531, as amended) is amended to read:

"66-8-123. CONDUCT OF ARRESTING OFFICER--NOTICES BY CITATION.--

A. Except as provided in Section 66-8-122 NMSA 1978, unless a penalty assessment or warning notice is given, whenever a person is arrested for any violation of the Motor Vehicle Code or other law relating to motor vehicles punishable as a misdemeanor, the arresting officer, using the uniform traffic citation in paper or electronic form, shall complete the information section and prepare a notice to appear in court, specifying the time and place to appear, have the arrested person sign the agreement to appear as specified, give a copy of the citation to the arrested person and release the person from custody.

B. Whenever a person is arrested for violation of a penalty assessment misdemeanor and elects to pay the penalty assessment, the arresting officer, using the uniform traffic citation in paper or electronic form, shall complete the information section and prepare the penalty assessment notice indicating the amount of the penalty assessment, have the arrested person sign the agreement to pay the amount prescribed, give a copy of the citation along with a business reply envelope addressed to the motor vehicle division in Santa Fe to the arrested person and release the person from custody. No officer shall accept custody or payment of any penalty assessment. If the arrested person declines to accept a penalty assessment notice, the officer shall issue a notice to appear.

C. The arresting officer may issue a warning notice, but shall fill in the information section of the uniform traffic citation in paper or electronic form and give a copy to the arrested person after requiring the person's signature on the warning notice as an acknowledgment of receipt. No warning notice issued under this section shall be used as evidence of conviction for purposes of suspension or revocation of license under Section 66-5-30 NMSA 1978.

D. In order to secure release, the arrested person must give the person's written promise to appear in court or to pay the penalty assessment prescribed or acknowledge receipt of a warning notice.

E. Any officer violating this section is guilty of a misconduct in office and is subject to removal.

F. A law enforcement officer who arrests a person without a warrant for a misdemeanor violation of the Motor Carrier Act, the Criminal Code, the Liquor Control

Act or other New Mexico law may use the uniform traffic citation in paper or electronic form, issued pursuant to procedures outlined in Subsections B through F of Section 31-1-6 NMSA 1978, in lieu of taking the person to jail.

G. An electronic traffic citation, prescribed by Section 66-8-128 NMSA 1978, is an electronic version of the uniform traffic citation. For the purposes of this section, an electronic citation may be completed instead of a uniform traffic citation; provided, however, that where this section requires a copy of a citation to be given to an arrested person, a physical copy of the citation shall be provided whether a uniform traffic citation or an electronic form of the uniform traffic citation was used. An electronic form of the uniform traffic citation may be signed electronically."

### **Chapter 197 Section 3 Laws 2013**

SECTION 3. Section 66-8-128 NMSA 1978 (being Laws 1978, Chapter 35, Section 536, as amended) is amended to read:

"66-8-128. UNIFORM TRAFFIC CITATION.--

A. The department shall prepare a uniform traffic citation containing at least the following information:

(1) an information section, serially numbered and containing spaces for the name, physical address and mailing address, city and state of the individual charged; the individual's physical description, age and sex; the registration number, year and state of the vehicle involved and its make and type; the state and number of the individual's driver's license; the specific section number and common name of the offense charged under the NMSA 1978 or local law; the date and time of arrest; the arresting officer's signature and identification number; and the conditions existing at the time of the violation;

(2) a notice to appear; and

(3) a penalty assessment notice with a place for the signature of the violator agreeing to pay the penalty assessment prescribed.

B. The department shall prescribe how the uniform traffic citation form may be used as a warning notice.

C. The department shall prescribe the size and number of copies of the paper version of the uniform traffic citation and the disposition of each copy. The department may also prescribe one or more electronic versions of the uniform traffic citation, which may be used in the issuance of citations instead of or with paper uniform traffic citations.

D. Any entity that wishes to submit electronic traffic citations instead of or with paper uniform traffic citations required to be submitted to the department shall secure the prior permission of the department.

E. An electronic version of a uniform traffic citation shall include the same information required to be included in a uniform traffic citation. An electronic version of a uniform traffic citation may be signed electronically and a law enforcement officer may submit or file with a court an electronic version of a uniform traffic citation if prior permission of the department has been secured. Where the law requires a law enforcement officer to provide a copy of a citation to a person cited or arrested, a physical copy of the citation shall be provided regardless of whether a paper uniform traffic citation or an electronic version of a uniform traffic citation was used."

## **Chapter 197 Section 4 Laws 2013**

SECTION 4. Section 66-8-130 NMSA 1978 (being Laws 1978, Chapter 35, Section 538, as amended) is amended to read:

"66-8-130. ALL TRAFFIC CITATIONS TO CONFORM--MUNICIPALITIES MAY PASS ORDINANCE TO ESTABLISH SIMILAR PROGRAM.--

A. The uniform traffic citation, in paper or electronic form, shall be used by all state and local agencies enforcing laws and ordinances relating to motor vehicles. A municipality may, by passage of an ordinance, establish a municipal penalty assessment program similar to that established in Sections 66-8-116 through 66-8-117 NMSA 1978 for violations of provisions of the Motor Vehicle Code. Every municipality that has adopted an ordinance to establish a penalty assessment program shall assess on all penalty assessment misdemeanors after January 1, 1984, in addition to the penalty assessment, a penalty assessment fee of ten dollars (\$10.00) to be deposited in a special fund in the municipal treasury for use by the municipality only for municipal jailer training; for the construction planning, construction, operation and maintenance of the municipal jail; for paying the costs of housing that municipality's prisoners in other detention facilities in the state; or for complying with match or contribution requirements for the receipt of federal funds relating to jails. Such a municipal program shall be limited to violations of municipal traffic ordinances.

B. All penalty assessments under a municipal program authorized by this section shall be processed by the municipal court, and all fines and fees collected shall be deposited in the treasury of the municipality. A copy of each penalty assessment processed shall be forwarded to the division within ten days of completion of local processing for posting to the driver's record. With the prior approval of the director, the required information may be submitted to the division by electronic means in lieu of forwarding copies of the penalty assessments.

C. Each agency shall provide itself with copies conforming exactly in size and format with the uniform traffic citation and the electronic version of the uniform

traffic citation if applicable, prescribed by the director, and any alterations to the format to conform with local conditions must be approved by the director."

### **Chapter 197 Section 5 Laws 2013**

SECTION 5. TEMPORARY PROVISION--PROCEDURES TO IMPLEMENT THE USE OF ELECTRONIC CITATIONS.--The department of public safety and the motor vehicle division of the taxation and revenue department shall develop procedures to carry out the provisions of this act.

### **Chapter 197 Section 6 Laws 2013**

SECTION 6. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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HJC/House Bill 178

Approved April 5, 2013

## **LAWS 2013, CHAPTER 198**

AN ACT

RELATING TO PUBLIC SCHOOLS; REQUIRING SCHOOL DISTRICTS AND CHARTER SCHOOLS TO ESTABLISH POLICIES THAT PROVIDE EXCUSED ABSENCES FOR PREGNANT AND PARENTING STUDENTS FOR DOCUMENTED PREGNANCIES, FOR THE DOCUMENTED BIRTH OF THE STUDENT'S CHILD AND FOR ABSENCES OF A PARENTING STUDENT TO CARE FOR THE STUDENT'S CHILD WHO IS UNDER THE AGE OF THIRTEEN; REQUIRING STUDENTS TO BE GRANTED TIME FOR MAKE-UP WORK; REQUIRING DISTRIBUTION OF POLICIES TO ALL SECONDARY EDUCATION STUDENTS.

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

### **Chapter 198 Section 1 Laws 2013**

SECTION 1. A new section of Chapter 22, Article 12 NMSA 1978 is enacted to read:

"EXCUSED ABSENCES FOR PREGNANT AND PARENTING STUDENTS.--

A. Each school district and charter school shall maintain an attendance policy that:

(1) provides at least ten days of excused absences for a student who provides documentation of the birth of the student's child and provides excused absences for any additional days missed by a pregnant or parenting student for which a longer period of absence is deemed medically necessary by the student's physician; provided that the student shall be allowed a time period to make up the work that the student missed that equals the number of days the student was absent for the birth of a child; and

(2) provides four days per semester of excused absences, in addition to the number of allowed absences for all students, for a student who provides appropriate documentation of pregnancy or that the student is the parent of a child under the age of thirteen needing care; and allows the student a time period to make up the work that the student missed that equals the number of days the student was absent.

B. The pregnant or parenting student is responsible for communicating the student's pregnancy and parenting status to the appropriate school personnel if the student chooses to disclose the information.

C. The school district or charter school shall provide a copy of the pregnant and parenting student absence policies to all students in middle, junior high and high schools."

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House Bill 300, aa

Approved April 5, 2013

## **LAWS 2013, CHAPTER 199**

### **AN ACT**

RELATING TO CRIMINAL JUSTICE; CREATING THE BERNALILLO COUNTY CRIMINAL JUSTICE REVIEW COMMISSION; PROVIDING DUTIES AND REQUIRING A REPORT.

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

### **Chapter 199 Section 1 Laws 2013**

SECTION 1. BERNALILLO COUNTY CRIMINAL JUSTICE REVIEW COMMISSION.--

A. The "Bernalillo county criminal justice review commission" is created to exist from July 1, 2013 through June 30, 2015.

B. The commission shall be composed of the following members or their designees:

- (1) the chief judge of the second judicial district;
- (2) the chief judge of the Bernalillo county metropolitan court;
- (3) the second judicial district attorney;
- (4) the Bernalillo county sheriff;
- (5) the chair of the board of county commissioners of Bernalillo county;
- (6) the chief of the Albuquerque police department;
- (7) the district public defender of the second judicial district;
- (8) the director of the administrative office of the courts, under the supervision and direction of the supreme court;
- (9) the region manager of region 2 of the adult probation and parole division of the corrections department; and
- (10) the executive director of the New Mexico association of counties.

C. The director of the administrative office of the courts, or the director's designee, shall chair the Bernalillo county criminal justice review commission. The chair shall call the first meeting of the commission to take place within thirty days of the effective date of this section, and the commission shall subsequently meet at the call of the chair. The commission shall organize itself in a manner appropriate to accomplish its duties pursuant to this section. The commission may call upon any of its members' agencies or organizations to support the work of the commission.

D. The Bernalillo county criminal justice review commission is charged with reviewing the criminal justice system in Bernalillo county, including the judicial process, sentencing, community corrections alternatives and jail overcrowding, for the purposes of identifying changes that will improve each members' agency or organization's ability to carry out its duties in the criminal justice system and ensuring that criminal justice is indeed just. State agencies shall provide prompt and pertinent responses to reasonable commission requests for information or support.

E. Following its review of the Bernalillo county criminal justice system, the Bernalillo county criminal justice review commission shall make written recommendations for revisions or alternatives to local and state laws that in the determination of the commission will serve to improve the delivery of criminal justice in Bernalillo county. A copy of the report shall be provided to each member of the board of county commissioners of Bernalillo county, to the administrative office of the courts, to

the New Mexico association of counties, to the legislative finance committee and to the appropriate interim legislative committee.

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House Bill 608

Approved April 5, 2013

## **LAWS 2013, CHAPTER 200**

AN ACT

RELATING TO HUMAN TRAFFICKING; PROVIDING FOR CIVIL REMEDIES;  
PROVIDING FOR CERTAIN STATE BENEFITS AND SERVICES FOR HUMAN  
TRAFFICKING VICTIMS.

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

### **Chapter 200 Section 1 Laws 2013**

SECTION 1. HUMAN TRAFFICKING--CIVIL REMEDY FOR HUMAN  
TRAFFICKING VICTIMS.--

A. A human trafficking victim may bring a civil action in any court of competent jurisdiction against an alleged human trafficker for actual damages, compensatory damages, punitive damages, injunctive relief or any other appropriate relief. Where the court finds that a defendant's actions were willful and malicious, the court may award treble damages to the plaintiff. A prevailing plaintiff is also entitled to recover reasonable attorney fees and costs.

B. A civil action pursuant to this section shall be forever barred unless the action is filed within ten years from the date on which:

(1) the defendant's human trafficking actions occurred; or

(2) the victim attains eighteen years of age if the victim was a minor when the defendant's actions occurred.

### **Chapter 200 Section 2 Laws 2013**

SECTION 2. SEALING OF RECORDS OF HUMAN TRAFFICKING VICTIMS.--

A. On petition to the district court, a person who is a victim of human trafficking who has been charged with crimes arising out of the actions of someone



charged with human trafficking may have all legal and law enforcement records of the charges and convictions in the person's case sealed. The court may issue an order sealing records and files if the court finds:

(1) the petitioner is a victim of human trafficking;

(2) the charge or conviction is for a non-homicide crime; and

(3) the petitioner's involvement in the offense was due to duress, coercion, use of force, threat to or fraud committed against the petitioner by a person who has committed human trafficking involving the petitioner.

B. Reasonable notice of the petition shall be given to the district attorney or prosecutor who filed the original case and to the law enforcement agency that has custody of the law enforcement files and records for the case.

C. Upon the entry of the sealing order, the proceedings in the case shall be treated as if they never occurred and all index references shall be deleted. The court, law enforcement agencies and the petitioner shall respond to an inquiry that no record exists with respect to the petitioner for the referenced case. Copies of the sealed order shall be sent by the court to the district attorney or prosecutor who filed the original case, and each law enforcement agency shall be named in the order.

D. Inspection of files and records or release of information in the records included in the sealing order may be permitted by the court only upon subsequent order of the court on a showing of good cause after notice to all parties to the original petition.

## **Chapter 200 Section 3 Laws 2013**

SECTION 3. Section 30-52-2 NMSA 1978 (being Laws 2008, Chapter 17, Section 2) is amended to read:

"30-52-2. HUMAN TRAFFICKING--BENEFITS AND SERVICES FOR HUMAN TRAFFICKING VICTIMS.--

A. Human trafficking victims found in the state shall be eligible for benefits and services from the state until the victim qualifies for benefits and services authorized by the federal Victims of Trafficking and Violence Protection Act of 2000; provided that the victim cooperates in the investigation or prosecution of the person charged with the crime of human trafficking. Benefits and services shall be provided to eligible human trafficking victims as quickly as can reasonably be arranged regardless of immigration status and shall include, when appropriate to a particular case:

(1) case management;

(2) emergency temporary housing;

- (3) health care;
  - (4) mental health counseling;
  - (5) drug addiction screening and treatment;
  - (6) language interpretation, translation services and English language instruction;
  - (7) job training, job placement assistance and post-employment services for job retention;
  - (8) child care;
  - (9) advocacy services;
  - (10) state-funded cash assistance;
  - (11) food assistance;
  - (12) services to assist the victim and the victim's family members;
- and
- (13) other general assistance services and benefits as determined by the children, youth and families department or the human services department.

B. A human trafficking victim advocate shall be provided immediately upon identification by law enforcement of a human trafficking victim.

C. Before providing benefits and services pursuant to Subsection A of this section, law enforcement shall certify to the human services department and the children, youth and families department that a person is:

- (1) a victim of human trafficking; and
- (2) cooperating in the investigation or prosecution of the person charged with the crime of human trafficking.

D. A victim's ability to cooperate shall be determined by the court, if that issue is raised by a human trafficking victim advocate. The victim is not required to cooperate if the court determines that the victim is unable to cooperate due to physical or psychological trauma. Benefits and services shall continue unless the court rejects the victim's claim regarding inability to cooperate. A victim who is younger than eighteen years of age is eligible for benefits and services without a finding by the court. Any court proceeding regarding the victim's ability to cooperate shall be held in camera. The

human trafficking victim advocate shall be allowed to attend the proceeding. The record of any such proceeding shall be sealed.

E. The attorney general shall coordinate plans developed by state and local law enforcement agencies to provide a human trafficking victim or the victim's family members protection from retaliatory action immediately upon identifying the presence in the state of a victim who offers state or local law enforcement agencies information regarding a perpetrator of human trafficking.

F. The prosecuting authority shall take all reasonable steps within its authority to provide a human trafficking victim with:

(1) all necessary documentation required pursuant to federal law for an adjustment of immigration status that applies to that victim; and

(2) assistance in accessing civil legal services providers who are able to petition for adjustment of immigration status on behalf of the victim.

G. As used in this section:

(1) "human trafficking victim" means a person subjected to human trafficking; and

(2) "human trafficking victim advocate" means a person provided by a state or nonprofit agency with experience in providing services for victims of crime."

## **Chapter 200 Section 4 Laws 2013**

SECTION 4. Section 31-22-8 NMSA 1978 (being Laws 1981, Chapter 325, Section 8, as amended) is amended to read:

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

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

(1) arson resulting in bodily injury;

(2) aggravated arson;

(3) aggravated assault or aggravated battery;

(4) dangerous use of explosives;

(5) negligent use of a deadly weapon;

- (6) murder;
- (7) voluntary manslaughter;
- (8) involuntary manslaughter;
- (9) kidnapping;
- (10) criminal sexual penetration;
- (11) criminal sexual contact of a minor;
- (12) homicide by vehicle or great bodily injury by vehicle, as provided in Section 66-8-101 NMSA 1978;
- (13) abandonment or abuse of a child;
- (14) aggravated indecent exposure, as provided in Section 30-9-14.3 NMSA 1978;
- (15) aggravated stalking, as provided in Section 30-3A-3.1 NMSA 1978; and
- (16) human trafficking.

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

## **Chapter 200 Section 5 Laws 2013**

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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HJC/House Bill 304, aa

Approved April 5, 2013

## **LAWS 2013, CHAPTER 201**

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; ADDING A BUSINESS THAT IS A QUALIFIED ENTITY FOR THE PURPOSES OF THE LOCAL ECONOMIC DEVELOPMENT ACT; REMOVING THE PROHIBITION ON PUBLIC SUPPORT OF

ECONOMIC DEVELOPMENT PROJECTS IN RURAL AREAS INVOLVING RETAIL SALES.

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

**Chapter 201 Section 1 Laws 2013**

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. "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;

C. "department" means the economic development department;

D. "economic development project" or "project" means the provision of direct or indirect assistance to a qualifying entity by a local or regional government and includes the purchase, lease, grant, construction, reconstruction, improvement or other acquisition or conveyance of land, buildings or other infrastructure; public works improvements essential to the location or expansion of a qualifying entity; payments for professional services contracts necessary for local or regional governments to implement a plan or project; the provision of direct loans or grants for land, buildings or infrastructure; technical assistance to cultural facilities; loan guarantees securing the cost of land, buildings or infrastructure in an amount not to exceed the revenue that may be derived from the municipal infrastructure gross receipts tax or the county infrastructure gross receipts tax; grants for public works infrastructure improvements essential to the location or expansion of a qualifying entity; grants or subsidies to cultural facilities; purchase of land for a publicly held industrial park or a publicly owned cultural facility; and the construction of a building for use by a qualifying entity;

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

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

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

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

I. "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 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;

J. "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

K. "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 of ten thousand or less."

## Chapter 201 Section 2 Laws 2013

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

(3) revenue generated through the imposition of a county infrastructure gross receipts tax pursuant to the County Local Option Gross Receipts Taxes Act for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act; provided that no more than the greater of fifty thousand dollars (\$50,000) or ten percent of the revenue collected shall be used for promotion and administration of or professional services contracts related to the implementation of any such economic development plan adopted by the governing body;

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

(5) the proceeds of a revenue bond issue to which county infrastructure gross receipts tax revenue is pledged; or

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

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

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

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

F. The question shall be submitted to the voters of the municipality or county as a separate question at a regular municipal or county election or at a special election called for that purpose by the governing body. A special municipal election shall be called, conducted and canvassed as provided in the Municipal Election Code. 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 201 Section 3 Laws 2013**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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HBIC/House Bill 581

Approved April 5, 2013

## **LAWS 2013, CHAPTER 202**

AN ACT

RELATING TO CAPITAL EXPENDITURES; REAUTHORIZING OR REAPPROPRIATING BALANCES, EXPANDING OR CHANGING PURPOSES, EXTENDING EXPENDITURE PERIODS, CHANGING AGENCIES AND ESTABLISHING CONDITIONS FOR THE REVERSION OF UNEXPENDED BALANCES OF APPROPRIATIONS MADE BY THE LEGISLATURE IN PRIOR YEARS; DECLARING AN EMERGENCY.

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

## **Chapter 202 Section 1 Laws 2013**

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 202 Section 2 Laws 2013**

### **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 202 Section 3 Laws 2013**

SECTION 3. SOUTH VALLEY POOL--EXTEND TIME--GENERAL FUND.--The time of expenditure for the public education department project originally appropriated in Subsection 52 of Section 55 of Chapter 42 of Laws 2007 and reappropriated to the local government division in Laws 2011, Chapter 183, Section 9 to plan, design, equip, construct and redevelop the south valley pool facility and grounds in Bernalillo county is extended through fiscal year 2015.

### **Chapter 202 Section 4 Laws 2013**

SECTION 4. ALBUQUERQUE TOWER PARK-WEST GATE LITTLE LEAGUE IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the project originally appropriated to the department of transportation in Subsection 14 of Section 52 of Chapter 347 of Laws 2005 and reappropriated to the local government division in Laws 2007, Chapter 341, Section 20 and reappropriated again in Laws 2011, Chapter 183, Section 7 to make improvements for Tower Park-West Gate little league in Albuquerque in Bernalillo county is extended through fiscal year 2015.

### **Chapter 202 Section 5 Laws 2013**

SECTION 5. NEW MEXICO STATE FAIR ALICE FAYE HOPPES PAVILION FIRE SUPPRESSION SYSTEM--CHANGE TO INFRASTRUCTURE AND IMPROVEMENTS AT THE STATE FAIR--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the state fair commission originally authorized in Subsection 1 of Section 16 of Chapter 92 of Laws 2008 and reauthorized in Laws 2012, Chapter 63, Section 15 for a fire suppression system at the Alice Faye Hoppes pavilion at the New Mexico state fairgrounds shall not be expended for the original or reauthorized purpose but is changed to make infrastructure and other improvements at the New Mexico state fairgrounds in Albuquerque in Bernalillo county.

### **Chapter 202 Section 6 Laws 2013**

SECTION 6. PETROGLYPH LITTLE LEAGUE CONCESSION STAND--CHANGE TO TRAILER PURCHASE FOR MOBILE CONCESSION STAND--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 129 of Section 3 of Chapter 7 of Laws 2009 (S.S.) to plan, design and construct a concession stand for the Petroglyph little league in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to purchase and install a trailer to be used as a mobile concession stand for that little league. The time of expenditure is extended through fiscal year 2015.

## **Chapter 202 Section 7 Laws 2013**

SECTION 7. WESTERN NEW MEXICO CORRECTIONAL FACILITY IMPROVEMENTS PLANNING AND DESIGN--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The capital program fund project in Subsection 2 of Section 5 of Chapter 5 of Laws 2011 (S.S.) to plan and design water, wastewater and erosion control improvements at the western New Mexico correctional facility in Cibola county may include construction.

## **Chapter 202 Section 8 Laws 2013**

SECTION 8. EAGLE NEST ENCHANTED EAGLE PARK ASBESTOS REMOVAL AND BUILDING DEMOLITION--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The local government division project in Subsection 42 of Section 16 of Chapter 64 of Laws 2012 to remove asbestos, including demolition and debris removal, from abandoned buildings in Enchanted Eagle park in Eagle Nest in Colfax county may include site improvements, including materials disposal and soil restoration.

## **Chapter 202 Section 9 Laws 2013**

SECTION 9. LAKE ROBERTS DAM AND SPILLWAY--CHANGE TO SPRINGER DAMS 1 AND 2--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of game and fish in Subsection 1 of Section 23 of Chapter 125 of Laws 2009 for construction and renovations to the Lake Roberts dam and spillway in Grant county shall not be expended for the original purpose but is appropriated to the office of the state engineer for construction and rehabilitation of dams 1 and 2 in Springer in Colfax county. The time of expenditure is extended through fiscal year 2015.

## **Chapter 202 Section 10 Laws 2013**

SECTION 10. GRADY FIRE TRUCK PURCHASE--CHANGE TO REPAY A LOAN--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 45 of Section 16 of Chapter 64 of Laws 2012 to purchase a fire truck for Grady in Curry county shall not be expended for the original purpose but is changed to pay back a loan for that purpose.

## **Chapter 202 Section 11 Laws 2013**

SECTION 11. BOSQUE REDONDO MEMORIAL EXHIBITS--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The cultural affairs department project in Subsection 2 of Section 9 of Chapter 125 of Laws 2009 to purchase and install exhibits at the Bosque Redondo memorial at Fort Sumner state monument in De Baca county may include design, construction and installation of an

exhibition at that memorial. The time of expenditure is extended through fiscal year 2015.

### **Chapter 202 Section 12 Laws 2013**

SECTION 12. ANTHONY DRAINAGE IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of transportation project originally authorized in Subsection 7 of Section 24 of Chapter 92 of Laws 2008 and reauthorized in Laws 2011, Chapter 183, Section 42 to plan, design and construct drainage improvements in Anthony in Dona Ana county is extended through fiscal year 2015.

### **Chapter 202 Section 13 Laws 2013**

SECTION 13. SAN MIGUEL ELEMENTARY SCHOOL RENOVATION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the project originally appropriated to the local government division in Subsection 235 of Section 59 of Chapter 92 of Laws 2008 and reappropriated in Laws 2009, Chapter 128, Section 243 and reappropriated again to the public education department in Laws 2011, Chapter 183, Section 40 to renovate the San Miguel elementary school for use by the Gadsden independent school district in Dona Ana county is extended through fiscal year 2015.

### **Chapter 202 Section 14 Laws 2013**

SECTION 14. SAN MIGUEL ELEMENTARY SCHOOL RENOVATION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the project originally appropriated to the local government division in Subsection 234 of Section 59 of Chapter 92 of Laws 2008 and reappropriated in Laws 2009, Chapter 128, Section 242 and reappropriated again to the public education department in Laws 2011, Chapter 183, Section 39 to renovate the San Miguel elementary school for use by the Gadsden independent school district in Dona Ana county is extended through fiscal year 2015.

### **Chapter 202 Section 15 Laws 2013**

SECTION 15. LAS CRUCES ARMIJO HOUSE RENOVATIONS--CHANGE TO VIETNAM VETERANS' MEMORIAL--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the cultural affairs department originally authorized in Subsection 5 of Section 7 of Chapter 92 of Laws 2008 of which fifty-five thousand dollars (\$55,000) was reauthorized and appropriated to the local government division in Laws 2012, Chapter 63, Section 36 to renovate the Armijo house in Las Cruces in Dona Ana county shall not be expended for the original or reauthorized purpose but is changed to make site improvements and construct a Vietnam War memorial in veterans' park in Las Cruces in Dona Ana county. The time of expenditure is extended through fiscal year 2015.

## **Chapter 202 Section 16 Laws 2013**

SECTION 16. NEW MEXICO FARM AND RANCH HERITAGE MUSEUM EXHIBITS AND TORTUGAS HALL CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the cultural affairs department project in Subsection 3 of Section 9 of Chapter 125 of Laws 2009 to continue construction and completion of Tortugas hall and to purchase and install exhibits at the New Mexico farm and ranch heritage museum in Las Cruces in Dona Ana county is extended through fiscal year 2015.

## **Chapter 202 Section 17 Laws 2013**

SECTION 17. SANTA TERESA PORT OF ENTRY STATIC SCALE AND BORDER AUTHORITY BUILDING--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the capital program fund project in Subsection 5 of Section 3 of Chapter 7 of Laws 2009 (S.S.) for construction and to equip and install a platform static scale at the Santa Teresa port of entry in Dona Ana county and to design, construct, equip and furnish a building for the border authority at the Santa Teresa border crossing in Dona Ana county is extended through fiscal year 2015.

## **Chapter 202 Section 18 Laws 2013**

SECTION 18. SANTA TERESA SAFETY INSPECTION FACILITY--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the project originally authorized to the local government division in Subsection 149 of Section 3 of Chapter 7 of Laws 2009 (S.S.) and reauthorized to the general services department in Laws 2011, Chapter 183, Section 52 to plan, design and construct improvements to a safety inspection facility in Santa Teresa in Dona Ana county is extended through fiscal year 2015.

## **Chapter 202 Section 19 Laws 2013**

SECTION 19. SANTA TERESA SAFETY INSPECTION STATION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project originally authorized in Subsection 3 of Section 23 of Chapter 42 of Laws 2007 and reauthorized to the capital program fund in Subsection B of Section 279 of Chapter 83 of Laws 2008 to plan, design and construct a safety inspection station at Santa Teresa in Dona Ana county and further reauthorized in Laws 2011, Chapter 183, Section 53 for a time extension is extended through fiscal year 2015.

## **Chapter 202 Section 20 Laws 2013**

SECTION 20. SUNLAND PARK MUNICIPAL COMPLEX--CHANGE TO STREETS AND DRAINAGE IMPROVEMENTS IN SUNLAND PARK--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of

the appropriation to the local government division in Subparagraph (c) of Paragraph (8) of Subsection A of Section 18 of Chapter 105 of Laws 2010 for a municipal complex in Sunland Park shall not be expended for the original purpose but is appropriated to the department of transportation to plan, design, construct and rehabilitate streets and drainage systems in Sunland Park in Dona Ana county. The time of expenditure is extended through fiscal year 2015.

### **Chapter 202 Section 21 Laws 2013**

SECTION 21. SUGARITE AND MANZANO STATE PARKS AND OTHER STATE PARKS LAND PURCHASES--CHANGE TO LIVING DESERT ZOO AND GARDENS STATE PARK ELECTRICAL IMPROVEMENTS--EXTEND TIME--PROCEEDS FROM THE SALE OF THE COTTONWOOD-WALNUT CREEK PROPERTY IN EDDY COUNTY.--The unexpended balance of the appropriation made from the proceeds of the sale of the Cottonwood-Walnut creek property in Eddy county in Laws 2004, Chapter 67, Section 1 for purchasing adjacent lands at Sugarite and Manzano state parks or at other parks shall not be expended for the original purpose but is changed for improvements to the electrical system, including the purchase and installation of conductors, infrastructure for a new primary service, transformers and meters, at Living Desert Zoo and Gardens state park in Eddy county. The time of expenditure is extended through fiscal year 2015.

### **Chapter 202 Section 22 Laws 2013**

SECTION 22. SECOND STREET ROAD AND DRAINAGE IMPROVEMENTS IN ROY--EXPAND PURPOSE TO VARIOUS STREETS IN ROY--SEVERANCE TAX BONDS.--The department of transportation project in Subsection 29 of Section 18 of Chapter 64 of Laws 2012 to plan, design and construct road and drainage improvements to Second street in Roy in Harding county may include improvements to various streets in Roy.

### **Chapter 202 Section 23 Laws 2013**

SECTION 23. JAMES MURRAY BUILDING IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the capital program fund project in Subsection 8 of Section 7 of Chapter 125 of Laws 2009 to plan, design and construct improvements, including reconfiguring office layout, remodeling restrooms and replacing the heating, ventilation and air conditioning system, in the James Murray building in Hobbs in Lea county is extended through fiscal year 2015.

### **Chapter 202 Section 24 Laws 2013**

SECTION 24. BAAHAALI CHAPTER POWERLINE EXTENSIONS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the Indian affairs department project authorized in Subsection 89 of Section 3 of Chapter 7 of Laws 2009

(S.S.) to plan, design and construct powerline extensions in the Baahaali chapter of the Navajo Nation in McKinley county is extended through fiscal year 2015.

### **Chapter 202 Section 25 Laws 2013**

SECTION 25. CROWNPOINT WELLNESS CENTER--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project originally appropriated in Subsection 43 of Section 66 of Chapter 42 of Laws 2007 and reappropriated in Laws 2011, Chapter 183, Section 58 to plan, design, construct, equip and furnish a wellness center, including purchasing a modular building, in Crownpoint in McKinley county is extended through fiscal year 2015.

### **Chapter 202 Section 26 Laws 2013**

SECTION 26. TOHATCHI CHAPTER PARKS AND PLAYGROUNDS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the project originally appropriated to the local government division in Subsection 154 of Section 26 of Chapter 2 of Laws 2007 and reappropriated to the Indian affairs department in Laws 2009, Chapter 128, Section 312 and reappropriated again in Laws 2011, Chapter 183, Section 66 to plan, design, construct, renovate and equip a skateboard park, volleyball park, picnic area, playground area, trails and landscaping in the Tohatchi chapter of the Navajo Nation in McKinley county is extended through fiscal year 2015.

### **Chapter 202 Section 27 Laws 2013**

SECTION 27. TOHATCHI CHAPTER POWERLINE EXTENSION--CHANGE TO MULTIPURPOSE BUILDING FOR VETERANS--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the Indian affairs department originally authorized in Subsection 18 of Section 115 of Chapter 126 of Laws 2004 and reauthorized in Laws 2009, Chapter 128, Section 311 and reauthorized again in Laws 2011, Chapter 183, Section 67 for a powerline extension project in the Tohatchi chapter of the Navajo Nation in McKinley county shall not be expended for the original purpose but is changed to plan and design a multipurpose building for veterans in that chapter. The time of expenditure is extended through fiscal year 2015.

### **Chapter 202 Section 28 Laws 2013**

SECTION 28. LINCOLN AND OTERO COUNTIES FLOOD DAMAGE IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the appropriation to the homeland security and emergency management department in Laws 2008 (S.S.), Chapter 8 to plan, design and construct improvements to roads, bridges and infrastructure damaged by severe flooding in Lincoln and Otero counties is extended through fiscal year 2015.

### **Chapter 202 Section 29 Laws 2013**



SECTION 29. SIERRA BLANCA, EAGLE NEST, MALOOF AND YOUTH DIAGNOSTIC AND DEVELOPMENT CENTER FACILITIES IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the capital program fund project originally authorized in Subsection 7 of Section 6 of Chapter 42 of Laws 2007 and reauthorized in Laws 2011, Chapter 183, Section 71 for grounds and security improvements at Camp Sierra Blanca, Eagle Nest, Maloof and youth diagnostic and development center facilities in multiple counties is extended through fiscal year 2015.

### **Chapter 202 Section 30 Laws 2013**

SECTION 30. LORDSBURG PORT OF ENTRY, SANTA TERESA INSPECTION STATION AND LAS CRUCES STATE POLICE DISTRICT HEADQUARTERS IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the capital program fund project originally authorized in Subsection 7 of Section 7 of Chapter 125 of Laws 2009 to equip, furnish and landscape the site, including a spur road, at the Lordsburg port of entry in Hidalgo county and reauthorized in Laws 2012, Chapter 63, Section 32 to include planning, designing, constructing, furnishing and equipping renovations at the Santa Teresa inspection station and the Las Cruces state police district headquarters in Dona Ana county is extended through fiscal year 2015.

### **Chapter 202 Section 31 Laws 2013**

SECTION 31. STATE BUILDINGS DEMOLITION AND DECOMMISSIONING--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the capital program fund project in Subsection 22 of Section 7 of Chapter 125 of Laws 2009 for demolition, decommissioning and asbestos abatement of state buildings, including the Campbell, Woolston, Mecham and Old Huning buildings on the Los Lunas campus in Valencia county and the old dormitory at the New Mexico rehabilitation center in Roswell in Chaves county, is extended through fiscal year 2015.

### **Chapter 202 Section 32 Laws 2013**

SECTION 32. FIBEROPTIC CONNECTIONS TO STATE FACILITIES AND PURCHASE OF TELECOMMUNICATIONS EQUIPMENT--CHANGE TO NORTHERN NEW MEXICO STATE SCHOOL INFORMATION TECHNOLOGY INFRASTRUCTURE--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of information technology in Laws 2012, Chapter 64, Section 14 to construct REDI net fiberoptic connections to state facilities and to purchase and install telecommunications equipment to route traffic to and from the state's network hub in the Simms building in Santa Fe in Santa Fe county shall not be expended for the original purpose but is appropriated to the board of regents of northern New Mexico state school to purchase and install information technology, including related equipment, furniture and infrastructure, at the El Rito and Espanola campuses of northern New Mexico state school in Rio Arriba county.

## **Chapter 202 Section 33 Laws 2013**

SECTION 33. ACEQUIA DE LA POSESION IMPROVEMENTS--EXPAND PURPOSE TO INCLUDE LOAN PAYBACK--SEVERANCE TAX BONDS.--The interstate stream commission project in Subsection 11 of Section 15 of Chapter 64 of Laws 2012 to plan, design and construct acequia improvements, including lining, for the acequia de la Posecion in Truchas in Rio Arriba county may include paying back a loan for that acequia.

## **Chapter 202 Section 34 Laws 2013**

SECTION 34. NEW MEXICO BEHAVIORAL HEALTH INSTITUTE ASBESTOS ABATEMENT--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the capital program fund project in Subsection 12 of Section 7 of Chapter 125 of Laws 2009 for asbestos abatement at the New Mexico behavioral health institute in Las Vegas in San Miguel county is extended through fiscal year 2015.

## **Chapter 202 Section 35 Laws 2013**

SECTION 35. NEW MEXICO BEHAVIORAL HEALTH INSTITUTE FORENSIC SECURITY--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the capital program fund project in Subsection 13 of Section 7 of Chapter 125 of Laws 2009 to plan, design, construct and provide upgrades of forensic security needs at the New Mexico behavioral health institute in Las Vegas in San Miguel county is extended through fiscal year 2015.

## **Chapter 202 Section 36 Laws 2013**

SECTION 36. RAIL RUNNER AVENUE EXTENSION IN BERNALILLO--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The department of transportation project in Subsection 42 of Section 18 of Chapter 64 of Laws 2012 to plan and design an extension of Rail Runner avenue in Bernalillo in Sandoval county may include construction.

## **Chapter 202 Section 37 Laws 2013**

SECTION 37. FRED LUNA BUILDING PARKING AREA IN BELEN--CHANGE TO RIO RANCHO ALL INCLUSIVE PARK--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the capital program fund originally authorized in Subsection 25 of Section 7 of Chapter 125 of Laws 2009 to plan, design, construct and equip a parking area for the Fred Luna building in Belen in Valencia county shall not be expended for the original purpose but is appropriated to the local government division to design, construct and equip an all inclusive park with high standards of accessibility in Rio Rancho in Sandoval county. The time of expenditure is extended through fiscal year 2015.

## **Chapter 202 Section 38 Laws 2013**

SECTION 38. LA FAMILIA MEDICAL CENTER ON ALTO STREET--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The local government division project in Subsection 181 of Section 3 of Chapter 7 of Laws 2009 (S.S.) to plan, design, construct, equip and furnish an expansion to, and make improvements to the interior infrastructure of, La Familia medical center on Alto street in Santa Fe in Santa Fe county may include making improvements to the exterior of that building and site. The time of expenditure is extended through fiscal year 2015.

## **Chapter 202 Section 39 Laws 2013**

SECTION 39. MANUEL LUJAN BUILDING IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the capital program fund project originally authorized in Subsection 15 of Section 7 of Chapter 125 of Laws 2009 and reauthorized in Laws 2012, Chapter 64, Section 35 for infrastructure improvements, renovation, furnishing and equipping the Manuel Lujan building in Santa Fe in Santa Fe county is extended through fiscal year 2015.

## **Chapter 202 Section 40 Laws 2013**

SECTION 40. NEW MEXICO SCHOOL FOR THE DEAF DEFICIENCIES CORRECTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the public school capital outlay fund project in Subsection 2 of Section 29 of Chapter 125 of Laws 2009 for asbestos abatement, mold remediation and other renovations to address critical deficiencies at the New Mexico school for the deaf in Santa Fe in Santa Fe county is extended through fiscal year 2015.

## **Chapter 202 Section 41 Laws 2013**

~~[SECTION 41. SANTA FE COUNTY FACILITIES FOR THE DISABLED--CHANGE TO FURNISHINGS FOR THE DISABLED--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 111 of Section 16 of Chapter 64 of Laws 2012 for improvements and renovations to county-owned facilities for the disabled in Santa Fe county shall not be expended for the original purpose but is changed to purchase furnishings for use by the disabled in Santa Fe county.] LINE-ITEM VETOED.~~

## **Chapter 202 Section 42 Laws 2013**

SECTION 42. SANTA FE MULTIMODAL TRANSIT ROAD IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project originally appropriated in Subsection 56 of Section 30 of Chapter 2 of Laws 2007 and reappropriated in Laws 2008, Chapter 83, Section 383 and reappropriated again in Laws 2011, Chapter 183, Section 104 to purchase land for,

plan, design, construct and equip road improvements for multimodal transit along Old Santa Fe trail, including El Gancho way, in Santa Fe in Santa Fe county is extended through fiscal year 2015.

### **Chapter 202 Section 43 Laws 2013**

SECTION 43. ACADEMY FOR TECHNOLOGY AND THE CLASSICS KITCHEN CONSTRUCTION--CHANGE TO PURCHASE, EXPAND OR RENOVATE FACILITY--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the local government division originally appropriated in Subsection 644 of Section 68 of Chapter 42 of Laws 2007 and reappropriated to the public education department in Laws 2011, Chapter 183, Section 106 to construct and equip a kitchen and cafeteria at Academy for Technology and the Classics charter school in the Santa Fe public school district in Santa Fe county shall not be expended for the original or reappropriated purpose but is changed to purchase, expand and renovate the facility for that charter school. The time of expenditure is extended through fiscal year 2015.

### **Chapter 202 Section 44 Laws 2013**

SECTION 44. NEW MEXICO STATE VETERANS' HOME ALZHEIMER'S UNIT--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the capital program fund project originally authorized in Subsection 9 of Section 7 of Chapter 125 of Laws 2009 and reauthorized in Laws 2012, Chapter 63, Section 101 to plan, design, construct, furnish, equip and landscape a skilled nursing Alzheimer's unit at the New Mexico state veterans' home in Truth or Consequences in Sierra county is extended through fiscal year 2015.

### **Chapter 202 Section 45 Laws 2013**

SECTION 45. RIO RANCHO REGIONAL PARK FACILITY--CHANGE TO SIERRA COUNTY HOSPITAL--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division originally authorized in Subsection 85 of Section 21 of Chapter 92 of Laws 2008 and reauthorized in Laws 2012, Chapter 63, Section 89 for the all-inclusive regional park facility in Rio Rancho in Sandoval county shall not be expended for the original or reauthorized purpose but is changed to plan, design, construct and equip a hospital in Truth or Consequences in Sierra county.

### **Chapter 202 Section 46 Laws 2013**

SECTION 46. NEW MEXICO STATE VETERANS' HOME ALZHEIMER'S UNIT--EXTEND TIME--REVENUE BONDS.--The time of expenditure for the revenue bond project originally authorized in Subsection C of Section 8 of Chapter 320 of Laws 2005 and reauthorized in Subsection 3 of Section 94 of Chapter 42 of Laws 2007 for an Alzheimer's unit and other improvements at the New Mexico state veterans' home in Truth or Consequences in Sierra county and further reauthorized in Laws 2011, Chapter 183, Section 109 to extend the time is extended through fiscal year 2015.

## **Chapter 202 Section 47 Laws 2013**

SECTION 47. SOCORRO COUNTY VEGUITA HEALTH AND COMMUNITY CENTER--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project originally authorized in Subsection 185 of Section 3 of Chapter 7 of Laws 2009 (S.S.) to plan, design, construct and equip the Veguita health and community center in Socorro county is extended through fiscal year 2015.

## **Chapter 202 Section 48 Laws 2013**

SECTION 48. ACEQUIA WATER STORAGE PROJECTS STATEWIDE--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the office of the state engineer project in Subsection 48 of Section 3 of Chapter 7 of Laws 2009 (S.S.) to repair and rehabilitate acequia water storage projects statewide is extended through fiscal year 2015.

## **Chapter 202 Section 49 Laws 2013**

SECTION 49. APPROPRIATIONS FOR ROAD PROJECTS ENUMERATED IN LAWS 2003 (S.S.), CHAPTER 3, SECTION 27--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of transportation road projects authorized in Laws 2008 (S.S.), Chapter 9 for purposes specified in Paragraphs (1) and (3) through (37) of Subsection A of Section 27 of Chapter 3 of Laws 2003 (S.S.) is extended through fiscal year 2015.

## **Chapter 202 Section 50 Laws 2013**

SECTION 50. MOTOR VEHICLE DIVISION FIELD OFFICE RENOVATIONS STATEWIDE--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the capital program fund project originally authorized in Subsection 7 of Section 3 of Chapter 7 of Laws 2009 (S.S.) to plan, design and construct a motor vehicle division field office in Santa Fe in Santa Fe county and reauthorized in Laws 2012, Chapter 63, Section 103 to include renovating, improving, furnishing and equipping the motor vehicle division field offices statewide is extended through fiscal year 2015.

## **Chapter 202 Section 51 Laws 2013**

SECTION 51. SOUTHERN NEW MEXICO REHABILITATION CENTER IMPROVEMENTS--EXPAND PURPOSE--EXTEND TIME--REVENUE BONDS.--The revenue bond project originally authorized in Subsection C of Section 8 of Chapter 320 of Laws 2005 and reauthorized in Subsection 1 of Section 94 of Chapter 42 of Laws 2007 for improvements at the southern New Mexico rehabilitation center and further reauthorized in Laws 2011, Chapter 183, Section 27 to extend the time may include improvements to department of health facilities statewide. The time of expenditure is extended through fiscal year 2015.

## **Chapter 202 Section 52 Laws 2013**

~~[SECTION 52. CRISTOBAL DE LA SERNA LAND GRANT OFFICE BUILDING--  
EXTEND TIME--GENERAL FUND.--The time of expenditure for the interstate stream  
commission appropriation originally appropriated in Subsection 31 of Section 67 of  
Chapter 42 of Laws 2007 and reappropriated to the local government division in Laws  
2011, Chapter 183, Section 119 to purchase land, plan, design, construct, equip and  
furnish an office building for La Merced in the Cristobal de la Serna land grant in Taos  
county is extended through fiscal year 2015.] LINE-ITEM VETOED.~~

## **Chapter 202 Section 53 Laws 2013**

SECTION 53. CERRO COMMUNITY CENTER--CHANGE TO QUESTA  
COMMUNITY CENTER--SEVERANCE TAX BONDS.--The unexpended balance of the  
appropriation to the local government division in Subsection 132 of Section 16 of  
Chapter 64 of Laws 2012 for a community center in Cerro in Taos county shall not be  
expended for the original purpose but is changed to plan, design, construct, purchase,  
renovate and furnish a community center in Questa in Taos county.

## **Chapter 202 Section 54 Laws 2013**

~~[SECTION 54. ALBUQUERQUE PUBLIC ART WORK--CHANGE TO  
MORIARTY MAINSTREET PROJECT ROUTE 66 IMPROVEMENTS--CHANGE  
AGENCY--EXTEND TIME--GENERAL FUND.--The unexpended balance of the  
appropriation to the local government division in Subsection 85 of Section 59 of Chapter  
92 of Laws 2008 and reappropriated in Laws 2012, Chapter 63, Section 6 to plan,  
design, construct and install a landmark public art work in Albuquerque in Bernalillo  
county shall not be expended for the original purpose but is appropriated to the  
economic development department to plan, design and construct mainstreet project  
Route 66 improvements in Moriarty in Torrance county. The time of expenditure is  
extended through fiscal year 2015.] LINE-ITEM VETOED.~~

## **Chapter 202 Section 55 Laws 2013**

SECTION 55. EMERGENCY.--It is necessary for the public peace, health and  
safety that this act take effect immediately.

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HTRC/House Bill 353, w/ec, partial veto

Approved April 5, 2013

**LAWS 2013, CHAPTER 203**

AN ACT

RELATING TO PUBLIC SCHOOLS; PROVIDING FLEXIBILITY FOR SCHOOL DISTRICTS TO MEET STATE FISCAL SOLVENCY REQUIREMENTS.

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

**Chapter 203 Section 1 Laws 2013**

SECTION 1. Section 22-1-10 NMSA 1978 (being Laws 2010, Chapter 68, Section 1, as amended) is amended to read:

"22-1-10. WAIVER OF REQUIREMENTS--TEMPORARY PROVISION.--The legislature finds that school districts need flexibility to meet state fiscal solvency requirements. For the 2013-2014 school year, the secretary may waive requirements of the Public School Code and rules promulgated in accordance with that code pertaining to individual class load, teaching load, length of school day, staffing patterns, subject areas and purchases of instructional materials. The department shall monitor such waivers, and the secretary shall report to the legislative education study committee and the legislative finance committee on any issues or actions of a school district that appear to adversely affect student learning."

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Senate Bill 464

Approved April 5, 2013

**LAWS 2013, CHAPTER 204**

AN ACT

RELATING TO MOTOR VEHICLES; PROVIDING THAT A PERSON CITED FOR NO VEHICLE REGISTRATION, INSURANCE OR DRIVER'S LICENSE SHALL NOT BE CONVICTED IF THE PERSON PRODUCES EVIDENCE OF COMPLIANCE IN COURT; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2007.

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

**Chapter 204 Section 1 Laws 2013**

SECTION 1. Section 66-3-1 NMSA 1978 (being Laws 1978, Chapter 35, Section 21, as amended by Laws 2007, Chapter 319, Section 13 and by Laws 2007, Chapter 320, Section 1) is amended to read:

"66-3-1. VEHICLES SUBJECT TO REGISTRATION--EXCEPTIONS.--

A. With the exception of vehicles identified in Subsection B of this section, every motor vehicle, manufactured home, trailer, semitrailer and pole trailer when driven or moved upon a highway and every off-highway motor vehicle is subject to the registration and certificate of title provisions of the Motor Vehicle Code except:

(1) any such vehicle driven or moved upon a highway in conformance with the provisions of the Motor Vehicle Code relating to manufacturers, dealers, lien-holders or nonresidents;

(2) any such vehicle that is driven or moved upon a highway only for the purpose of crossing the highway from one property to another;

(3) an implement of husbandry that is only incidentally operated or moved upon a highway;

(4) special mobile equipment;

(5) a vehicle that is propelled exclusively by electric power obtained from overhead trolley wires though not operated upon rails;

(6) a freight trailer if it is:

(a) properly registered in another state;

(b) identified by a proper base registration plate that is properly displayed; and

(c) identified by other registration documents that are in the possession of the operator and exhibited at the request of a police officer;

(7) a freight trailer or utility trailer owned and used by:

(a) a nonresident solely for the transportation of farm products purchased by the nonresident from growers or producers of the farm products and transported in the trailer out of the state;

(b) a farmer or a rancher who transports to market only the produce, animals or fowl produced by that farmer or rancher or who transports back to the farm or ranch supplies for use thereon; or

(c) a person who transports animals to and from fairs, rodeos or other places, except racetracks, where the animals are exhibited or otherwise take part in performances, in trailers drawn by a motor vehicle or truck of less than ten thousand pounds gross vehicle weight rating bearing a proper registration plate, but in



no case shall the owner of an unregistered trailer described in this paragraph perform such uses for hire;

(8) a moped;

(9) an electric personal assistive mobility device;

(10) a vehicle moved on a highway by a towing service as defined in Section 59A-50-2 NMSA 1978; and

(11) an off-highway motor vehicle exempted pursuant to Section 66-3-1005 NMSA 1978.

B. A certificate of title required pursuant to Subsection A of this section is not required for a vehicle of a type subject to registration owned by:

(1) the government of the United States; or

(2) a carrier that is from a jurisdiction that is not a participant in the International Fuel Tax Agreement, that is authorized by the United States government or an agency of the United States government to conduct cross-border operations beyond the commercial border zone pursuant to the provisions of the North American Free Trade Agreement and that identifies New Mexico as the carrier's base jurisdiction.

C. A person who violates the provisions of this section is guilty of a misdemeanor as provided in Section 66-8-7 NMSA 1978. A person charged with violating this section shall not be convicted if the person produces, in court, evidence of compliance valid at the time of issuance of the citation."

## **Chapter 204 Section 2 Laws 2013**

SECTION 2. Section 66-3-13 NMSA 1978 (being Laws 1978, Chapter 35, Section 33) is amended to read:

"66-3-13. EVIDENCE OF REGISTRATION TO BE SIGNED AND EXHIBITED ON DEMAND.--

A. Every owner, upon receipt of registration evidence, shall write that owner's signature thereon in a space provided. Every such registration evidence or duplicate of registration evidence validated by the division shall be exhibited upon demand of any police officer.

B. A person charged with violating the provisions of this section shall not be convicted if the person produces, in court, evidence of a signed registration valid at the time of issuance of the citation."

## **Chapter 204 Section 3 Laws 2013**

SECTION 3. Section 66-5-2 NMSA 1978 (being Laws 1978, Chapter 35, Section 224, as amended) is amended to read:

"66-5-2. DRIVERS MUST BE LICENSED.--

A. Except those expressly exempted from the Motor Vehicle Code, no person shall drive any motor vehicle, neighborhood electric car or moped upon a highway in this state unless the person:

(1) holds a valid license issued under the provisions of the Motor Vehicle Code; and

(2) has surrendered to the division any other license previously issued to the person by this state or by another state or country or has filed an affidavit with the division that the person does not possess such other license; however, the applicant need not surrender a motorcycle license duly obtained under Paragraph (4) of Subsection A of Section 66-5-5 NMSA 1978.

B. Any person licensed under the provisions of the Motor Vehicle Code or expressly exempted from licensure may exercise the privilege granted upon all streets and highways in this state and shall not be required to obtain any other license to exercise the privilege by any county, municipality or any other local body having authority to adopt local police regulations.

C. A person charged with violating the provisions of this section shall not be convicted if the person produces, in court, a driver's license issued to the person that was valid at the time of the person's arrest."

## **Chapter 204 Section 4 Laws 2013**

SECTION 4. Section 66-5-205 NMSA 1978 (being Laws 1983, Chapter 318, Section 6, as amended) is amended to read:

"66-5-205. VEHICLE MUST BE INSURED OR OWNER MUST HAVE EVIDENCE OF FINANCIAL RESPONSIBILITY--PENALTIES.--

A. No owner shall permit the operation of an uninsured motor vehicle, or a motor vehicle for which evidence of financial responsibility as was affirmed to the department is not currently valid, upon the streets or highways of New Mexico unless the vehicle is specifically exempted from the provisions of the Mandatory Financial Responsibility Act.

B. No person shall drive an uninsured motor vehicle, or a motor vehicle for which evidence of financial responsibility as was affirmed to the department is not

currently valid, upon the streets or highways of New Mexico unless the person is specifically exempted from the provisions of the Mandatory Financial Responsibility Act.

C. For the purposes of the Mandatory Financial Responsibility Act, "uninsured motor vehicle" means a motor vehicle for which a motor vehicle insurance policy meeting the requirements of the laws of New Mexico and of the secretary, or a surety bond or evidence of a sufficient cash deposit with the state treasurer, is not in effect.

D. The provisions of the Mandatory Financial Responsibility Act requiring the deposit of evidence of financial responsibility as provided in Section 66-5-218

NMSA 1978, subject to certain exemptions, may apply with respect to persons who have been convicted of or forfeited bail for certain offenses under motor vehicle laws or who have failed to pay judgments or written settlement agreements upon causes of action arising out of ownership, maintenance or use of vehicles of a type subject to registration under the laws of New Mexico.

E. Any person who violates the provisions of this section is guilty of a misdemeanor as provided in Section 66-8-7 NMSA 1978.

F. A person charged with violating the provisions of this section shall not be convicted if the person produces, in court, evidence of financial responsibility valid at the time of issuance of the citation."

## **Chapter 204 Section 5 Laws 2013**

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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Senate Bill 35

Approved April 5, 2013

## **LAWS 2013, CHAPTER 205**

AN ACT

RELATING TO MOTOR VEHICLES; PROVIDING PENALTY ASSESSMENTS FOR CERTAIN MOTOR VEHICLE CODE VIOLATIONS; REQUIRING THE COURTS TO NOTIFY THE TAXATION AND REVENUE DEPARTMENT IF A DEFENDANT FAILS TO APPEAR ON A CHARGE OF VIOLATING THE MOTOR VEHICLE CODE.

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

## Chapter 205 Section 1 Laws 2013

SECTION 1. Section 66-8-116 NMSA 1978 (being Laws 1978, Chapter 35, Section 524, as amended) is amended to read:

"66-8-116. PENALTY ASSESSMENT MISDEMEANORS--DEFINITION--SCHEDULE OF ASSESSMENTS.--

A. As used in the Motor Vehicle Code, "penalty assessment misdemeanor" means violation of any of the following listed sections of the NMSA 1978 for which, except as provided in Subsections D and E of this section, the listed penalty assessment is established:

COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY
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Improper display of registration plate	66-3-18	\$ 25.00
Failure to notify of change of name or address	66-3-23	25.00
Lost or damaged registration, plate or title	66-3-24	20.00
Permitting unauthorized minor to drive	66-5-40	50.00
Permitting unauthorized person to drive	66-5-41	25.00
Failure to obey sign	66-7-104	10.00
Failure to obey signal	66-7-105	10.00
Speeding (1) up to and including ten miles an hour	66-7-301	

over the speed limit 15.00

(2) from eleven up to  
and including fifteen  
miles an hour

over the speed limit 30.00

(3) from sixteen up to  
and including twenty  
miles an hour over the

speed limit 65.00

(4) from twenty-one up to  
and including twenty-five  
miles an hour

over the speed limit 100.00

(5) from twenty-six up to  
and including thirty  
miles an hour over the

speed limit 125.00

(6) from thirty-one up to  
and including thirty-five  
miles an hour over the

speed limit 150.00

(7) more than thirty-five  
miles an hour over the

speed limit	200.00	
Unfastened safety belt	66-7-372	25.00
Child not in restraint device		
or seat belt	66-7-369	25.00
Minimum speed	66-7-305	10.00
Speeding	66-7-306	15.00
Improper starting	66-7-324	10.00
Improper backing	66-7-354	10.00
Improper lane	66-7-308	10.00
Improper lane	66-7-313	10.00
Improper lane	66-7-316	10.00
Improper lane	66-7-317	10.00
Improper lane	66-7-319	10.00
Improper passing	66-7-309 through 66-7-312	10.00
Improper passing	66-7-315	10.00
Controlled access		
violation	66-7-320	10.00
Controlled access		
violation	66-7-321	10.00
Improper turning	66-7-322	10.00
Improper turning	66-7-323	10.00
Improper turning	66-7-325	10.00
Following too closely	66-7-318	10.00

Failure to yield 66-7-328 through 66-7-331 10.00

Failure to yield 66-7-332 50.00

Failure to yield 66-7-332.1 25.00

Pedestrian violation 66-7-333 10.00

Pedestrian violation 66-7-340 10.00

Failure to stop 66-7-342 and 66-7-344  
through 66-7-346 10.00

Railroad-highway grade

crossing violation 66-7-341 and 66-7-343 150.00

Passing school bus 66-7-347 100.00

Failure to signal 66-7-325 through 66-7-327 10.00

Failure to secure load 66-7-407 100.00

Operation without oversize-

overweight permit 66-7-413 50.00

Transport of reducible

load with special

permit more than six miles

from a border crossing 66-7-413 100.00

Improper equipment 66-3-801

through 66-3-851 25.00

Improper equipment 66-3-901 20.00

Improper emergency

signal 66-3-853 through 66-3-857 10.00

Minor on motorcycle

without helmet      66-7-356      300.00

Operation interference      66-7-357      50.00

Littering      66-7-364      300.00

Improper parking      66-7-349 through 66-7-352  
and 66-7-3535.00

Improper parking      66-3-852      5.00

Failure to dim lights 66-3-831      10.00

Riding in or towing

occupied house trailer      66-7-366      5.00

Improper opening of doors 66-7-367      5.00

No slow-moving vehicle

emblem or flashing

amber light      66-3-887      5.00

Open container - first

violation      66-8-138      25.00.

B. The term "penalty assessment misdemeanor" does not include a violation that has caused or contributed to the cause of an accident resulting in injury or death to a person.

C. When an alleged violator of a penalty assessment misdemeanor elects to accept a notice to appear in lieu of a notice of penalty assessment, a fine imposed upon later conviction shall not exceed the penalty assessment established for the particular penalty assessment misdemeanor and probation imposed upon a suspended or deferred sentence shall not exceed ninety days.

D. The penalty assessment for speeding in violation of Paragraph (4) of Subsection A of Section 66-7-301 NMSA 1978 is twice the penalty assessment established in Subsection A of this section for the equivalent miles per hour over the speed limit.



E. Upon a second conviction for operation without a permit for excessive size or weight pursuant to Section 66-7-413 NMSA 1978, the penalty assessment shall be two hundred fifty dollars (\$250). Upon a third or subsequent conviction, the penalty assessment shall be five hundred dollars (\$500).

F. Upon a second conviction for transport of a reducible load with a permit for excessive size or weight pursuant to Subsection N of Section 66-7-413 NMSA 1978 more than six miles from a port-of-entry facility on the border with Mexico, the penalty assessment shall be five hundred dollars (\$500). Upon a third or subsequent conviction, the penalty assessment shall be one thousand dollars (\$1,000)."

## **Chapter 205 Section 2 Laws 2013**

SECTION 2. Section 66-8-135 NMSA 1978 (being Laws 1978, Chapter 35, Section 543, as amended) is amended to read:

"66-8-135. RECORD OF TRAFFIC CASES.--

A. Every trial court judge shall keep a record of every traffic complaint, uniform traffic citation and other form of traffic charge filed in the judge's court or its traffic violations bureau and every official action and disposition of the charge by that court.

B. The court shall notify the department if a defendant fails to appear on a charge of violating the Motor Vehicle Code or other law or ordinance relating to motor vehicles.

C. Within ten days of the later of entry of a final disposition on a conviction for violation of the Motor Vehicle Code or other law or ordinance relating to motor vehicles or the final decision of any higher court that reviews the matter and from which no appeal or review is successfully taken, every trial court judge, including children's court judges, or the clerk of the court in which the entry of the final disposition occurred shall prepare and forward to the department an abstract of the record containing:

(1) the name and address of the defendant;

(2) the specific section number and common name of the provision of the NMSA 1978 or local law, ordinance or regulation under which the defendant was tried;

(3) the plea, finding of the court and disposition of the charge, including a fine or jail sentence or both;

(4) total costs assessed to the defendant;

(5) the date of the hearing;

(6) the court's name and address;

(7) whether the defendant was a first or subsequent offender; and

(8) whether the defendant was represented by counsel or waived the right to counsel and, if represented, the name and address of counsel.

D. The abstract of record prepared and forwarded under Subsection C of this section shall be certified as correct by the person required to prepare it. With the prior approval of the department, the information required by Subsection C of this section may be transmitted electronically to the department. A report need not be made of any disposition of a charge of illegal parking or standing of a vehicle except when the uniform traffic citation is used.

E. When the uniform traffic citation is used, the court shall provide the information required by Subsection C of this section in the manner prescribed by the department.

F. Every court of record shall also forward a like report to the department upon conviction of any person of any felony if a motor vehicle was used in the commission. With the prior approval of the department, the information required by this subsection may be submitted electronically to the department. The report shall be forwarded to the department within ten days of the final decision of the court or of any higher court that reviews the matter and from which the decision of no appeal or review is successfully taken.

G. The willful failure or refusal of any judicial officer to comply with this section is misconduct in office and grounds for removal.

H. Except as set forth in Subsection I of this section for records of a person holding a commercial driver's license, the department shall keep records received on motorists licensed in this state at its main office. Records showing a record of conviction by a court of law shall be open to public inspection during business hours for three years from the date of their receipt, after which they shall be destroyed by the department except for records of convictions under Sections 66-8-101 through 66-8-112 NMSA 1978, which may not be destroyed until fifty-five years from the date of their receipt. Any record received on a motorist licensed in another state or country shall be forwarded to the licensing authority of that state or country.

I. The department shall keep records received on a person holding a commercial driver's license or an individual driving a commercial motor vehicle who was required to have a commercial driver's license but was driving a commercial motor vehicle without the appropriate license in its main office. Records showing a record of conviction by a court of law shall be open to public inspection during business hours for fifty-five years from the date of their receipt. Any record received on a person holding a

commercial driver's license licensed in another state or country shall be forwarded to the licensing authority of that state or country."

## **Chapter 205 Section 3 Laws 2013**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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Senate Bill 36, aa

Approved April 5, 2013

# **LAWS 2013, CHAPTER 206**

AN ACT

RELATING TO WATER QUALITY; ENACTING THE DENTAL AMALGAM WASTE REDUCTION ACT; REQUIRING A DENTAL OFFICE TO REMOVE DENTAL AMALGAM PRIOR TO DISCHARGE OF ITS WASTEWATER; AMENDING A SECTION OF THE DENTAL HEALTH CARE ACT.

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

## **Chapter 206 Section 1 Laws 2013**

SECTION 1. SHORT TITLE.--Sections 1 through 6 of this act may be cited as the "Dental Amalgam Waste Reduction Act".

## **Chapter 206 Section 2 Laws 2013**

SECTION 2. DEFINITIONS.--As used in the Dental Amalgam Waste Reduction Act:

A. "amalgam" means a dental restorative material that is typically composed of mercury, silver, tin and copper, along with other metallic elements, and that is used by a dentist to restore a cavity in a tooth;

B. "amalgam separator" means a device that removes dental amalgam from the waste stream prior to discharge into either the local public wastewater system or a private septic system and that meets a minimum removal efficiency in accordance with international standards contained in *ISO 11143, Dental Equipment-Amalgam Separators*, published by the international organization for standardization; and

C. "dental office" means a fixed physical structure in which dental services are provided to patients by dentists and dental professionals licensed or certified by the New Mexico board of dental health care under the management of a licensed owner, operator or designee.

### **Chapter 206 Section 3 Laws 2013**

SECTION 3. INSTALLATION OF AMALGAM SEPARATOR REQUIRED.--By December 31, 2014, a dental office shall install an appropriately sized amalgam separator system and, upon inspection for cause, shall demonstrate to the

New Mexico board of dental health care proper installation, operation, maintenance and amalgam waste recycling or disposal in accordance with an amalgam separator manufacturer's recommendations. The New Mexico board of dental health care shall consider noncompliance with the Dental Amalgam Waste Reduction Act as unprofessional conduct subject to the penalties and discipline of the board pursuant to the Uniform Licensing Act and the Dental Health Care Act.

### **Chapter 206 Section 4 Laws 2013**

SECTION 4. EXEMPTION FOR CERTAIN DENTAL OFFICES.--An amalgam separator system shall not be required for the offices or clinical site of:

- A. a dental office that is not engaged in amalgam placement, removal or modification;
- B. an orthodontist;
- C. a periodontist;
- D. an oral maxillofacial surgeon;
- E. an oral maxillofacial radiologist;
- F. an oral pathologist; or
- G. a portable dental office without a fixed connection for wastewater discharge.

### **Chapter 206 Section 5 Laws 2013**

SECTION 5. REPORTING.--A dental office shall report the model and size of its amalgam separator system within ninety days of installation to its local publicly owned water treatment facility, where applicable, and to the New Mexico board of dental health care. A dental office shall report its compliance and maintain records of the operation, maintenance and recycling or disposal of amalgam waste for every consecutive three-

year period following the installation of its amalgam separator system and shall report the information upon request for cause to the New Mexico board of dental health care. The New Mexico board of dental health care shall retain the reported information for review coincident with the board's licensing and renewal functions.

### **Chapter 206 Section 6 Laws 2013**

SECTION 6. ENFORCEMENT.--The New Mexico board of dental health care shall initiate disciplinary proceedings for willful and persistent noncompliance with the provisions of the Dental Amalgam Waste Reduction Act.

### **Chapter 206 Section 7 Laws 2013**

SECTION 7. Section 61-5A-10 NMSA 1978 (being Laws 1994, Chapter 55, Section 10, as amended) is amended to read:

"61-5A-10. POWERS AND DUTIES OF THE BOARD AND COMMITTEE.--In addition to any other authority provided by law, the board and the committee, when designated, shall:

A. enforce and administer the provisions of the Dental Health Care Act and the Dental Amalgam Waste Reduction Act;

B. adopt, publish, file and revise, in accordance with the Uniform Licensing Act and the State Rules Act, all rules as may be necessary to:

(1) regulate the examination and licensure of dentists and, through the committee, regulate the examination and licensure of dental hygienists;

(2) provide for the examination and certification of dental assistants by the board;

(3) provide for the regulation of dental technicians by the board;

(4) regulate the practice of dentistry and dental assisting and, through the committee, regulate the practice of dental hygiene; and

(5) provide for the regulation and licensure of non-dentist owners by the board;

C. adopt and use a seal;

D. administer oaths to all applicants, witnesses and others appearing before the board or the committee, as appropriate;

E. keep an accurate record of all meetings, receipts and disbursements;

F. grant, deny, review, suspend and revoke licenses and certificates to practice dentistry, dental assisting and, through the committee, dental hygiene and censure, reprimand, fine and place on probation and stipulation dentists, dental assistants and, through the committee, dental hygienists, in accordance with the Uniform Licensing Act for any cause stated in the Dental Health Care Act and the Dental Amalgam Waste Reduction Act;

G. grant, deny, review, suspend and revoke licenses to own dental practices and censure, reprimand, fine and place on probation and stipulation non-dentist owners, in accordance with the Uniform Licensing Act, for any cause stated in the Dental Health Care Act and the Dental Amalgam Waste Reduction Act;

H. maintain records of the name, address, license number and such other demographic data as may serve the needs of the board of licensees, together with a record of license renewals, suspensions, revocations, probations, stipulations, censures, reprimands and fines. The board shall make available composite reports of demographic data but shall limit public access to information regarding individuals to their names, addresses, license numbers and license actions or as required by statute;

I. hire and contract for services from persons as necessary to carry out the board's duties;

J. establish ad hoc committees whose members shall be appointed by the chair with the advice and consent of the board or committee and shall include at least one member of the board or committee as it deems necessary for carrying on its business;

K. have the authority to pay per diem and mileage to individuals who are appointed by the board or the committee to serve on ad hoc committees;

L. have the authority to hire or contract with investigators to investigate possible violations of the Dental Health Care Act and the Dental Amalgam Waste Reduction Act;

M. have the authority to issue investigative subpoenas prior to the issuance of a notice of contemplated action for the purpose of investigating complaints against dentists, dental assistants and, through the committee, dental hygienists licensed under the Dental Health Care Act and the Dental Amalgam Waste Reduction Act;

N. have the authority to sue or be sued and to retain the services of an attorney at law for counsel and representation regarding the carrying out of the board's duties;

O. have the authority to create and maintain a formulary, in consultation with the board of pharmacy, of medications that a dental hygienist may prescribe, administer or dispense in accordance with rules the board has promulgated; and

P. establish continuing education or continued competency requirements for dentists, certified dental assistants in expanded functions, dental technicians and, through the committee, dental hygienists."

## **Chapter 206 Section 8 Laws 2013**

SECTION 8. TEMPORARY PROVISION--RULEMAKING BY THE NEW MEXICO BOARD OF DENTAL HEALTH CARE.--The New Mexico board of dental health care shall promulgate rules by June 30, 2013 to require that a dental office maintain records of maintenance and inspection for the three years following the most recent inspection of an amalgam separator. Use of an amalgam separation method or technology that is approved by the department of environment, the water quality control commission or the New Mexico board of dental health care is in compliance with the requirements of this section.

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Senate Bill 99, aa

Approved April 5, 2013

## **LAWS 2013, CHAPTER 207**

AN ACT

RELATING TO AGRICULTURE; REPEALING SECTIONS 76-15-1 THROUGH 76-15-9 AND 76-15-22 NMSA 1978 (BEING LAWS 1949, CHAPTER 106, SECTIONS 1 THROUGH 9 AND LAWS 1963, CHAPTER 82, SECTION 13) PERTAINING TO STANDARDS FOR CERTAIN FRUITS.

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

## **Chapter 207 Section 1 Laws 2013**

SECTION 1. REPEAL.--Sections 76-15-1 through 76-15-9 and 76-15-22 NMSA 1978 (being Laws 1949, Chapter 106, Sections 1 through 9 and Laws 1963, Chapter 82, Section 13) are repealed.

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Senate Bill 138, aa

Approved April 5, 2013

## **LAWS 2013, CHAPTER 208**

### **AN ACT**

RELATING TO DNA IDENTIFICATION; PROVIDING THAT THE DNA IDENTIFICATION SYSTEM OVERSIGHT COMMITTEE SHALL DESIGNATE THE LOCATION OF THE ADMINISTRATIVE CENTER AND APPROVE THE SELECTION OF THE HEAD OF THE ADMINISTRATIVE CENTER; PROVIDING FOR QUALIFICATIONS FOR THE HEAD OF THE ADMINISTRATIVE CENTER; REQUIRING A WRITTEN AGREEMENT BETWEEN THE COMMITTEE AND THE LAW ENFORCEMENT AGENCY WHERE THE ADMINISTRATIVE CENTER IS LOCATED; PROVIDING FOR THE COLLECTION OF THE DNA FEE BY THE CORRECTIONS DEPARTMENT; CLARIFYING DEFINITIONS IN THE DNA IDENTIFICATION ACT.

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

### **Chapter 208 Section 1 Laws 2013**

SECTION 1. Section 29-16-3 NMSA 1978 (being Laws 1997, Chapter 105, Section 3, as amended) is amended to read:

"29-16-3. DEFINITIONS.--As used in the DNA Identification Act:

A. "administrative center" means the part of a law enforcement agency crime laboratory that participates in the national DNA index system and that administers and operates the DNA identification system;

B. "CODIS" means the federal bureau of investigation's national DNA index system for storage and exchange of DNA records submitted by forensic DNA laboratories;

C. "covered offender" means any person:

(1) convicted of a felony offense as an adult pursuant to state, federal or military law;

(2) convicted as an adult pursuant to youthful offender or serious youthful offender proceedings under the Children's Code or pursuant to comparable or equivalent proceedings under state, federal or military law; or

(3) required to register as a sex offender pursuant to the provisions of the Sex Offender Registration and Notification Act;

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



E. "DNA" means deoxyribonucleic acid as the basis of human heredity;

F. "DNA identification system" means the DNA identification system established pursuant to the DNA Identification Act;

G. "DNA oversight committee" means the DNA identification system oversight committee;

H. "DNA records" means the results of DNA testing and related information;

I. "DNA testing" means a forensic DNA analysis that includes restriction fragment length polymorphism, polymerase chain reaction or other valid methods of DNA typing performed to obtain identification characteristics of samples;

J. "fund" means the DNA identification system fund;

K. "missing persons DNA identification system" means the missing persons DNA identification system established by the DNA Identification Act;

L. "sample" means a sample of biological material sufficient for DNA testing; and

M. "sex offender DNA identification system" means the sex offender DNA identification system established by the DNA Identification Act."

## **Chapter 208 Section 2 Laws 2013**

SECTION 2. Section 29-16-4 NMSA 1978 (being Laws 1997, Chapter 105, Section 4, as amended) is amended to read:

"29-16-4. ADMINISTRATIVE CENTER--POWERS AND DUTIES--HEAD--LOCATION--WRITTEN AGREEMENT.--

A. The administrative center shall:

(1) establish and administer the DNA identification system. The DNA identification system shall provide for collection, storage, DNA testing, maintenance and comparison of samples and DNA records for forensic and humanitarian purposes. Those purposes shall include generation of investigative leads, statistical analysis of DNA profiles and identification of missing persons and unidentified human remains. Procedures used for DNA testing shall be compatible with the procedures the federal bureau of investigation has specified, including comparable test procedures, laboratory equipment, supplies and computer software. Procedures used shall meet or exceed the provisions of the federal DNA Identification Act of 1994

regarding minimum standards for state participation in CODIS, including minimum standards for the acceptance, security and dissemination of DNA records;

(2) coordinate sample collection activities;

(3) perform or contract for DNA testing;

(4) serve as a repository for samples and DNA records;

(5) act as liaison with the federal bureau of investigation for purposes of CODIS;

(6) adopt rules and procedures governing:

(a) sample collection;

(b) DNA testing;

(c) the DNA identification system and DNA records;

(d) the acceptance, security and dissemination of DNA records; and

(e) communication between local, state and federal law enforcement agencies, the corrections department and local jails and detention facilities in order to minimize duplicate sample collections from the same individual;

(7) provide training to jail and detention facility personnel who are required to collect samples pursuant to Section 29-3-10 NMSA 1978;

(8) be reimbursed for, pursuant to the DNA Identification Act, the costs of sample collection and DNA testing of samples taken for the purposes of the identification of missing persons and unidentified human remains;

(9) establish and administer the missing persons DNA identification system as a part of the DNA identification system; and

(10) establish and administer the sex offender DNA identification system as part of the DNA identification system.

B. The chief of the law enforcement agency where the administrative center is located shall select the head of the administrative center with the approval of six members of the DNA oversight committee. The head of the administrative center shall manage the operations of the administrative center and shall have the education and experience to meet or exceed the requirements for a technical

leader or a CODIS administrator pursuant to the federal bureau of investigation's quality assurance standards.

C. The administrative center shall be located at the crime laboratory of the law enforcement agency for the largest municipality in a class A county having a population of more than five hundred thousand at the most recent federal decennial census. If a relocation of the administrative center is required for continued compliance with the provisions of the DNA Identification Act, the DNA oversight committee shall designate any future locations of the administrative center upon approval of six voting members of the committee.

D. The DNA oversight committee shall enter into a written agreement with the law enforcement agency where the administrative center is located and may designate the attorney general to enter into the agreement on its behalf and with its approval."

### **Chapter 208 Section 3 Laws 2013**

SECTION 3. Section 29-16-5 NMSA 1978 (being Laws 1997, Chapter 105, Section 5, as amended) is amended to read:

"29-16-5. DNA OVERSIGHT COMMITTEE--CREATED--POWERS AND DUTIES.--

A. The "DNA identification system oversight committee" is created. The DNA oversight committee shall be composed of nine voting members as follows:

(1) a scientific representative from the department crime laboratory appointed by the secretary of public safety;

(2) a scientific representative from the crime laboratory of the police department for the largest municipality in a class A county having a population of more than two hundred fifty thousand at the most recent federal decennial census;

(3) the secretary of corrections or the secretary's designated representative;

(4) the state medical investigator or the investigator's designated representative;

(5) the attorney general or the attorney general's designated representative;

(6) the president of the district attorneys' association or the president's designated representative;

(7) the chief public defender or the chief public defender's designated representative;

(8) the president of the New Mexico criminal defense lawyers association or the president's designated representative; and

(9) the head of the administrative center or the head's designated representative.

B. The DNA oversight committee shall adopt rules and procedures regarding the administration and operation of the DNA identification system.

C. The administrative center shall review and make recommendations to the DNA oversight committee regarding rules and procedures for the administration and operation of the DNA identification system.

D. The DNA oversight committee shall oversee the establishment and administration of the missing persons DNA identification system as part of the DNA identification system.

E. The DNA oversight committee shall adopt rules and procedures regarding the administration and operation of the missing persons DNA identification system as part of the DNA identification system.

F. The DNA oversight committee shall oversee the establishment and administration of the sex offender DNA identification system as part of the DNA identification system.

G. The DNA oversight committee shall adopt rules and procedures regarding the administration and operation of the sex offender DNA identification system as part of the DNA identification system.

H. The DNA oversight committee shall designate and approve the location of the administrative center as provided in Section 29-16-4 NMSA 1978.

I. The DNA oversight committee may award grants and loans pursuant to Section 29-16-13 NMSA 1978."

## **Chapter 208 Section 4 Laws 2013**

SECTION 4. Section 29-16-11 NMSA 1978 (being Laws 1997, Chapter 105, Section 11) is amended to read:

"29-16-11. ASSESSMENT--COLLECTION--DNA FEE.--

A. Each time that a covered offender is convicted, the court shall assess a DNA fee of one hundred dollars (\$100) in addition to any other fee, restitution or fine. The corrections department shall collect the DNA fee from the covered offender for deposit in the fund.

B. When a covered offender is transferred to New Mexico from another state pursuant to an interstate compact, the corrections department shall assess and collect from the covered offender a DNA fee of one hundred dollars (\$100) for deposit in the fund."

## **Chapter 208 Section 5 Laws 2013**

SECTION 5. Section 29-16-13 NMSA 1978 (being Laws 1997, Chapter 105, Section 13, as amended) is amended to read:

"29-16-13. DNA IDENTIFICATION SYSTEM FUND CREATED--PURPOSES.--

A. The "DNA identification system fund" is created in the state treasury. The fund shall consist of all money received by appropriation, gift or grant, all DNA fees collected pursuant to Section 29-16-11 NMSA 1978 and all investment income from the fund.

B. Money and investment income in the fund at the end of any fiscal year shall not revert to the general fund but shall remain in the fund. Money and investment income in the fund is appropriated to the administrative center for expenditure in fiscal year 1998 and subsequent fiscal years for the purposes provided in this section.

C. The fund shall be used to implement the purposes of the DNA Identification Act, including paying the expenses incurred by the administrative center and all other reasonable expenses. Money in the fund may be used for loans or grants of money, equipment or personnel to any law enforcement agency, correctional facility, jail, detention facility, judicial agency, the public defender department or the office of the medical investigator, upon approval of the DNA oversight committee."

## **Chapter 208 Section 6 Laws 2013**

SECTION 6. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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Senate Bill 149, aa

Approved April 5, 2013

# **LAWS 2013, CHAPTER 209**

## **AN ACT**

RELATING TO ALCOHOLIC BEVERAGES; INCREASING THE HOURS OF CONSUMPTION OF ALCOHOLIC BEVERAGES ON SUNDAYS AT LICENSED PREMISES.

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

### **Chapter 209 Section 1 Laws 2013**

SECTION 1. 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--SUNDAY SALES--CHRISTMAS DAY SALES--SUNDAY SALES FOR CONSUMPTION OFF THE LICENSED PREMISES--ELECTIONS.--

A. Provided that nothing in this section shall prohibit the consumption at any time of alcoholic beverages in guest rooms of hotels, alcoholic beverages shall be sold, served and consumed on licensed premises only during the following hours and days:

(1) on Mondays from 7:00 a.m. until midnight;

(2) on Tuesdays through Saturdays from after midnight of the previous day until 2:00 a.m., then from 7:00 a.m. until midnight, except as provided in Subsections D and F of this section; and

(3) on Sundays only after midnight of the previous day until 2:00 a.m., except as provided in Subsections C and E of this section and Section 60-7A-2 NMSA 1978.

B. Alcoholic beverages shall be sold by a dispenser or a retailer in unbroken packages, for consumption off the licensed premises and not for resale, on Mondays through Saturdays from 7:00 a.m. until midnight, except as provided in Subsections D and F of this section.

C. A dispenser, restaurant licensee or club may, upon payment of an additional fee of one hundred dollars (\$100), obtain a permit to sell, serve or permit the consumption of alcoholic beverages by the drink on the licensed premises on Sundays, subject to approval obtained pursuant to the process set forth in Subsection E of this section. Alcoholic beverages may be sold, served and consumed from 11:00 a.m. until midnight as set forth in the licensee's Sunday sales permit, except as otherwise provided for a restaurant licensee in Section 60-6A-4 NMSA 1978. The Sunday sales

permit shall expire on June 30 of each year and may be renewed from year to year upon application for renewal and payment of the required fee. The permit fee shall not be prorated. Sales made pursuant to this subsection or Subsection G of this section shall be called "Sunday sales".

D. Retailers, dispensers, canopy licensees that were replaced by dispenser's licensees pursuant to Section 60-6B-16 NMSA 1978, restaurant licensees, club licensees and governmental licensees or their lessees shall not sell, serve, deliver or allow the consumption of alcoholic beverages on the licensed premises from 2:00 a.m. on Christmas day until 7:00 a.m. on the day after Christmas, except as permitted pursuant to Subsection F of this section.

E. Sunday sales pursuant to the provisions of Subsection C of this section are permitted in a local option district that voted to permit them. If in that election a majority of the voters in a local option district voted "no" on the question "Shall Sunday sales of alcoholic beverages by the drink for consumption on the licensed premises of licensees be allowed in this local option district?", Sunday sales are unlawful in that local option district upon certification of the election returns unless the provisions of Subsection J of this section apply. The question shall not again be placed on the ballot in that local option district until:

(1) at least one year has passed; and

(2) a petition is filed with the local governing body bearing the signatures of registered qualified electors of the local option district equal in number to ten percent of the number of votes cast and counted in the local option district for governor in the last preceding general election in which a governor was elected. The signatures on the petition shall be verified by the clerk of the county in which the local option district is situated.

F. On and after July 1, 2002, dispensers, canopy licensees that were replaced by dispenser's licensees pursuant to Section 60-6B-16 NMSA 1978, restaurant licensees, club licensees and governmental licensees or lessees of these licensees; provided that the licensees have current, valid food service establishment permits, may sell, serve or allow the consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p.m. on Christmas day, except in a local option district in which, pursuant to petition and election under this subsection, a majority of the voters voting on the question votes against continuing such sales or consumption on Christmas day. An election shall be held on the question of whether to continue to allow the sale, service or consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p.m. on Christmas day in a local option district, if a petition requesting the governing body of that district to call the election is signed by at least ten percent of the registered voters of the district and is filed with the clerk of the governing body of the district. Upon verification by the clerk that the petition contains the required number of signatures of registered voters, the governing body shall adopt a resolution calling an election on the question of allowing the sale, service or

consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p.m. on Christmas day. The election 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 that election occurs within sixty days of such verification. The election shall be called, conducted, counted and canvassed in substantially the same manner as provided for general elections in the county under the Election Code or for special municipal elections in a municipality under the Municipal Election Code. If a majority of the voters voting on the question votes against continuing the sale, service or consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p.m. on Christmas day, then such sales and consumption shall be prohibited. If a majority of the voters voting on the question votes to allow continued sale, service and consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p.m. on Christmas day, then such sales and consumption shall be allowed to continue. The question then shall not be submitted again to the voters within two years of the date of the last election on the question.

G. Notwithstanding the provisions of Subsection E of this section, any Indian nation, tribe or pueblo whose lands are wholly situated within the state that has, by statute, ordinance or resolution, elected to permit the sale, possession or consumption of alcoholic beverages on lands within the territorial boundaries of the Indian nation, tribe or pueblo may, by statute, ordinance or resolution of the governing body of the Indian nation, tribe or pueblo, permit Sunday sales by the drink on the licensed premises of licensees on lands within the territorial boundaries of the Indian nation, tribe or pueblo; provided that a certified copy of such enactment is filed with the office of the director and with the secretary of state.

H. Subject to the provisions of Subsection I of this section, a dispenser or retailer, upon payment of an additional fee of one hundred dollars (\$100), may obtain a permit to sell alcoholic beverages in unbroken packages for consumption off the licensed premises on Sundays from noon until midnight, and in those years when December 31 falls on a Sunday, from noon on December 31 until 2:00 a.m. of the following day. The permit shall expire on June 30 of each year and may be renewed from year to year upon application for renewal and payment of the required fee. The permit fee shall not be prorated. Sales made pursuant to the provisions of this subsection shall be called "Sunday package sales".

I. If a petition requesting the governing body of a local option district to call an election on the question of continuing to allow sales of alcoholic beverages in unbroken packages for consumption off the licensed premises on Sundays is filed with the clerk of the governing body and that petition is signed by at least ten percent of the number of registered voters of the local option district and the clerk of the governing body verifies the petition signatures, the governing body shall adopt a resolution calling an election on the question. The election shall be held within sixty days of the date that the petition is verified, or it may be held in conjunction with a regular election of the governing body, if the regular election occurs within sixty days of the petition verification. The election shall be called, conducted, counted and canvassed



substantially in the manner provided by law for general elections within a county or for special municipal elections within a municipality. If a majority of the voters of the local option district voting in the election votes to allow the sale of alcoholic beverages in unbroken packages for consumption off the licensed premises, then those sales shall continue to be allowed. If a majority of the voters of the local option district voting in the election votes not to allow the Sunday package sales, then those Sunday package sales shall be prohibited commencing the first Sunday after the results of the election are certified. Following the election, the question of allowing the Sunday package sales shall not be submitted again to the voters within two years of the date of the last election on the question.

J. Sunday sales of alcoholic beverages shall be permitted at resorts and at horse racetracks statewide pursuant to the provisions of Section 60-7A-2 NMSA 1978."

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Senate Bill 154, aa

Approved April 5, 2013

## **LAWS 2013, CHAPTER 210**

AN ACT

RELATING TO MOTOR VEHICLES; PROVIDING A RESTRICTED COMMERCIAL DRIVER'S LICENSE FOR CERTAIN FARM-RELATED SERVICE INDUSTRIES.

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

### **Chapter 210 Section 1 Laws 2013**

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

"RESTRICTED COMMERCIAL DRIVER'S LICENSE FOR CERTAIN FARM-RELATED SERVICE INDUSTRIES.--

A. The division shall waive the required knowledge and skills tests pursuant to Section 66-5-60 NMSA 1978 and issue a restricted commercial driver's license to an employee of the following farm-related service industries:

- (1) agriculture-chemical businesses;
- (2) custom harvesters;
- (3) farm retail outlets and suppliers; and

(4) livestock feeders.

B. A restricted commercial driver's license issued pursuant to this section shall meet all the requirements of the New Mexico Commercial Driver's License Act, except for a knowledge and skills test. A restricted commercial driver's license issued pursuant to this section shall be accorded the same reciprocity as a commercial driver's license meeting all of the requirements of the New Mexico Commercial Driver's License Act. The restrictions imposed upon the issuance of the restricted commercial driver's license shall not limit a person's use of the restricted commercial driver's license in a noncommercial motor vehicle, nor shall the restricted commercial driver's license affect the division's authority to administer its driver licensing program for operators of vehicles other than commercial motor vehicles.

C. The division shall restrict a commercial driver's license issued pursuant to this section as follows:

(1) an applicant shall have a good driving record, as defined in this paragraph. Drivers who have not held a motor vehicle driver's license for at least one year shall not be eligible for the restricted commercial driver's license. Drivers who have been licensed between one and two years shall have a good driving record for their entire driving history. Drivers who have been licensed for more than two years shall have a good driving record for the two most recent years. For the purposes of this paragraph, "good driving record" means that an applicant:

(a) has not had more than one type of driver's license;

(b) has not had a license suspended, revoked or canceled;

(c) has not had a conviction, for any type of motor vehicle, for the disqualifying offenses contained in Section 66-5-68 NMSA 1978;

(d) has not had a conviction, for any type of motor vehicle, for a serious traffic violation; and

(e) has not had a conviction for a violation of state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic accident and has no record of an accident in which the applicant was at fault;

(2) a restricted commercial driver's license shall have the same renewal cycle as an unrestricted commercial driver's license and shall be limited to a seasonal period or periods as determined by the division; provided that the total number of calendar days in any twelve-month period for which the restricted commercial driver's license is valid does not exceed one hundred eighty days. If the division elects to provide for more than one seasonal period, the restricted commercial driver's license is valid for commercial motor vehicle operation only during the currently approved season

and must be revalidated for each successive season. Only one seasonal period of validity may appear on the license document at a time. The good driving record must be confirmed prior to any renewal or revalidation;

(3) the holder of a restricted commercial driver's license is limited to operating class B and class C vehicles, as described in Section 66-5-65 NMSA 1978;

(4) a restricted commercial driver's license shall not be issued with any endorsements on the license document. Only the limited tank vehicle and hazardous materials endorsement privileges that the restricted commercial driver's license automatically confers and that are described in Paragraph (5) of this subsection are permitted;

(5) a restricted commercial driver's license holder shall not drive a vehicle carrying any quantity of hazardous materials that require a placard on the vehicle, except for:

(a) diesel fuel in quantities of one thousand gallons or less;

(b) liquid fertilizers, such as plant nutrients, in vehicles or implements of husbandry in total quantities of three thousand gallons or less; and

(c) solid fertilizers, such as solid plant nutrients, that are not transported with any organic substance;

(6) a restricted commercial driver's license holder shall not hold an unrestricted commercial driver's license at the same time; and

(7) a restricted commercial driver's license holder shall not operate a commercial motor vehicle beyond one hundred fifty miles from the place of business or the farm currently being served.

D. The department, by rule, may provide for the means of designating the commercial driver's license allowed by this section as a restricted commercial driver's license."

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Senate Bill 202

Approved April 5, 2013

## **LAWS 2013, CHAPTER 211**

AN ACT

RELATING TO NEW MEXICO CHILE PEPPERS; EXPANDING VIOLATIONS OF THE NEW MEXICO CHILE ADVERTISING ACT; PROVIDING AN EXCEPTION TO POTENTIAL RULE-MAKING; PROVIDING FOR STOP-SALE, USE OR REMOVAL ORDERS TO BE ISSUED BY THE NEW MEXICO DEPARTMENT OF AGRICULTURE.

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

### **Chapter 211 Section 1 Laws 2013**

SECTION 1. Section 25-11-1 NMSA 1978 (being Laws 2011, Chapter 57, Section 1) is amended to read:

"25-11-1. SHORT TITLE.--Chapter 25, Article 11 NMSA 1978 may be cited as the "New Mexico Chile Advertising Act"."

### **Chapter 211 Section 2 Laws 2013**

SECTION 2. Section 25-11-3 NMSA 1978 (being Laws 2011, Chapter 57, Section 3) is amended to read:

"25-11-3. UNLAWFUL ADVERTISING, LABELING OR SELLING OF NON-NEW MEXICO CHILE.--

A. It is unlawful for a person to:

(1) knowingly advertise, describe, label or offer for sale chile peppers as New Mexico chile, or to advertise, describe, label or offer for sale a product as containing New Mexico chile, unless the chile peppers or chile peppers in the product were grown in New Mexico; or

(2) knowingly advertise, describe, label or offer for sale chile peppers, or a product containing chile peppers, using the name of any city, town, county, village, pueblo, mountain, river or other geographic feature or features located in New Mexico in a misleading or deceptive manner that states or reasonably implies that the chile peppers are, or the product contains, New Mexico chile, unless the chile peppers or chile peppers in the product were grown in New Mexico.

B. The prohibitions in this section do not apply to a person whose business name, brand name or trademark was used in advertising, product descriptions, labels or offers for sale and was established prior to the effective date of the New Mexico Chile Advertising Act; provided that, on and after July 1, 2013, the person, in all advertising, descriptions and labels containing that business name, brand name or trademark, shall include in a prominent location and in a prominent typeface a disclaimer stating "NOT GROWN IN NEW MEXICO" if the product contains chile peppers that were not grown in New Mexico.

C. The prohibitions in this section do not apply to a restaurant that describes a menu item using a geographic name provided for in Paragraph (2) of Subsection A of this section; provided that the origin of any chile in the menu item is not misrepresented."

### **Chapter 211 Section 3 Laws 2013**

SECTION 3. Section 25-11-4 NMSA 1978 (being Laws 2011, Chapter 57, Section 4) is amended to read:

"25-11-4. ADMINISTRATION--AUDIT--INSPECTION.--

A. The board may:

(1) enforce and administer the New Mexico Chile Advertising Act through the New Mexico department of agriculture; and

(2) promulgate rules, in consultation with the New Mexico chile industry, necessary for the administration of the New Mexico Chile Advertising Act.

B. Sales of twenty thousand pounds or less of chile peppers per calendar year by the person that grew the chile peppers are exempt from any recordkeeping requirement that the board may establish by rule. For the purposes of this subsection, "farmers' market" means a physical retail market open to the public at which farmers sell produce.

C. The New Mexico department of agriculture through its authorized inspectors or agents is authorized to:

(1) audit the purchase and sales records of a person dealing with the sale of chile peppers or products containing chile peppers that are advertised, described, labeled or offered for sale as New Mexico chile;

(2) enter, on a business day during the usual hours of business, a store, market or other business or place for the limited purpose of inspecting the establishment's records related to chile peppers or products containing chile peppers being advertised, described, labeled or offered for sale as New Mexico chile or as containing New Mexico chile; and

(3) issue stop-sale, use or removal orders with respect to any violation of the New Mexico Chile Advertising Act."

### **Chapter 211 Section 4 Laws 2013**

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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SJC/Senate Bill 234, aa

Approved April 5, 2013

## **LAWS 2013, CHAPTER 212**

AN ACT

AMENDING THE DRIVING SCHOOL LICENSING ACT; REMOVING THE REQUIREMENT THAT A PERSON HOLD A VALID NEW MEXICO OPERATOR'S OR CHAUFFEUR'S LICENSE TO QUALIFY TO BE A DRIVER EDUCATION INSTRUCTOR.

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

### **Chapter 212 Section 1 Laws 2013**

SECTION 1. Section 66-10-4 NMSA 1978 (being Laws 1967, Chapter 185, Section 4, as amended) is amended to read:

"66-10-4. QUALIFICATIONS OF DRIVER EDUCATION INSTRUCTORS.--Every person in order to qualify as an instructor for a driver education school shall meet the following requirements:

- A. possess qualifications as prescribed by the bureau;
- B. be physically able to operate safely a motor vehicle and to train others in the operation of motor vehicles;
- C. hold a valid operator's or chauffeur's license; and
- D. pay to the bureau an annual license fee to be set by regulation of the bureau."

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Senate Bill 248

Approved April 5, 2013

## **LAWS 2013, CHAPTER 213**

AN ACT

RELATING TO ALCOHOL; AMENDING A SECTION OF THE LIQUOR CONTROL ACT TO INCREASE THE FREQUENCY FOR ALCOHOL SERVER TRAINING FROM EVERY FIVE YEARS TO EVERY THREE YEARS; REDUCING THE PENALTY FOR SERVING ALCOHOLIC BEVERAGES TO MINORS; CHANGING THE KNOWLEDGE REQUIREMENT FOR PROVIDING ALCOHOL TO MINORS.

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

### **Chapter 213 Section 1 Laws 2013**

SECTION 1. Section 60-6E-1 NMSA 1978 (being Laws 1999, Chapter 277, Section 2) is amended to read:

"60-6E-1. ARTICLE DESIGNATION--ALCOHOL SERVER EDUCATION.-- Chapter 60, Article 6E NMSA 1978 may be cited as the "Alcohol Server Education Article of the Liquor Control Act"."

### **Chapter 213 Section 2 Laws 2013**

SECTION 2. Section 60-6E-7 NMSA 1978 (being Laws 1999, Chapter 277, Section 8) is amended to read:

"60-6E-7. SERVER PERMITS--ISSUANCE--OWNERSHIP--FEES.--

A. The director shall issue a server permit to each applicant who obtains a certificate of program completion and provides such other information as may be required by the director. The director may, in the director's discretion, issue temporary server permits if circumstances warrant such issuance.

B. Server permits shall not be issued to graduates of programs that are not approved by the director.

C. A server permit is the property of the server to whom it is issued.

D. The director may charge a fee for the issuance of the server permit.

E. Server permits shall be valid for a period of three years from the date the server permit was issued.

F. A certificate of completion of an alcohol server education program issued pursuant to previous law shall remain valid until the date of its expiration."

### **Chapter 213 Section 3 Laws 2013**

SECTION 3. Section 60-7B-1 NMSA 1978 (being Laws 1993, Chapter 68, Section 22, as amended) is amended to read:

"60-7B-1. SELLING OR GIVING ALCOHOLIC BEVERAGES TO MINORS--  
POSSESSION OF ALCOHOLIC BEVERAGES BY MINORS.--

A. It is a violation of the Liquor Control Act for a person, including a person licensed pursuant to the provisions of the Liquor Control Act, or an employee, agent or lessee of that person, if the person knows or has reason to know that the person is violating the provisions of this section, to:

(1) sell, serve or give alcoholic beverages to a minor or permit a minor to consume alcoholic beverages on the licensed premises;

(2) buy alcoholic beverages for or procure the sale or service of alcoholic beverages to a minor;

(3) deliver alcoholic beverages to a minor; or

(4) aid or assist a minor to buy, procure or be served with alcoholic beverages.

B. It is not a violation of the Liquor Control Act, as provided in Subsection A or C of this section, when:

(1) a parent, legal guardian or adult spouse of a minor serves alcoholic beverages to that minor on real property, other than licensed premises, under the control of the parent, legal guardian or adult spouse; or

(2) alcoholic beverages are used in the practice of religious beliefs.

C. It is a violation of the Liquor Control Act for a minor to buy, attempt to buy, receive, possess or permit the minor's self to be served with alcoholic beverages.

D. When a person other than a minor procures another person to sell, serve or deliver alcoholic beverages to a minor by actual or constructive misrepresentation of facts or concealment of facts calculated to cause the person selling, serving or delivering the alcoholic beverages to the minor to believe that the minor is legally entitled to be sold, served or delivered alcoholic beverages and actually deceives that person by that misrepresentation or concealment, then the procurer and not the person deceived shall have violated the provisions of the Liquor Control Act.

E. As used in the Liquor Control Act, "minor" means a person under twenty-one years of age.

F. In addition to the penalties provided in Section 60-6C-1 NMSA 1978, a violation of the provisions of Subsection A of this section is:



(1) a fourth degree felony for an offender, other than a server certified pursuant to Section 60-6E-7 NMSA 1978, who shall be sentenced pursuant to Section 31-18-15 NMSA 1978;

(2) a misdemeanor for a first violation if the offender is a server, certified pursuant to Section 60-6E-7 NMSA 1978, who shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978; or

(3) a fourth degree felony for a second or subsequent violation if the offender is a server, certified pursuant to Section 60-6E-7 NMSA 1978, who shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

G. A violation of the provisions of Subsection C of this section is a misdemeanor and the offender shall be punished as follows:

(1) for a first violation, the offender shall be:

(a) fined an amount not more than one thousand dollars (\$1,000); and

(b) ordered by the sentencing court to perform thirty hours of community service related to reducing the incidence of driving while under the influence of intoxicating liquor;

(2) for a second violation, the offender shall:

(a) be fined an amount not more than one thousand dollars (\$1,000);

(b) be ordered by the sentencing court to perform forty hours of community service related to reducing the incidence of driving while under the influence of intoxicating liquor; and

(c) have the offender's driver's license suspended for a period of ninety days. If the minor is too young to possess a driver's license at the time of the violation, then ninety days shall be added to the date the offender would otherwise become eligible to obtain a driver's license; and

(3) for a third or subsequent violation, the offender shall:

(a) be fined an amount not more than one thousand dollars (\$1,000);

(b) be ordered by the sentencing court to perform sixty hours of community service related to reducing the incidence of driving while under the influence of intoxicating liquor; and

(c) have the offender's driver's license suspended for a period of two years or until the offender reaches twenty-one years of age, whichever period of time is greater.

H. A violation of the provisions of Subsection D of this section is a fourth degree felony and the offender shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978."

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Senate Bill 259

Approved April 5, 2013

## **LAWS 2013, CHAPTER 214**

### **AN ACT**

RELATING TO PUBLIC RECORDS; ADDING AND REMOVING THE TYPES OF DOCUMENTS THAT MUST BE ACKNOWLEDGED BEFORE BEING FILED AND RECORDED; REMOVING A NOTICE REQUIREMENT OF THE EXPIRATION OF A TAX LIEN; UPDATING CERTAIN CROSS-REFERENCES IN THE LAW; REQUIRING AND STANDARDIZING COUNTY RECORDING INDEXES, FORMS AND PROCEDURES; MAKING GOVERNMENTAL AGENCIES SUBJECT TO THE UNIFORM ELECTRONIC TRANSACTIONS ACT; REPEALING A REQUIREMENT THAT COUNTY COMMISSION MINUTES BE PUBLISHED IN A NEWSPAPER; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2011.

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

### **Chapter 214 Section 1 Laws 2013**

SECTION 1. Section 7-1-39 NMSA 1978 (being Laws 1965, Chapter 248, Section 41, as amended) is amended to read:

"7-1-39. RELEASE OR EXTINGUISHMENT OF LIEN--LIMITATION ON ACTIONS TO ENFORCE LIEN.--

A. When any substantial part of the amount of tax due from a taxpayer is paid, the department shall immediately file, in the same county in which a notice of lien was filed, and in the same records, a document completely or partially releasing the lien. The county clerk to whom such a document is presented shall record it without charge.

B. The department may file, in the same county as the notice of lien was filed, a document releasing or partially releasing any lien filed in accordance with Section 7-1-38 NMSA 1978 when the filing of the lien was premature or did not follow requirements of law or when release or partial release would facilitate collection of taxes due. The county clerk to whom the document is presented shall record it without charge.

C. In all cases when a notice of lien for taxes, penalties and interest has been filed under Section 7-1-38 NMSA 1978 and a period of ten years has passed from the date the lien was filed, as shown on the notice of lien, the taxes, penalties and interest for which the lien is claimed shall be conclusively presumed to have been paid and the lien is thereby extinguished. No action shall be brought to enforce any lien extinguished in accordance with this subsection."

## **Chapter 214 Section 2 Laws 2013**

SECTION 2. Section 14-2-6 NMSA 1978 (being Laws 1993, Chapter 258, Section 3, as amended by Laws 2011, Chapter 134, Section 3 and by Laws 2011, Chapter 181, Section 1 and also by Laws 2011, Chapter 182, Section 1) is amended to read:

"14-2-6. DEFINITIONS.--As used in the Inspection of Public Records Act:

A. "custodian" means any person responsible for the maintenance, care or keeping of a public body's public records, regardless of whether the records are in that person's actual physical custody and control;

B. "file format" means the internal structure of an electronic file that defines the way it is stored and used;

C. "inspect" means to review all public records that are not excluded in Section 14-2-1 NMSA 1978;

D. "person" means any individual, corporation, partnership, firm, association or entity;

E. "protected personal identifier information" means:

(1) all but the last four digits of a:

(a) taxpayer identification number;

(b) financial account number; or

(c) driver's license number;

(2) all but the year of a person's date of birth; and

(3) a social security number;

F. "public body" means the executive, legislative and judicial branches of state and local governments and all advisory boards, commissions, committees, agencies or entities created by the constitution or any branch of government that receives any public funding, including political subdivisions, special taxing districts, school districts and institutions of higher education; and

G. "public records" means all documents, papers, letters, books, maps, tapes, photographs, recordings and other materials, regardless of physical form or characteristics, that are used, created, received, maintained or held by or on behalf of any public body and relate to public business, whether or not the records are required by law to be created or maintained."

### **Chapter 214 Section 3 Laws 2013**

SECTION 3. 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.--

A. Any 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. A duplicate of an instrument of writing duly acknowledged may be filed and recorded to the same extent as the original.

B. For purposes of this section, "acknowledged" means notarized by a person empowered to perform notarial acts pursuant to the Notary Public Act or the 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 this state 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. Any filing or recording permitted or required under the provisions of the Uniform Commercial Code need not comply with the requirements of this section.

E. Instruments acknowledged on behalf of a corporation need not have the corporation's seal affixed thereto in order to be filed and recorded."

## **Chapter 214 Section 4 Laws 2013**

SECTION 4. Section 14-8-17 NMSA 1978 (being Laws 1921, Chapter 61, Section 1, as amended) is amended to read:

"14-8-17. DOCUMENTS RECORDED WITHOUT COST.--The county clerk shall record free of charge:

A. oaths of public office made pursuant to Article 20, Section 1 of the constitution of New Mexico;

B. the discharge papers of any person who was accepted for service and served in the armed forces of the United States for thirty days or more;

C. notices of state tax liens filed by the taxation and revenue department pursuant to Section 7-1-38 NMSA 1978;

D. tax delinquency lists filed by the county treasurer pursuant to Section 7-38-61 NMSA 1978;

E. notices and warrants issued by the secretary of workforce solutions for defaults on payments to the unemployment compensation administration fund filed pursuant to Section 51-1-36 NMSA 1978; and

F. a claim of lien under oath of the state engineer, artesian well supervisor or an officer of an artesian conservancy district filed pursuant to Section 72-13-8 NMSA 1978."

### **Chapter 214 Section 5 Laws 2013**

SECTION 5. Section 14-10-1 NMSA 1978 (being Laws 1903, Chapter 87, Section 1, as amended) is amended to read:

"14-10-1. INDEX.--For the convenience of the public and the better preservation of titles to real property, there shall be a complete and accurate county recording index made of all instruments of record affecting real property made by the county clerk of each county."

### **Chapter 214 Section 6 Laws 2013**

SECTION 6. Section 14-10-2 NMSA 1978 (being Laws 1903, Chapter 87, Section 2, as amended) is amended to read:

"14-10-2. INDEX BOOKS.--For the purpose of the county recording index created pursuant to Section 14-10-1 NMSA 1978, the county clerk shall maintain a searchable database, which may include index books, and all instruments affecting title to real estate shall be indexed."

### **Chapter 214 Section 7 Laws 2013**

SECTION 7. Section 14-10-3 NMSA 1978 (being Laws 1903, Chapter 87, Section 3, as amended) is amended to read:

"14-10-3. COUNTY RECORDING INDEX--REQUIRED FIELDS.--The county recording index shall contain, at a minimum:

A. the following administrative fields:

- (1) the book and page or instrument number; and
- (2) the date and time of recordation; and

B. the following descriptive fields:

- (1) the name of the grantor or grantors;
- (2) the name of the grantee or grantees; and
- (3) legal descriptions, references to recorded instruments in the county containing legal descriptions and miscellaneous information."

## **Chapter 214 Section 8 Laws 2013**

SECTION 8. Section 14-10-4 NMSA 1978 (being Laws 1903, Chapter 87, Section 4, as amended) is amended to read:

"14-10-4. ENTRIES TO THE INDEX--DESCRIPTION OF LANDS.--Each name, descriptor or reference placed in a descriptive field constitutes a separate entry in the county recording index. All real property or lands shall be entered and described in the county recording index in the manner indicated, according to numbers, metes or bounds; provided that where this is impossible from the nature of the description, the tract or tracts may be described by some appropriate title."

## **Chapter 214 Section 9 Laws 2013**

SECTION 9. Section 14-10-5 NMSA 1978 (being Laws 1903, Chapter 87, Section 5, as amended) is amended to read:

"14-10-5. STANDARD FORM.--The form of county recording index provided in Chapter 14, Article 10 NMSA 1978 shall be the standard form of index and shall be used throughout the state."

## **Chapter 214 Section 10 Laws 2013**

SECTION 10. Section 14-16-18 NMSA 1978 (being Laws 2001, Chapter 131, Section 18) is amended to read:

"14-16-18. ACCEPTANCE AND DISTRIBUTION OF ELECTRONIC RECORDS BY GOVERNMENTAL AGENCIES.--The state records administrator shall issue rules for the implementation of the provisions of the Uniform Electronic Transactions Act that shall apply to all governmental agencies; provided that a governmental agency, giving due consideration to security, may instead issue its own rules that specify:

A. the manner and format in which the electronic records must be created, generated, sent, communicated, received and stored and the systems established for those purposes;

B. if electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process;

C. control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality and auditability of electronic records; and

D. any other required attributes for electronic records that are specified for corresponding nonelectronic records or reasonably necessary under the circumstances."

## **Chapter 214 Section 11 Laws 2013**

SECTION 11. Section 39-4-4 NMSA 1978 (being Laws 1933, Chapter 13, Section 1) is amended to read:

"39-4-4. FILING NOTICE OF LEVY ON REAL ESTATE--RECORDING AND INDEXING--RELEASE OF LEVY.--

A. Any peace officer making a levy on real estate under execution or writ of attachment shall file a notice of the levy in the office of the county clerk of the county where located, describing the real estate levied upon, the title and number of the case and the amount of the debt or judgment. A certificate of the facts recited in the notice, under the hand and seal of the peace officer, shall be sufficient to entitle the instrument to record.

B. The county clerk shall record the notice of levy and shall index it in the records of the county clerk's office, and when so filed it shall be notice to the public of the facts therein recited.

C. When the debt for which a levy is made has been satisfied, or if directed by the plaintiff or the plaintiff's attorney, the peace officer shall file a release of the levy under the peace officer's official hand and seal, in the office of the county clerk."

## **Chapter 214 Section 12 Laws 2013**

SECTION 12. Section 39-5-23 NMSA 1978 (being Laws 1931, Chapter 149, Section 6) is amended to read:

"39-5-23. DUTY TO RECORD REDEMPTION.--

A. In all cases of redemption of lands from sale pursuant to the provisions of Sections 39-5-17 through 39-5-23 NMSA 1978:

(1) if the redemption is by payment to the purchaser, it is the duty of the purchaser within forty-five days of receiving payment to create an acknowledged instrument in writing evidencing the redemption; or

(2) if the redemption is by making deposit in the office of the clerk of the district court upon approval of the redemption by the district judge, it is the duty of the clerk of the court to create under the seal of the court an instrument evidencing the redemption.



B. It is the duty of the party redeeming to record the instrument evidencing the redemption in the office of the county clerk in the same manner as other instruments of writing affecting title to real estate."

## **Chapter 214 Section 13 Laws 2013**

SECTION 13. Section 55-9-525 NMSA 1978 (being Laws 2001, Chapter 139, Section 96, as amended) is amended to read:

"55-9-525. FEES.--

(a) Except as provided in Subsections (b) and (d) of this section, the fee for filing and indexing a record pursuant to Sections 55-9-501 through 55-9-526 NMSA 1978 in the office of the secretary of state is:

(1) if the record is communicated in writing in a form prescribed by the secretary of state:

(i) twenty dollars (\$20.00) if the record consists of one, two or three pages;

(ii) forty dollars (\$40.00) if the record consists of at least four pages, but no more than twenty-five pages; and

(iii) one hundred dollars (\$100) if the record consists of more than twenty-five pages, plus five dollars (\$5.00) for each page;

(2) if the record is communicated in writing, but not in a form prescribed by the secretary of state, double the amount specified in Paragraph (1) of this subsection for a record of the same length;

(3) if the record is communicated by facsimile or a similar medium and the use of that medium is authorized by filing-office rule, the amount specified in Paragraph (1) of this subsection for a record of the same length; and

(4) if the record is communicated in any other medium authorized by filing-office rule:

(i) ten dollars (\$10.00) if the record consists of fifteen thousand or fewer bytes; and

(ii) twenty dollars (\$20.00) if the record consists of more than fifteen thousand bytes.

(b) Except as otherwise provided in Subsection (d) of this section, the fee for filing and indexing an initial financing statement of the following kind is the amount specified in Subsection (a) of this section plus:

(1) one hundred dollars (\$100) if the financing statement states that a debtor is a transmitting utility; and

(2) one hundred dollars (\$100) if the financing statement indicates that it is filed in connection with a manufactured-home transaction.

(c) The number of names required to be indexed does not affect the amount of the fee set forth in Subsections (a) and (b) of this section.

(d) This section does not require a fee with respect to a record of a mortgage that is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under Subsection (c) of Section 55-9-502 NMSA 1978. However, the recording fees that otherwise would be applicable to the record of the mortgage apply.

(e) The secretary of state is authorized to establish additional fees for sale of data or records by adopting and publishing rules, pursuant to Section 55-9-526 NMSA 1978, to implement the requirements set forth in Chapter 55, Article 9 NMSA 1978.

(f) The fee for filing and indexing a record pursuant to Sections 55-9-501 through 55-9-526 NMSA 1978 in the office of the county clerk is as provided in Section 14-8-15 NMSA 1978."

## **Chapter 214 Section 14 Laws 2013**

SECTION 14. REPEAL.--Sections 4-38-9, 39-4-5 and 39-4-6 NMSA 1978 (being Laws 1897, Chapter 60, Section 16 [15] and Laws 1933, Chapter 13, Sections 2 and 3, as amended) are repealed.

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Senate Bill 307, aa

Approved April 5, 2013

## **LAWS 2013, CHAPTER 215**

AN ACT

RELATING TO PROCUREMENT; RAISING THE THRESHOLD AMOUNT FOR STATE BOARD OF FINANCE APPROVAL OF BUILDING AND REMODELING CONTRACTS

ENTERED INTO BY THE PROPERTY CONTROL DIVISION OF THE GENERAL SERVICES DEPARTMENT.

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

### **Chapter 215 Section 1 Laws 2013**

SECTION 1. Section 15-3B-6 NMSA 1978 (being Laws 1968, Chapter 43, Section 5, as amended) is amended to read:

"15-3B-6. BUILDING AND REMODELING.--The division may do all acts necessary and proper for the redesigning, major renovation and remodeling of present state buildings and the erection of additional state buildings when needed. The division may let contracts for these purposes in accordance with the provisions of the Procurement Code. A contract for such redesigning, major renovation, remodeling or construction that costs more than five million dollars (\$5,000,000), not including gross receipts tax, must first be approved by the state board of finance. This section applies only to state buildings under the division's jurisdiction."

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Senate Bill 341

Approved April 5, 2013

## **LAWS 2013, CHAPTER 216**

AN ACT

RELATING TO LABOR; PERMITTING AIRLINE EMPLOYEES TO VOLUNTARILY TRADE SHIFTS; EXEMPTING AIRLINES FROM THE REQUIREMENTS OF PAYING EMPLOYEES ONE AND ONE-HALF TIMES AN EMPLOYEE'S HOURLY RATE OF PAY FOR EACH HOUR WORKED OVER FORTY HOURS IN ANY WEEK OF SEVEN DAYS IN WHICH THE AIRLINE HAS NOT REQUIRED OVERTIME HOURS AND EMPLOYEES HAVE VOLUNTARILY TRADED HOURS; PROVIDING FOR DELAYED REPEAL.

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

### **Chapter 216 Section 1 Laws 2013**

SECTION 1. Section 50-4-24 NMSA 1978 (being Laws 1975, Chapter 275, Section 1, as amended) is amended to read:

"50-4-24. EMPLOYERS EXEMPT FROM OVERTIME PROVISIONS FOR CERTAIN EMPLOYEES.--

A. An employer of workers engaged in the ginning of cotton for market, in a place of employment located within a county where cotton is grown in commercial quantities, is exempt from the overtime provisions of Subsection D of Section 50-4-22 NMSA 1978 if each employee is employed for a period of not more than fourteen weeks in the aggregate in a calendar year.

B. An employer of workers engaged in agriculture is exempt from the overtime provisions set forth in Subsection D of Section 50-4-22 NMSA 1978. As used in this subsection, "agriculture" has the meaning used in Section 203 of the federal Fair Labor Standards Act of 1938.

C. An employer is exempt from the overtime provisions set forth in Subsection D of Section 50-4-22 NMSA 1978 if the hours worked in excess of forty hours in a week of seven days are:

(1) worked by an employee of an air carrier providing scheduled passenger air transportation subject to Subchapter II of the federal Railway Labor Act or the air carrier's subsidiary that is subject to Subchapter II of the federal Railway Labor Act;

(2) not required by the employer; and

(3) arranged through a voluntary agreement among employees to trade scheduled work shifts; provided that the agreement shall:

(a) be in writing;

(b) be signed by the employees involved in the agreement;

(c) include a requirement that an employee who trades a scheduled work shift is responsible for working the shift so agreed to as part of the employee's regular work schedule; and

(d) not require an employee to work more than: 1) thirteen consecutive days; 2) sixteen hours in a single work day; 3) sixty hours within a single work week; or 4) can be required as provided in a collective bargaining agreement to which the employee is subject."

## **Chapter 216 Section 2 Laws 2013**

SECTION 2. Section 50-4-24 NMSA 1978 (being Laws 1975, Chapter 275, Section 1, as amended by Section 1 of this act) is repealed and a new Section 50-4-24 NMSA 1978 is enacted to read:

"50-4-24. EMPLOYERS EXEMPT FROM OVERTIME PROVISIONS FOR CERTAIN EMPLOYEES.--

A. An employer of workers engaged in the ginning of cotton for market, in a place of employment located within a county where cotton is grown in commercial quantities is exempt from the overtime provisions of Subsection D of Section 50-4-22 NMSA 1978 if each employee is employed for a period of not more than fourteen weeks in the aggregate in a calendar year.

B. An employer of workers engaged in agriculture is exempt from the overtime provisions set forth in Subsection D of Section 50-4-22 NMSA 1978. As used in this subsection, "agriculture" has the meaning used in Section 203 of the federal Fair Labor Standards Act."

**Chapter 216 Section 3 Laws 2013**

SECTION 3. EFFECTIVE DATE.--

A. The effective date of the provisions of Section 1 of this act is July 1, 2013.

B. The effective date of the provisions of Section 2 of this act is July 1, 2015.

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Senate Bill 352, aa

Approved April 5, 2013

**LAWS 2013, CHAPTER 217**

AN ACT

RELATING TO PROCUREMENT; MAKING AN EXCEPTION TO THE AMERICAN-MADE MOTOR VEHICLES REQUIREMENT IN THE PROCUREMENT CODE.

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

**Chapter 217 Section 1 Laws 2013**

SECTION 1. Section 13-1-188 NMSA 1978 (being Laws 1984, Chapter 65, Section 161, as amended) is amended to read:

"13-1-188. PUBLIC ACQUISITION OF AMERICAN-MADE MOTOR VEHICLES REQUIRED.--A state agency shall only acquire motor vehicles assembled in North America except for gas-electric hybrid vehicles until these vehicles are assembled in North America; provided that this section shall not apply to motor vehicles used for law enforcement purposes. For the purposes of this section, "motor vehicle" means a light-duty vehicle under eight thousand five hundred pounds."

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Senate Bill 396, aa

Approved April 5, 2013

## **LAWS 2013, CHAPTER 218**

AN ACT

RELATING TO TAXATION; CLARIFYING THE USE OF LOCAL LIQUOR EXCISE TAX PROCEEDS; INCREASING THE LOCAL LIQUOR EXCISE TAX RATE.

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

### **Chapter 218 Section 1 Laws 2013**

SECTION 1. Section 7-24-10 NMSA 1978 (being Laws 1989, Chapter 326, Section 3) is amended to read:

"7-24-10. AUTHORIZATION TO IMPOSE LOCAL LIQUOR EXCISE TAX--RATE--USE OF PROCEEDS--ELECTION REQUIRED.--

A. The majority of the members elected to the governing body may enact an ordinance imposing on any retailer an excise tax on the price paid by the retailer for alcoholic beverages purchased by the retailer upon which the tax imposed by this section has not been paid. The tax may be imposed at a rate not to exceed six percent, provided that any lower rate shall be an even multiple of one percent. The tax imposed under this section may be referred to as the "local liquor excise tax". Any tax imposed under this section shall be for a period of not more than three years from the effective date of the ordinance imposing the tax.

B. The governing body at the time of enacting an ordinance imposing the tax authorized in Subsection A of this section shall dedicate the revenue to fund educational programs and prevention and treatment, including social detoxification, of alcoholism and drug abuse within the county and for no other purpose. After approval of the imposition of a local liquor excise tax by the voters but before the effective date of the ordinance, the governing body shall hold a public meeting for the purpose of inviting comment on and suggestions for the most appropriate programs on which to expend

the revenue produced by the tax. The governing body shall invite representatives from the appropriate Indian tribes, nations and pueblos to the meeting. If the governing body awards any contract using funds derived from the local liquor excise tax, it shall do so only through a selection process requiring submission of sealed bids or proposals after public notice of the opportunity to submit the sealed bids or proposals.

C. The governing body enacting an ordinance imposing the local liquor excise tax shall submit the question of imposing the tax to the qualified voters of the county at a regular or special election.

D. Only those voters who are registered within the county shall be permitted to vote. The election shall be called, conducted and canvassed in substantially the same manner as provided by law for general elections.

E. If at an election called pursuant to this section the majority of the voters voting on the question vote in the affirmative on the question, then the ordinance imposing the local liquor excise tax shall be approved. If at such an election the majority of the voters voting on the question fail to approve the question, then the ordinance shall be disapproved and the question required to be submitted by Subsection B of this section shall not be submitted to the voters for a period of at least one year from the date of the election.

F. Any ordinance enacted under the provisions of this section that imposes a local liquor excise tax or changes the rate of tax imposed shall include an effective date that is the first day of any month that begins no earlier than ninety days after the date of the election. A certified copy of any ordinance imposing a local liquor excise tax shall be mailed or personally delivered to the department within five days after the ordinance is certified to have been approved by the voters.

G. Any ordinance repealing the imposition of a tax under the provisions of this section shall contain an effective date that is the first day of any month beginning no earlier than sixty days from the date the ordinance repealing the tax is adopted by the governing body. A certified copy of any ordinance repealing a local liquor excise tax shall be mailed or personally delivered to the department within five days of the date the ordinance is adopted."

## **Chapter 218 Section 2 Laws 2013**

SECTION 2. Section 7-24-10.1 NMSA 1978 (being Laws 1992, Chapter 35, Section 1) is amended to read:

"7-24-10.1. USE OF TAX PROCEEDS--LOCAL LIQUOR EXCISE TAX COMMITTEE--JOINT POWERS AGREEMENT--COMMUNITY PARTICIPATION.--

A. Prior to an election on the question of imposing a local liquor excise tax pursuant to the provisions of the Local Liquor Excise Tax Act, the governing body of a

county shall enter into a joint powers agreement with the governing body of the most populated municipality and the governing bodies of any other municipalities in the county that choose to be parties to the agreement to provide for the use and administration of the tax proceeds. The agreement shall provide for the establishment and appointment of a local liquor excise tax committee to provide advice, assist in preventing duplication and supplanting of program funding and make recommendations to the governing body of the county and the municipal governing bodies that are parties to the agreement on the use of the tax proceeds. The agreement shall:

(1) clearly specify the use of the proceeds of the proposed local liquor excise tax, including the identification of specific local programs, agencies or entities that will be funded from the tax proceeds;

(2) determine the allocation of election expenses among the parties to the agreement;

(3) clearly specify that the detoxification center located within a municipality with a population of not less than fifteen thousand and not more than thirty-five thousand according to the most recent federal decennial census providing social detoxification treatment with the greatest numbers of adult clients shall receive the funding necessary to provide social detoxification of alcohol and drug treatment for adults;

(4) provide that the remaining proceeds of the proposed local liquor excise tax shall be used to fund social detoxification of alcohol and drugs for juveniles and other prevention and treatment programs as recommended by the local liquor excise tax committee; and

(5) clearly specify that each specific local program, agency or entity that is funded from the tax proceeds shall be audited at its own expense and provide accountability reports to the governing body of the county and municipal governing bodies that are parties to the agreement within thirty days of the end of each quarter of the calendar year, including an itemized breakdown of program services and expenditures.

B. Prior to the agreement by the governing body of a county and the municipal governing bodies for use of the proposed local liquor excise tax proceeds, the local liquor excise tax committee established pursuant to the provisions of Subsection A of this section shall conduct a public hearing for the purpose of inviting public comment on use of the proposed local liquor excise tax proceeds. The committee shall make every effort to provide public notice of the hearing and to invite a broad cross-section of community representatives and groups to comment on community needs. Following the hearing, the committee shall make its funding recommendations to the governing body of the county and the municipal governing bodies.



C. On or before April 1 of each calendar year, the governing body of a county or municipality that has entered into an agreement pursuant to Subsection A of this section shall submit to the department of finance and administration a report itemizing the receipts, expenditures and number of clients served pursuant to any such agreement for the preceding calendar year. On or before July 1 of each year, the department of finance and administration shall complete an audit of the county's report submitted pursuant to this section and shall report its findings to the appropriate interim legislative committee before September 1 of that year.

D. If a local program, agency or entity receiving funds from local liquor excise tax proceeds fails to timely submit an accountability report pursuant to Paragraph (5) of Subsection A of this section, the county or municipality shall be immediately prohibited from disbursing any further funds to such local program, agency or entity until the delinquent accountability report has been submitted to and accepted by the governing board of the county and the municipal governing bodies."

### **Chapter 218 Section 3 Laws 2013**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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SFC/Senate Bill 397, aa

Approved April 5, 2013

## **LAWS 2013, CHAPTER 219**

AN ACT

RELATING TO AGRICULTURAL PROPERTY; PROVIDING THAT AN APPLICATION TO USE THE VALUATION METHOD FOR LAND USED PRIMARILY FOR AGRICULTURAL PURPOSES BE MADE NO LATER THAN THIRTY DAYS AFTER THE DATE OF MAILING BY THE ASSESSOR OF THE NOTICE OF VALUATION.

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

### **Chapter 219 Section 1 Laws 2013**

SECTION 1. Section 7-36-20 NMSA 1978 (being Laws 1973, Chapter 258, Section 21, as amended) is amended to read:

"7-36-20. SPECIAL METHOD OF VALUATION--LAND USED PRIMARILY FOR AGRICULTURAL PURPOSES.--

A. The value of land used primarily for agricultural purposes shall be determined on the basis of the land's capacity to produce agricultural products. Evidence of bona fide primary agricultural use of land for the tax year preceding the year for which determination is made of eligibility for the land to be valued under this section creates a presumption that the land is used primarily for agricultural purposes during the tax year in which the determination is made. If the land was valued under this section in one or more of the three tax years preceding the year in which the determination is made and the use of the land has not changed since the most recent valuation under this section, a presumption is created that the land continues to be entitled to that valuation.

B. For the purpose of this section, "agricultural use" means the use of land for the production of plants, crops, trees, forest products, orchard crops, livestock, poultry, captive deer or elk, or fish. The term also includes the use of land that meets the requirements for payment or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government.

C. The department shall adopt rules for determining whether land is used primarily for agricultural purposes. The rules shall provide that the use of land for the lawful taking of game shall not be considered in determining whether land is used primarily for agricultural purposes.

D. The department shall adopt rules for determining the value of land used primarily for agricultural purposes. The rules shall:

(1) specify procedures to use in determining the capacity of land to produce agricultural products and the derivation of value of the land based upon its production capacity;

(2) establish carrying capacity as the measurement of the production capacity of land used for grazing purposes, develop a system of determining carrying capacity through the use of an animal unit concept and establish carrying capacities for the land in the state classified as grazing land;

(3) provide that land the bona fide and primary use of which is the production of captive deer or elk shall be valued as grazing land, and that captive deer shall be valued and taxed as sheep and captive elk shall be valued and taxed as cattle;

(4) provide for the consideration of determinations of any other governmental agency concerning the capacity of the same or similar lands to produce agricultural products;

(5) assure that land determined under the rules to have the same or similar production capacity shall be valued uniformly throughout the state; and

(6) provide for the periodic review by the department of determined production capacities and capitalization rates used for determining annually the value of land used primarily for agricultural purposes.

E. All improvements, other than those specified in Section 7-36-15 NMSA 1978, on land used primarily for agricultural purposes shall be valued separately for property taxation purposes and the value of these improvements shall be added to the value of the land determined under this section.

F. The owner of the land must make application to the county assessor in a tax year in which the valuation method of this section is first claimed to be applicable to the land or in a tax year immediately subsequent to a tax year in which the land was not valued under this section. Application shall be made under oath, shall be in a form and contain the information required by department rules and must be made no later than thirty days after the date of mailing by the assessor of the notice of valuation. Once land is valued under this section, application need not be made in subsequent tax years as long as there is no change in the use of the land.

G. The owner of land valued under this section shall report to the county assessor whenever the use of the land changes so that it is no longer being used primarily for agricultural purposes. This report shall be made on a form prescribed by department rules and shall be made by the last day of February of the tax year immediately following the year in which the change in the use of the land occurs.

H. Any person who is required to make a report under the provisions of Subsection G of this section and who fails to do so is personally liable for a civil penalty in an amount equal to the greater of twenty-five dollars (\$25.00) or twenty-five percent of the difference between the property taxes ultimately determined to be due and the property taxes originally paid for the tax years for which the person failed to make the required report."

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Senate Bill 510

Approved April 5, 2013

## **LAWS 2013, CHAPTER 220**

### **AN ACT**

**RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;  
REQUIRING PUBLIC UTILITIES TO ACQUIRE AVAILABLE COST-EFFECTIVE AND  
ACHIEVABLE ENERGY EFFICIENCY AND LOAD MANAGEMENT RESOURCES;  
LIMITING PUBLIC UTILITY COST RECOVERY OPTIONS.**

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

## **Chapter 220 Section 1 Laws 2013**

SECTION 1. Section 62-17-4 NMSA 1978 (being Laws 2005, Chapter 341, Section 4, as amended) is amended to read:

"62-17-4. DEFINITIONS.--As used in the Efficient Use of Energy Act:

A. "achievable" means those energy efficiency or load management resources available to the utility using its best efforts;

B. "commission" means the public regulation commission;

C. "cost-effective" means that the energy efficiency or load management program meets the utility cost test;

D. "customer" means a utility customer at a single, contiguous field, location or facility, regardless of the number of meters at that field, location or facility;

E. "distribution cooperative utility" means a utility with distribution facilities organized as a rural electric cooperative pursuant to Laws 1937, Chapter 100 or the Rural Electric Cooperative Act or similarly organized in other states;

F. "energy efficiency" means measures, including energy conservation measures, or programs that target consumer behavior, equipment or devices to result in a decrease in consumption of electricity and natural gas without reducing the amount or quality of energy services;

G. "large customer" means a customer with electricity consumption greater than seven thousand megawatt-hours per year or natural gas use greater than three hundred sixty thousand decatherms per year;

H. "load management" means measures or programs that target equipment or devices to result in decreased peak electricity demand or shift demand from peak to off-peak periods;

I. "program costs" means the prudent and reasonable costs of developing and implementing energy efficiency and load management programs, but "program costs" does not include charges for incentives or the removal of regulatory disincentives;

J. "public utility" means a public utility that is not also a distribution cooperative utility; and

K. "utility cost test" means a standard that is met if the monetary costs that are borne by the public utility and that are incurred to develop, acquire and operate energy efficiency or load management resources on a life-cycle basis are less than the avoided monetary costs associated with developing, acquiring and operating the associated supply-side resources. In developing this test for energy efficiency and load management programs directed to low-income customers, the commission shall either quantify or assign a reasonable value to reductions in working capital, reduced collection costs, lower bad-debt expense, improved customer service effectiveness and other appropriate factors as utility system economic benefits."

## **Chapter 220 Section 2 Laws 2013**

SECTION 2. Section 62-17-5 NMSA 1978 (being Laws 2005, Chapter 341, Section 5, as amended) is amended to read:

"62-17-5. COMMISSION APPROVAL--ENERGY EFFICIENCY AND LOAD MANAGEMENT PROGRAMS--DISINCENTIVES.--

A. Pursuant to the findings and purpose of the Efficient Use of Energy Act, the commission shall consider public utility acquisition of cost-effective energy efficiency and load management resources to be in the public interest.

B. The commission shall direct public utilities to evaluate and implement cost-effective programs that reduce energy demand and consumption.

C. Before the commission approves an energy efficiency and load management program for a public utility, it must find that the portfolio of programs is cost-effective and designed to provide every affected customer class with the opportunity to participate and benefit economically. The commission shall determine the cost-effectiveness of energy efficiency and load management measures using the utility cost test.

D. The commission shall act expeditiously on public utility requests for approval of energy efficiency or load management programs.

E. Public utilities shall obtain commission approval of energy efficiency and load management programs before they are implemented. Public utilities proposing new energy efficiency and load management programs shall, before seeking commission approval, solicit nonbinding recommendations on the design, implementation and use of third-party energy service contractors through competitive bidding on the programs from commission staff, the attorney general, the energy, minerals and natural resources department and other interested parties. The commission may for good cause require public utilities to solicit competitive bids for energy efficiency and load management resources.

F. The commission shall, upon petition or its own motion, identify regulatory disincentives or barriers for public utility expenditures on energy efficiency and load management measures and ensure that they are removed in a manner that balances the public interest, consumers' interests and investors' interests. The commission shall also provide public utilities an opportunity to earn a profit on cost-effective energy efficiency and load management resource development that, with satisfactory program performance, is financially more attractive to the utility than supply-side utility resources.

G. Public utilities providing electricity and natural gas service to New Mexico customers shall, subject to commission approval, acquire cost-effective and achievable energy efficiency and load management resources available in their service territories. This requirement, however, for public utilities providing electricity service, shall not be less than savings of five percent of 2005 total retail kilowatt-hour sales to New Mexico customers in calendar year 2014 and eight percent of 2005 total retail kilowatt-hour sales to New Mexico customers in 2020 as a result of energy efficiency and load management programs implemented starting in 2007.

H. A public utility that determines it cannot achieve the minimum requirements established in Subsection G of this section shall report to the commission on why it cannot meet those requirements and shall propose alternative requirements based on acquiring cost-effective and achievable energy efficiency and load management resources. If the commission determines, after hearing, that the minimum requirements of Subsection G of this section exceed the achievable amount of energy efficiency and load management available to the public utility or that the program costs of energy efficiency and load management to achieve the minimum requirements of Subsection G of this section exceed the program costs funding established in Subsection A of Section 62-17-6 NMSA 1978, the commission shall establish lower minimum energy savings requirements for the utility based on the maximum amount of energy efficiency and load management that it determines can be achieved."

## **Chapter 220 Section 3 Laws 2013**

SECTION 3. Section 62-17-6 NMSA 1978 (being Laws 2005, Chapter 341, Section 6, as amended) is amended to read:

"62-17-6. COST RECOVERY.--

A. A public utility that undertakes cost-effective energy efficiency and load management programs shall have the option of recovering its prudent and reasonable costs along with commission-approved incentives for demand-side resources and load management programs implemented after the effective date of the Efficient Use of Energy Act through an approved tariff rider or in base rates, or by a combination of the two. Program costs and incentives may be deferred for future recovery through creation of a regulatory asset. Funding for program costs for investor-owned electric utilities shall be three percent of customer bills, excluding gross receipts taxes and franchise and

right-of-way access fees, or seventy-five thousand dollars (\$75,000) per customer per calendar year, whichever is less, for customer classes with the opportunity to participate. Funding for annual program costs for gas utilities shall not exceed three percent of total annual revenues, nor shall charges exceed seventy-five thousand dollars (\$75,000) per customer per calendar year. Provided that the public utility's total portfolio of programs remains cost-effective, no less than five percent of the amount received by the public utility for program costs shall be specifically directed to energy-efficiency programs for low-income customers. Unless otherwise ordered by the commission, a tariff rider approved by the commission shall require language on customer bills explaining program benefits.

B. The tariff rider shall be applied on a monthly basis, unless otherwise allowed by the commission.

C. A tariff rider proposed by a public utility to fund approved energy efficiency and load management programs 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 an ordered suspension period, it shall be deemed approved as a matter of law. The commission shall approve utility reconciliations of the tariff rider annually."

## **Chapter 220 Section 4 Laws 2013**

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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SJC/Senate Bill 621

Approved April 5, 2013

## **LAWS 2013, CHAPTER 221**

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE; AMENDING THE NEW MEXICO SMALL LOAN ACT OF 1955; PROVIDING FOR DISCRETIONARY PENALTIES; CLARIFYING LICENSEE INFORMATION TO BE REPORTED.

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

## **Chapter 221 Section 1 Laws 2013**

SECTION 1. Section 58-15-10.1 NMSA 1978 (being Laws 2011, Chapter 105, Section 1) is amended to read:

"58-15-10.1. LICENSEE REPORTING REQUIREMENTS--PENALTIES.--

A. Licensees shall file with the director each year a report containing at least the following information for the preceding calendar year in an aggregated, nonidentifying consumer manner:

(1) a description of each loan product offered by the licensee, including:

(a) all fees;

(b) the minimum, maximum and average annual interest rate as disclosed pursuant to 12 C.F.R. 226, known as "Regulation Z";

(c) the frequency of periodic payments;

(d) the term of the loan; and

(e) any other standard conditions of the loan product;

(2) the total number of transactions entered into for each loan product in the following amounts:

(a) five hundred dollars (\$500) or less;

(b) five hundred one dollars (\$501) to one thousand dollars (\$1,000);

(c) one thousand one dollars (\$1,001) to three thousand dollars (\$3,000);

(d) three thousand one dollars (\$3,001) to five thousand dollars (\$5,000); and

(e) greater than five thousand dollars (\$5,000);

(3) the total number of loans and the total dollar amount of loan principal for each loan product;

(4) the average principal loan amount for each loan product;

(5) the total number of loans for which the loan principal and accrued interest was not paid in full;



(6) the total dollar amount of principal loaned;

(7) the total dollar amount of loan principal repaid;

(8) the total dollar amount of interest received;

(9) the total dollar amount and description of fees received;

(10) the total number of loans that were secured by collateral of some type and the total number of such loans in which the security was foreclosed upon or repossessed;

(11) the total amount of loan principal and the total amount of accrued interest written-off or charged-off;

(12) the percent of consumers who were new consumers;

(13) the number of loans that were renewed, refinanced or extended prior to being repaid in full; and

(14) procedures the licensee follows as a standard practice to establish each consumer's ability to repay a loan.

B. The report required pursuant to Subsection A of this section shall be submitted to the director on or before the thirty-first day of March each year.

C. The report required pursuant to Subsection A of this section shall be accompanied by a sworn statement by the licensee under penalty of perjury that the report is complete and accurate.

D. A licensee that fails to timely submit a complete and accurate report as required pursuant to Subsection A of this section may:

(1) be fined an amount not to exceed one thousand five hundred dollars (\$1,500) per day for each day after the thirty-first day of March a complete and accurate report is not filed; and

(2) have a license required pursuant to the New Mexico Small Loan Act of 1955 suspended pursuant to Section 58-15-8 NMSA 1978 if a complete and accurate report has not been filed by the thirty-first day of March.

E. The information required to be submitted by licensees pursuant to the provisions of this section shall not include information concerning payday loans or loans or loan products with an annual interest rate of one hundred seventy-five percent or less as disclosed pursuant to 12 C.F.R. 226, known as "Regulation Z".

## Chapter 221 Section 2 Laws 2013

SECTION 2. Section 58-15-39 NMSA 1978 (being Laws 2007, Chapter 86, Section 21, as amended) is amended to read:

"58-15-39. DUTIES OF DIVISION.--

A. The division shall:

(1) maintain a list of licensees, which list shall be available to interested persons and the public; and

(2) establish a complaint process whereby an aggrieved consumer or other person may file a complaint against a licensee.

B. The division shall annually provide a report to the legislature detailing statistics, including data adequate to obtain an accurate understanding of the practices, demographics and legal compliance of all licensees licensed in the state. The division shall compile an annual report by October 1 of each year containing, at a minimum, data regarding all payday loan products entered into in the preceding calendar year on an aggregate basis. Annual reports shall be made available to interested parties and the general public and published on the division's web site. Consistent with state law, the report shall include, at a minimum, nonidentifying consumer data from the preceding year, including:

(1) the total number and dollar amount of payday loan products entered into in the calendar year ending December 31 of the previous year;

(2) the total number and dollar amount of payday loan products outstanding as of December 31 of the previous year;

(3) the effective annualized percentage rate and the average number of days of a payday loan during the calendar year ending December 31 of the previous year;

(4) the number of payday loan products entered into in the amount of one hundred dollars (\$100) or less, the number of payday loan products entered into in the amount of one hundred one dollars (\$101) to five hundred dollars (\$500), the number of payday loan products entered into in the amount of five hundred one dollars (\$501) to one thousand dollars (\$1,000), the number of payday loan products entered into in the amount of one thousand one dollars (\$1,001) to one thousand five hundred dollars (\$1,500), the number of payday loan products in an amount greater than one thousand five hundred dollars (\$1,500) and the percentage of total payday loan products entered into in each of those ranges;

(5) an estimate of the total dollar amount of fees collected for payday loan products;

(6) the total number of payday loan products entered into and the total dollar amount of the net charge-offs or write-offs and of the net recoveries of licensees;

(7) the minimum, maximum and average dollar amounts of payday loan products entered into in the calendar year ending December 31 of the previous year;

(8) the average payday loan product amount, average number of transactions and average aggregate payday loan product amount entered into per consumer each year;

(9) the average number of days a consumer is engaged in a payday loan product each year;

(10) an estimate of the average total fees paid by a payday loan product consumer;

(11) the number of consumers who are eligible for payment plans and the number of consumers who enter into payment plans pursuant to Section 58-15-35

NMSA 1978; and

(12) the number of consumers who are subject to the restrictions of the waiting period pursuant to Section 58-15-36 NMSA 1978.

C. The division shall compile from reports filed by licensees pursuant to Section 58-15-10.1 NMSA 1978 an annual report by October 1 of each year containing data regarding only loans exceeding an annual interest rate of one hundred seventy-five percent as disclosed pursuant to 12 C.F.R. 226, known as "Regulation Z", entered into in the preceding calendar year on an aggregate basis. Excluded from the reporting requirements of this subsection are payday loan products or loans or loan products with an annual interest rate of one hundred seventy-five percent or less as disclosed pursuant to 12 C.F.R. 226, known as "Regulation Z", entered into in the preceding calendar year on an aggregate basis. Annual reports shall be made available to interested parties and the general public and published on the division's web site. Consistent with state law, the report shall include, at a minimum, nonidentifying consumer data from the preceding calendar year, including:

(1) a general description of loan products offered by licensees during the preceding calendar year and the minimum, maximum and average annual interest rate for each loan product;

(2) the number of loans entered into in the amount of five hundred dollars (\$500) or less, the number of loans entered into in the amount of five hundred one dollars (\$501) to one thousand dollars (\$1,000), the number of loans entered into in the amount of one thousand one dollars (\$1,001) to three thousand dollars (\$3,000), the number of loans entered into in the amount of three thousand one dollars (\$3,001) to five thousand dollars (\$5,000), the number of loans in an amount greater than five thousand dollars (\$5,000) and the number of loans listed by licensee entered into in each of those ranges;

(3) the total number and dollar amount of loans entered into in the previous calendar year for each loan product;

(4) the average principal loan amount for each loan product;

(5) the total number of loans for which the loan principal and accrued interest was not paid in full;

(6) the total dollar amount of loan principal repaid and of interest and fees received;

(7) the total number of loans secured by collateral of some type and the total number of such loans in which the security was foreclosed upon or repossessed;

(8) the total amount of loan principal and the total amount of accrued interest written-off or charged-off;

(9) the percent of customers who were new customers;

(10) the number of loans renewed, refinanced or extended prior to being repaid in full; and

(11) procedures followed by licensees to establish consumers' ability to repay loans."

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SFL/SEC/Senate Bill 630

Approved April 5, 2013

## **LAWS 2013, CHAPTER 222**

AN ACT

RELATING TO EMPLOYMENT; PROHIBITING PROSPECTIVE EMPLOYERS FROM REQUESTING OR REQUIRING A PROSPECTIVE EMPLOYEE TO PROVIDE A PASSWORD OR ACCESS TO THE PROSPECTIVE EMPLOYEE'S SOCIAL NETWORKING ACCOUNT.

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

## **Chapter 222 Section 1 Laws 2013**

SECTION 1. REQUEST FOR ACCESS TO SOCIAL NETWORKING ACCOUNT PROHIBITED.--

A. It is unlawful for an employer to request or require a prospective employee to provide a password in order to gain access to the prospective employee's account or profile on a social networking web site or to demand access in any manner to a prospective employee's account or profile on a social networking web site.

B. Nothing in this section shall limit an employer's right to:

(1) have policies regarding work place internet use, social networking site use and electronic mail use; and

(2) monitor usage of the employer's electronic equipment and the employer's electronic mail without requesting or requiring a prospective employee to provide a password in order to gain access to the prospective employee's account or profile on a social networking web site.

C. Nothing in this section shall prohibit an employer from obtaining information about a prospective employee that is in the public domain.

D. Nothing in this section shall apply to a federal, state or local law enforcement agency. Nothing in this section shall prohibit federal, state or local government agencies or departments from conducting background checks as required by law.

E. As used in this section, "social networking web site" means an internet-based service that allows individuals to:

(1) construct a public or semi-public profile within a bounded system created by the service;

(2) create a list of other users with whom they share a connection within the system; and

(3) view and navigate their list of connections and those made by others within the system.

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Senate Bill 371, aa

Approved April 5, 2013

## **LAWS 2013, CHAPTER 223**

AN ACT

RELATING TO EDUCATION; PROHIBITING PUBLIC AND PRIVATE INSTITUTIONS OF POST-SECONDARY EDUCATION FROM REQUESTING OR REQUIRING A STUDENT, APPLICANT OR POTENTIAL APPLICANT FOR ADMISSION TO PROVIDE A PASSWORD OR ACCESS TO THE SOCIAL NETWORKING ACCOUNT OF THE STUDENT OR APPLICANT FOR ADMISSION.

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

### **Chapter 223 Section 1 Laws 2013**

SECTION 1. REQUEST FOR ACCESS TO SOCIAL NETWORKING ACCOUNT PROHIBITED.--

A. It is unlawful for a public or private institution of post-secondary education to request or require a student, applicant or potential applicant for admission to provide a password to gain access to the student's, applicant's or potential applicant's account or profile on a social networking web site or to demand access in any manner to a student's, applicant's or potential applicant's account or profile on a social networking web site.

B. It is unlawful for public or private institutions of post-secondary education to deny admission to an applicant or potential applicant for admission on the basis of the applicant's or potential applicant's refusal to provide an agent of a public or private institution of post-secondary education access to the applicant's or potential applicant's account or profile on a social media networking site.

C. It is unlawful for a private or public institution of post-secondary education to take any disciplinary action against a student for the student's refusal to grant access to an agent of the private or public institution of post-secondary education to the student's account or profile on a social media networking site.

D. Nothing in this section prohibits a public or private institution of post-secondary education from obtaining information about a student, applicant or potential applicant for admission that is in the public domain.

E. As used in this section, "social networking web site" means an internet-based service that allows individuals to:

(1) construct a public or semi-public profile within a bounded system created by the service;

(2) create a list of other users with whom they share a connection within the system; and

(3) view and navigate their list of connections and those made by others within the system.

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SJC/Senate Bill 422, aa

Approved April 5, 2013

## **LAWS 2013, CHAPTER 224**

### **AN ACT**

RELATING TO WATER; REQUIRING SUBDIVIDERS OF LAND TO POSSESS A PERMIT FOR OR PROOF OF ACCESS TO A SUFFICIENT AMOUNT OF WATER TO MEET THE NEEDS OF A PROPOSED SUBDIVISION BEFORE FINAL PLAT APPROVAL.

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

### **Chapter 224 Section 1 Laws 2013**

SECTION 1. Section 47-6-11.2 NMSA 1978 (being Laws 1995, Chapter 212, Section 13) is amended to read:

"47-6-11.2. WATER PERMIT REQUIRED FOR FINAL PLAT APPROVAL.-- Before approving the final plat for a subdivision containing ten or more parcels, any one of which is two acres or less in size, the board of county commissioners shall require that the subdivider provide proof of a service commitment from a water provider and an opinion from the state engineer that the subdivider can fulfill the requirements of Paragraph (1) of Subsection F of Section 47-6-11 NMSA 1978 or provide a copy of a permit obtained from the state engineer, issued pursuant to Section 72-5-1, 72-5-23, 72-5-24, 72-12-3 or 72-12-7 NMSA 1978 for the subdivision water use. In acting on the permit application, the state engineer shall determine whether the amount of water permitted is sufficient in quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses. The board of county commissioners shall not approve the final plat unless the state engineer has so issued a

permit for the subdivision water use or the subdivider has provided proof of a service commitment from a water provider and the state engineer has provided an opinion that the subdivider can fulfill the requirements of Paragraph (1) of Subsection F of Section 47-6-11 NMSA 1978. The board of county commissioners shall not approve the final plat based on the use of water from any permit issued pursuant to Section 72-12-1.1 NMSA 1978."

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SJC/SCONC/Senate Bill 480, wo/ec

Approved April 5, 2013

## **LAWS 2013, CHAPTER 225**

### **AN ACT**

RELATING TO PENSIONS; AMENDING THE PUBLIC EMPLOYEES RETIREMENT ACT; REDUCING THE COST-OF-LIVING ADJUSTMENTS FOR ALL RETIREES; DELAYING THE COST-OF-LIVING ADJUSTMENT FOR CERTAIN FUTURE RETIREES; SUSPENDING THE COST-OF-LIVING ADJUSTMENTS FOR CERTAIN RETURN-TO-WORK RETIREES; PROVIDING FOR AN INCREASE IN EMPLOYEE CONTRIBUTIONS FOR EMPLOYEES EARNING MORE THAN TWENTY THOUSAND DOLLARS (\$20,000) IN SALARY ANNUALLY AND AN INCREASE IN EMPLOYER CONTRIBUTIONS; CLARIFYING DEFINITIONS; PROVIDING THAT MUNICIPAL EMPLOYERS WILL NOT PAY ANY PORTION OF THE ONE AND ONE-HALF PERCENT INCREASE IN EMPLOYEE CONTRIBUTIONS EFFECTIVE JULY 1, 2013 WITHOUT PASSING A RESOLUTION OR EXECUTING A COLLECTIVE BARGAINING AGREEMENT; PROVIDING THAT MUNICIPALITIES MAY BY SUBSEQUENT RESOLUTION OR AGREEMENT ELECT TO PAY A PORTION OF EMPLOYEE CONTRIBUTION INCREASES THAT MAY OCCUR AFTER JULY 1, 2013; CLARIFYING HOW SERVICE CREDIT EARNED UNDER MULTIPLE COVERAGE PLANS WILL BE CALCULATED; CHANGING THE BENEFITS FOR MEMBERS INITIALLY EMPLOYED AFTER JUNE 30, 2013 BY REDUCING THE MULTIPLIER AND INCREASING THE NUMBER OF YEARS USED TO CALCULATE THE FINAL AVERAGE SALARY, INCREASING THE VESTING PERIOD, INCREASING AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT AND INCREASING THE MAXIMUM PENSION BENEFIT; LIMITING PLAN ENHANCEMENTS; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2003; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

**Chapter 225 Section 1 Laws 2013**



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. "disability retired member" means a retired member who is receiving a pension pursuant to the disability retirement provisions of the Public Employees Retirement Act;

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

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

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

H. "federal social security program" means that program or those programs created and administered pursuant to the act of congress approved August 14, 1935, Chapter 531, 49 Stat. 620, as that act may be amended;

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

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

K. "former member" means a person who was previously employed by an affiliated public employer, who has terminated that employment and who has received a refund of member contributions;

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

M. "member" means a currently employed, contributing employee of an affiliated public employer, or a person who has been but is not currently employed by an affiliated public employer, who has not retired and who has not received a refund of member contributions; "member" also includes the following:

(1) "adult correctional officer member" means a member who is employed as an adult correctional officer or an adult correctional officer specialist by a state correctional facility of the corrections department or its successor agency;

(2) "juvenile correctional officer member" means a member who is employed as a juvenile correctional officer by the children, youth and families department or its successor agency;

(3) "municipal detention officer member" means a member who is employed by an affiliated public employer other than the state and who has inmate custodial responsibilities at a facility used for the confinement of persons charged with or convicted of a violation of a law or ordinance;

(4) "municipal fire member" means any member who is employed as a full-time nonvolunteer firefighter by an affiliated public employer and who has taken the oath prescribed for firefighters;

(5) "municipal police member" means any member who is employed as a police officer by an affiliated public employer, other than the state, and who has taken the oath prescribed for police officers; and

(6) "state police member" means any member who is an officer of the New Mexico state police and who has taken the oath prescribed for such officers;

N. "membership" means membership in the association;

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

P. "public employer" means the state, any municipality, city, county, metropolitan arroyo flood control authority, economic development district, regional housing authority, soil and water conservation district, entity created pursuant to a joint powers agreement, council of government, conservancy district, irrigation district, water and sanitation district, water district and metropolitan water board, including the boards, departments, bureaus and agencies of a public employer, so long as these entities fall within the meaning of governmental plan as that term is used in Section 414(d) of the Internal Revenue Code of 1986, as amended;

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

survivor pension is payable or who would receive the difference between pension paid and accumulated member contributions if the retired member dies before receiving in pension payments the amount of the accumulated member contributions;

R. "retire" means to:

(1) terminate employment with all employers covered by any state system or the educational retirement system; and

(2) receive a pension from a state system or the educational retirement system;

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

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

U. "salary" means the base salary or wages paid a member, including longevity pay, for personal services rendered an affiliated public employer. "Salary" shall not include overtime pay, allowances for housing, clothing, equipment or travel, payments for unused sick leave, unless the unused sick leave payment is made through continuation of the member on the regular payroll for the period represented by that payment, and any other form of remuneration not specifically designated by law as included in salary for Public Employees Retirement Act purposes. Salary in excess of the limitations set forth in Section 401(a) (17) of the Internal Revenue Code of 1986, as amended, shall be disregarded. The limitation on compensation for eligible employees shall not be less than the amount that was allowed to be taken into account under the state retirement system acts in effect on July 1, 1993. For purposes of this subsection, "eligible employee" means an individual who was a member of a state system before the first plan year beginning after December 31, 1995;

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

W. "state retirement system acts" means collectively the Public Employees Retirement Act, the Magistrate Retirement Act, the Judicial Retirement Act and the Volunteer Firefighters Retirement Act; and

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

## **Chapter 225 Section 2 Laws 2013**

SECTION 2. Section 10-11-4 NMSA 1978 (being Laws 1987, Chapter 253, Section 4, as amended) is amended to read:

"10-11-4. SERVICE CREDIT--REQUIREMENTS FOR--FORFEITURE--REINSTATEMENT.--

A. Personal service rendered an affiliated public employer by a member shall be credited to the member's service credit account in accordance with retirement board rules and regulations. Service shall be credited to the nearest month. In no case shall any member be credited with a year of service for less than twelve months of service in any calendar year or more than a month of service for all service in any calendar month or more than a year of service for all service in any calendar year. In no case shall any member be allowed to purchase service credit unless the purchase is authorized in the Public Employees Retirement Act.

B. Personal service rendered an affiliated public employer prior to August 1, 1947 shall be credited to a member if the member acquires one year of service credit for personal service rendered an affiliated public employer.

C. Personal service rendered an affiliated public employer after July 31, 1947 but prior to the date the public employer became an affiliated public employer is prior service and shall be credited to a member if:

(1) the member has the applicable minimum number of years of service credit required for normal retirement. As used in this paragraph, "service credit" means only the service credit earned by the member during periods of employment with an affiliated public employer; and

(2) the member pays the association the amount determined in accordance with Subsection D of this section.

D. The purchase cost for each month of service credit purchased under the provisions of this section is equal to the member's final average salary multiplied by the sum of the member contribution rate and employer contribution rate determined in accordance with the coverage plan applicable to the member at the time of the written election to purchase. Full payment shall be made in a single lump-sum amount in accordance with the procedures established by the retirement board. The portion of the purchase cost derived from the employer contribution rate shall be credited to the employers accumulation fund and shall not be refunded to the member in the event of cessation of membership. In no case shall any member be credited with a month of service for less than the purchase cost as defined in this section.

E. Service credit shall be forfeited if a member terminates employment with an affiliated public employer and withdraws the member's accumulated member contributions.

F. A member or former member who is a member of another state system or the educational retirement system and who has forfeited service credit by withdrawal of member contributions may reinstate the forfeited service credit by repaying the amount withdrawn plus compound interest from the date of withdrawal to the date of repayment at the rate set by the retirement board. Withdrawn member contributions may be repaid in increments of one year in accordance with the procedures established by the retirement board. Full payment of each one-year increment shall be made in a single lump-sum amount in accordance with procedures established by the retirement board."

## **Chapter 225 Section 3 Laws 2013**

SECTION 3. Section 10-11-5 NMSA 1978 (being Laws 1987, Chapter 253, Section 5, as amended) is amended to read:

"10-11-5. CREDITED SERVICE--MUNICIPAL ELECTION TO MAKE EMPLOYEE CONTRIBUTIONS.--A municipal affiliated public employer may elect by resolution of its governing body or by execution of a collective bargaining agreement and in the manner prescribed by the retirement board to be responsible for making contributions of up to seventy-five percent of its employees' member contributions as follows:

A. the resolution or collective bargaining agreement shall be irrevocable; except that:

(1) if the resolution is passed or the collective bargaining agreement is executed on or before June 30, 2013, the percentage of the employee contributions that the municipal affiliated public employer elects to be responsible for making shall apply to the statutory employee contribution rate in effect on June 30, 2013 and shall not apply to any increase in the statutory employee contribution rate that may occur after that date; and

(2) if the resolution is passed or the collective bargaining agreement is executed on or after July 1, 2013, the percentage of the employee contributions that the municipal affiliated public employer elects to be responsible for making shall apply to the statutory employee contribution rate in effect on the date that the resolution is passed or the collective bargaining agreement is executed and shall not apply to any increases in the statutory employee contribution rate that may occur after that date; provided, however, that, if the statutory employee contribution rate is decreased after the date that the resolution is passed or the collective bargaining agreement is executed, the percentage of the employee contributions that the municipal public affiliated employer is responsible for making shall apply to the decreased statutory employee contribution rate;

B. a municipal affiliated public employer may by subsequent resolution or collective bargaining agreement:

(1) elect to increase the percentage of employee member contributions for which it will be responsible;

(2) elect to be responsible for a percentage of any increase to the statutory employee contribution rate in effect after the passing of an earlier resolution or the execution of an earlier collective bargaining agreement; or

(3) at the time a new coverage plan is adopted, elect to be responsible under the new coverage plan for making a different percentage of employee member contributions than that which it elected under a previous coverage plan;

C. the resolution or executed collective bargaining agreement shall apply to all employees or else to specified employee divisions of the municipal affiliated public employer and shall be effective the first pay period of the month following the filing of the resolution with the retirement board;

D. the portion of the employee contributions made by the municipal affiliated public employer on behalf of a member shall be credited to the member's individual accumulated member contribution account in the member contribution fund. The member shall be responsible for the difference between the contributions the member would be required to make if the municipal affiliated public employer had not made the election provided for in this section and the amount contributed by the municipal affiliated public employer pursuant to the provisions of this section;

E. pensions payable to members whose municipal affiliated public employer makes the election provided for in this section shall be the same as if the member had made the entire member contribution; and

F. any municipal affiliated public employer increasing the percentage of the employee member contributions it elects to make pursuant to this section shall submit a resolution or executed collective bargaining agreement to the association by July 1 of the fiscal year in which the increase will take place indicating the percentage of the employee member contributions that will be made by the municipal affiliated public employer."

## **Chapter 225 Section 4 Laws 2013**

SECTION 4. Section 10-11-7 NMSA 1978 (being Laws 1987, Chapter 253, Section 7, as amended) is amended to read:

"10-11-7. SERVICE CREDIT--PURCHASE OF SERVICE.--

A. A member who entered a uniformed service of the United States may purchase service credit for periods of active duty in the uniformed services subject to the following conditions:

(1) the member pays the association the purchase cost determined according to Subsection E of this section;

(2) the member has the applicable minimum number of years of service credit required for normal retirement. As used in this paragraph, "service credit" means only the service credit earned by the member during periods of employment with an affiliated public employer;

(3) the aggregate amount of service credit purchased pursuant to this subsection does not exceed five years reduced by any period of service credit acquired for military service pursuant to any other provision of the Public Employees Retirement Act;

(4) service credit may not be purchased for periods of service in the uniformed services that are used to obtain or increase a benefit from another retirement program; and

(5) the member must not have received a discharge or separation from uniformed service under other than honorable conditions.

B. A member who was a civilian prisoner of war captured while in service to the United States as an employee of the federal government or as an employee of a contractor with the federal government may purchase service credit for the period of internment as a civilian prisoner of war, provided that:

(1) the member provides proof of employment with the federal government or as a contractor to the federal government in a form acceptable to the association;

(2) the member provides proof of the period of internment in a form acceptable to the association;

(3) the member has the applicable minimum number of years of service credit required for normal retirement. As used in this paragraph, "service credit" means only the service credit earned by the member during periods of employment with an affiliated public employer;

(4) the aggregate amount of service credit purchased pursuant to this subsection does not exceed five years reduced by any period of service credit acquired for military service pursuant to any other provision of the Public Employees Retirement Act;

(5) service credit may not be purchased for periods of service in internment as a civilian prisoner of war if such periods are used to obtain or increase a benefit from another retirement program; and

(6) the member pays the association the purchase cost determined according to Subsection E of this section.

C. A member who was employed by a utility company, library, museum, transit company or nonprofit organization administering federally funded public service programs, which utility company, library, museum, transit company or nonprofit organization administering federally funded public service programs or federally funded public service programs administered by a nonprofit organization are subsequently taken over by an affiliated public employer, or a member who was employed by an entity created pursuant to a joint powers agreement between two or more affiliated public employers for the purpose of administering or providing drug or alcohol addiction treatment services irrespective of whether the entity is subsequently taken over by an affiliated public employer, may purchase service credit for the period of employment subject to the following conditions:

(1) the member pays the association the purchase cost determined according to Subsection E of this section;

(2) the member has the applicable minimum number of years of service credit required for normal retirement. As used in this paragraph, "service credit" means only the service credit earned by the member during periods of employment with an affiliated public employer; and

(3) the aggregate amount of service credit purchased pursuant to this subsection does not exceed five years.

D. A member who was appointed to participate in a cooperative work study training program established jointly by a state agency and a state post-secondary educational institution may purchase service credit for the period of participation subject to the following conditions:

(1) the member pays the association the full actuarial present value of the amount of the increase in the employee's pension as a consequence of the purchase as determined by the association;

(2) the member pays the full cost of the purchase within sixty days of the date the member is informed of the amount of the payment;

(3) the member has the applicable minimum number of years of service credit required for normal retirement. As used in this paragraph, "service credit" means only the service credit earned by the member during periods of employment with an affiliated public employer; and

(4) the aggregate amount of service credit purchased pursuant to this subsection does not exceed five years.



E. Except for service to be used under a state legislator coverage plan, the purchase cost for each month of service credit purchased pursuant to the provisions of this section is equal to the member's final average salary multiplied by the sum of the member contribution rate and employer contribution rate, determined in accordance with the coverage plan applicable to the member at the time of the written election to purchase. The purchase cost for each year of service credit to be used under a state legislator coverage plan is equal to three times the normal member contribution per year of service credit under the state legislator coverage plan applicable to the member. Full payment shall be made in a single lump sum within sixty days of the date the member is informed of the amount of the payment. The portion of the purchase cost derived from the employer contribution rate shall be credited to the employer's accumulation fund and shall not be paid out of the association in the event of cessation of membership. In no case shall a member be credited with a month of service for less than the purchase cost as defined in this section.

F. A member shall be refunded, upon written request filed with the association, the portion of the purchase cost of service credit purchased pursuant to this section that the association determines to have been unnecessary to provide the member with the maximum pension applicable to the member. The association shall not pay interest on the portion of the purchase cost refunded to the member.

G. A member of the magistrate retirement system who during the member's service as a magistrate was eligible to become a member of the public employees retirement system and elected not to become a member of that system may purchase service credit pursuant to the public employees retirement system for the period for which the magistrate elected not to become a public employees retirement system member by paying the amount of the increase in the actuarial present value of the magistrate pension as a consequence of the purchase as determined by the association. Full payment shall be made in a single lump-sum amount in accordance with procedures established by the retirement board. Except as provided in Subsection F of this section, seventy-five percent of the purchase cost shall be considered to be employer contributions and shall not be refunded to the member in the event of cessation of membership.

H. At any time prior to retirement, any member may purchase service credit in monthly increments, subject to the following conditions:

(1) the member has the applicable minimum number of years of service credit required for normal retirement. As used in this paragraph, "service credit" means only the service credit earned by the member during periods of employment with an affiliated public employer;

(2) the aggregate amount of service credit purchased pursuant to this subsection does not exceed one year;

(3) the member pays full actuarial present value of the amount of the increase in the employee's pension as a consequence of the purchase as determined by the association;

(4) the member pays the full cost of the purchase within sixty days of the date the member is informed of the amount of the payment; and

(5) the purchase of service credit under this subsection cannot be used to determine the final average salary or the pension factor or be used to exceed the pension maximum.

I. A member receiving service credit under this section who enrolls in the retiree health care authority shall make contributions pursuant to Subsection C of Section 10-7C-15 NMSA 1978."

## **Chapter 225 Section 5 Laws 2013**

SECTION 5. Section 10-11-8 NMSA 1978 (being Laws 1987, Chapter 253, Section 8, as amended) is amended to read:

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

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

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

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

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

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

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

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

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

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

(3) except as provided in Subsection G of this section, the previously retired member shall not become a member and thus the previously retired member shall not accrue service credit and the previously retired member and that person's affiliated public employer shall not make contributions under any coverage plan pursuant to the Public Employees Retirement Act; and

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

D. Notwithstanding the provisions of Subsection B of Section 10-11-118 NMSA 1978, on and after July 1, 2013, if a retired member becomes employed with an employer pursuant to the Educational Retirement Act:

(1) the retired member's cost-of-living pension adjustment shall be suspended upon commencement of the employment; and

(2) upon termination of the employment, the retired member's suspended cost-of-living pension adjustment shall be reinstated as provided under Subsection B of

Section 10-11-118 NMSA 1978.

E. The provisions of Subsections C and H of this section do not apply to:

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

(2) a retired member employed temporarily as a precinct board member for a municipal election or an election covered by the Election Code; or

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

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

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

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

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

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

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

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

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

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

H. A previously retired member who returned to work with an affiliated public employer prior to July 1, 2010 shall be subject to the provisions of this section in effect on the date the previously retired member returned to work; provided that:

(1) on and after July 1, 2010, the previously retired member shall pay the employee contribution in an amount specified in the Public Employees Retirement Act for the position in which the previously retired member is employed;

(2) notwithstanding the provisions of Subsection B of Section 10-11-118 NMSA 1978, on and after July 1, 2013, the previously retired member's cost-of-living pension adjustment shall be suspended; and

(3) upon termination of the employment with an affiliated public employer, the previously retired member's cost-of-living pension adjustment shall be reinstated as provided in Subsection B of Section 10-11-118 NMSA 1978.

I. The pension of a member who has earned service credit under more than one coverage plan shall be determined as follows:

(1) the pension of a member who has three or more years of service credit earned on or before June 30, 2013 under each of two or more coverage plans shall be determined in accordance with the coverage plan that produces the highest pension;

(2) the pension of a member who has service credit earned on or before June 30, 2013 under two or more coverage plans but who has three or more years of service credit under only one of those coverage plans shall be determined in accordance with the coverage plan in which the member has three or more years of service credit. If the service credit is acquired under two different coverage plans applied to the same affiliated public employer as a consequence of an election by the members, adoption by the affiliated public employer or a change in the law that results in the application of a coverage plan with a greater pension, the greater pension shall be paid a member retiring from the affiliated public employer under which the change in coverage plan took place regardless of the amount of service credit under the coverage plan producing the greater pension; provided that the member has three or more years of continuous employment with that affiliated public employer immediately preceding or immediately preceding and immediately following the date the coverage plan changed;

(3) the pension of a member who has service credit earned on or before June 30, 2013 under each of two or more coverage plans and who has service credit earned under any coverage plan on or after July 1, 2013 shall be equal to the sum of:

(a) the pension attributable to the service credit earned on or before June 30, 2013 determined pursuant to Paragraph (1) or (2) of this subsection; and

(b) the pension attributable to the service credit earned under each coverage plan on or after July 1, 2013;

(4) the pension of a member who has service credit earned only on and after July 1, 2013 shall be equal to the sum of the pension attributable to the service credit the member has accrued under each coverage plan; and

(5) the provisions of each coverage plan for the purpose of this subsection shall be those in effect at the time the member ceased to be covered by the coverage plan. "Service credit", for the purposes of this subsection, shall be only personal service rendered an affiliated public employer and credited to the member

under the provisions of Subsection A of Section 10-11-4 NMSA 1978. Service credited under any other provision of the Public Employees Retirement Act shall not be used to satisfy the three-year service credit requirement of this subsection."

## **Chapter 225 Section 6 Laws 2013**

SECTION 6. Section 10-11-10.1 NMSA 1978 (being Laws 1993, Chapter 160, Section 3) is amended to read:

### "10-11-10.1. DISABILITY RETIREMENT.--

A. There is created a "disability review committee" of the retirement board. The disability review committee shall consist of at least three but not more than five retirement board members and at least one physician licensed in New Mexico appointed by the retirement board. The disability review committee shall review all applications for disability retirement, review reports required under this section and approve or deny applications for disability retirement.

B. The disability review committee may retire a member on account of disability before the time the member would otherwise be eligible for retirement if the following requirements are satisfied:

(1) the member applying for disability retirement was a member at the time the disability was incurred;

(2) a written application for disability retirement, in the form and containing the information prescribed by the association, has been filed with the association by the member or by the member's affiliated public employer;

(3) employment is terminated within forty-five days of the date of approval of the application for disability retirement;

(4) if:

(a) the member has the applicable minimum number of years of service credit required for normal retirement. For the purposes of this subparagraph, "service credit" means only the service credit earned by the member during periods of employment with an affiliated public employer; or

(b) the disability review committee finds the disability to have been the natural and proximate result of causes arising solely and exclusively out of and in the course of the member's performance of duty with an affiliated public employer;

(5) the member submits to all medical examinations and tests and furnishes copies of all medical reports requested by the association or disability review committee; provided that if the disability review committee requires independent medical

or other examinations, those examinations shall be performed at the association's expense; and

(6) the disability review committee makes the determination required under Subsection C of this section.

C. The disability review committee shall review applications for disability retirement to determine whether:

(1) if the member is a currently employed, contributing employee of an affiliated public employer:

(a) the member is mentally or physically totally incapacitated for continued employment with an affiliated public employer; and

(b) the incapacity is likely to be permanent; or

(2) if the member is not a currently employed, contributing employee of an affiliated public employer:

(a) the member is mentally or physically totally incapacitated for any gainful employment; and

(b) the incapacity is likely to be permanent.

D. The disability retirement pension shall be paid for a period of one year after approval of the initial application unless the disability review committee for good cause shown grants disability retirement for a longer period of time. After approval, payment shall be effective commencing the first of the month following submission of the initial application and termination of employment.

E. At the end of the first year that a disability retirement pension is paid, the disability retired member's condition shall be reevaluated to determine eligibility for continuation of payment of a disability retirement pension. If the disability retired member has applied for disability benefits under the federal social security program, the member shall submit copies of the member's application. The association shall continue payment of the state disability retirement pension if the disability retired member presents a written final determination from the federal social security administration that the disability retired member qualifies, based on the same conditions as presented in the application for a state disability retirement pension, for federal disability benefits.

F. If the disability retired member applied for federal disability benefits within thirty days of receiving approval for a state disability retirement pension but the federal social security administration has not made a written final determination of entitlement by the end of the first year that the disability retired member has received a state disability retirement pension, eligibility for continued payment of the state disability

retirement pension shall be determined by the disability review committee. The state disability retirement pension shall be discontinued if the disability review committee finds that the disability retired member is capable of any gainful employment.

G. The disability retired member shall notify the association of the federal social security administration's final determination within fifteen working days of the date of issuance of the final written determination. If the federal social security administration denies federal disability benefits, the state disability retirement pension shall be discontinued effective the first of the month following the month in which the written final determination of the federal social security administration was issued. If the federal social security administration grants federal disability benefits, the state disability retirement pension shall be continued so long as the disability retired member provides annually, on or before the anniversary date of commencement of payment of the state disability retirement pension, written evidence of continuation of payment of federal disability benefits. If the disability review committee has denied continuation of payment of a state disability retirement pension and the disability retired member is later granted federal disability benefits, the state disability retirement pension shall be reinstated effective the first of the month following the month in which the state disability retirement pension was discontinued.

H. If, at the time of reevaluation under Subsection E of this section, the disability retired member has applied for and has qualified for federal disability benefits, but for a different condition than was reviewed by the disability review committee, the disability review committee shall review the disability retired member's condition as described by the application for federal disability benefits. The process set forth in Subsection I of this section shall be followed to determine whether payment of a state disability retirement pension should be continued.

I. If the disability retired member is not eligible to apply for federal disability benefits or is not a member of the federal social security program, the disability review committee annually shall determine eligibility for continuation of payment of a state disability retirement pension. To make its determination of continued entitlement, the disability review committee shall use the guidelines established by the federal social security administration for determination of eligibility for federal disability benefits. The determination shall be based on:

(1) the medical and all other information provided by the disability retired member;

(2) at least one independent medical or other examination performed at the association's expense if required by the disability review committee; and

(3) any medical, vocational or other information related to the disability compiled during the period of disability by any medical or other practitioner



consulted by the disability retired member regarding the disability which was not paid for by the association.

J. Each disability retired member annually shall submit to the association, prior to July 1, a statement of earnings from gainful employment during the preceding calendar year. The statement of earnings shall be in the form prescribed by the association. Payment of the state disability retirement pension shall be discontinued if the amount of earnings from gainful employment is one hundred percent or more of the amount that causes a decrease or suspension of an old age benefit under the federal social security program, or fifteen thousand dollars (\$15,000), whichever is less. Payment of the state disability retirement pension shall be discontinued starting with the month of July if the statement of earnings is not received by the association prior to July 1.

K. Upon prior approval by the association, a disability retired member may return to employment with an affiliated public employer or other employer for a trial period not to exceed one hundred twenty calendar days without becoming a member or causing suspension or discontinuation of payment of a state disability retirement pension. If the trial period of employment is successfully completed, payment of the disability retirement pension shall be discontinued beginning the first of the month following the one hundred twentieth day of the trial period of employment. Trial periods of employment shall be limited to two in any five-year period following disability retirement.

L. If the disability retired member meets the minimum age and service credit requirements for normal retirement while receiving a disability retirement pension, the disability retirement pension shall be reclassified by the association as a normal retirement pension and no further determinations of eligibility for continuation of payment of the disability retirement pension shall be made. Upon reclassification as a normal retirement pension, all the provisions of the Public Employees Retirement Act regarding normal retirement shall be applicable.

M. If the disability review committee found the disability to be the natural and proximate result of causes arising solely and exclusively out of and in the course of the member's employment with an affiliated public employer, service credit shall continue to accrue during the disability retirement period as though the disability retired member was actively employed.

N. The amount of a disability retirement pension shall be calculated according to the provisions of the coverage plan applicable to the member at the time of application, except that the service credit requirement shall be waived and the actual amount of service credit shall be used instead. If the disability is the natural and proximate result of causes arising solely and exclusively out of and in the course of the member's performance of duty for an affiliated public employer, the amount of disability retirement pension shall be calculated according to the provisions of the coverage plan

applicable to the member, imputing the amount of service credit necessary to meet the minimum service credit requirements for normal retirement.

O. For the purposes of this section, the following definitions apply:

(1) "continued employment with the affiliated public employer" means the ability of the member to fulfill the required duties of the position in which the member was last employed by an affiliated public employer;

(2) "gainful employment" means remunerative employment or self-employment that is commensurate with the applicant's background, age, education, experience and any new skills or training the applicant may have acquired after terminating public employment or incurring the disability;

(3) "state disability retirement pension" means the pension paid pursuant to the provisions of this section; and

(4) "federal disability benefits" means those benefits paid by the federal social security program."

## **Chapter 225 Section 7 Laws 2013**

SECTION 7. Section 10-11-14.5 NMSA 1978 (being Laws 1993, Chapter 160, Section 4, as amended) is amended to read:

"10-11-14.5. DEATH BEFORE RETIREMENT--SURVIVOR PENSIONS.--

A. A survivor pension may be paid to certain persons related to or designated by a member who dies before normal or disability retirement if a written application for the pension, in the form prescribed by the association, is filed with the association by the potential survivor beneficiary or beneficiaries within one year of the death of the member. Applications may be filed on behalf of the potential survivor beneficiary or beneficiaries or by a person legally authorized to represent them.

B. If there is no designated survivor beneficiary and the retirement board finds the death to have been the natural and proximate result of causes arising solely and exclusively out of and in the course of the member's performance of duty with an affiliated public employer, a survivor pension shall be payable to the eligible surviving spouse. The amount of the survivor pension shall be the greater of:

(1) the amount as calculated under the coverage plan applicable to the deceased member at the time of death as though the deceased member had retired the day preceding death under form of payment B using the actual amount of service credit attributable to the deceased member at the time of death; or

(2) fifty percent of the deceased member's final average salary.

C. A survivor pension shall also be payable to eligible surviving children if there is no designated survivor beneficiary and the retirement board finds the death to have been the natural and proximate result of causes arising solely and exclusively out of and in the course of the member's performance of duty with an affiliated public employer. The total amount of survivor pension payable for all eligible surviving children shall be either:

(1) fifty percent of the deceased member's final average salary if an eligible surviving spouse is not paid a pension; or

(2) twenty-five percent of the deceased member's final average salary if an eligible surviving spouse is paid a pension.

The total amount of survivor pension shall be divided equally among all eligible surviving children. If there is only one eligible child, the amount of pension shall be twenty-five percent of the deceased member's final average salary.

D. If the member had the applicable minimum number of years of service credit required for normal retirement, but the retirement board did not find the death to have been the natural and proximate result of causes arising solely and exclusively out of and in the course of the member's performance of duty with an affiliated public employer and there is no designated survivor beneficiary, a survivor pension shall be payable to the eligible surviving spouse. The amount of the survivor pension shall be the greater of:

(1) the amount as calculated under the coverage plan applicable to the deceased member at the time of death as though the deceased member had retired the day preceding death under form of payment B using the total amount of actual service credit attributable to the deceased member at the time of death; or

(2) thirty percent of the deceased member's final average salary.

E. If the member had the applicable minimum number of years of service credit required for normal retirement, but the retirement board did not find the death to have been the natural and proximate result of causes arising solely and exclusively out of and in the course of the member's performance of duty with an affiliated public employer and there is no designated survivor beneficiary, and if there is no eligible surviving spouse at the time of death, a survivor pension shall be payable to and divided equally among all eligible surviving children, if any. The total amount of survivor pension payable for all eligible surviving children shall be the greater of:

(1) the amount as calculated under the coverage plan applicable to the deceased member at the time of death as though the deceased member had retired the day preceding death under form of payment B with the oldest eligible surviving child as the survivor beneficiary using the total amount of actual service credit attributable to the deceased member at the time of death; or

(2) thirty percent of the deceased member's final average salary.

F. An eligible surviving spouse is the spouse to whom the deceased member was married at the time of death. An eligible surviving child is a child under the age of eighteen years and who is an unmarried, natural or adopted child of the deceased member.

G. An eligible surviving spouse's pension shall terminate upon death. An eligible surviving child's pension shall terminate upon death or marriage or reaching age eighteen years, whichever comes first.

H. If there is no designated survivor beneficiary and there is no eligible surviving child, the eligible surviving spouse may elect to be refunded the deceased member's accumulated member contributions instead of receiving a survivor pension.

I. A member may designate a survivor beneficiary to receive a pre-retirement survivor pension, subject to the following conditions:

(1) a written designation, in the form prescribed by the association, is filed by the member with the association;

(2) if the member is married at the time of designation, the designation shall only be made with the consent of the member's spouse, in the form prescribed by the association;

(3) if the member is married subsequent to the time of designation, any prior designations shall automatically be revoked upon the date of the marriage;

(4) if the member is divorced subsequent to the time of designation, any prior designation of the former spouse as survivor beneficiary shall automatically be revoked upon the date of divorce; and

(5) a designation of survivor beneficiary may be changed, with the member's spouse's consent if the member is married, by the member at any time prior to the member's death.

J. If there is a designated survivor beneficiary and the retirement board finds the death to have been the natural and proximate result of causes arising solely and exclusively out of and in the course of the member's performance of duty with an affiliated public employer, a survivor pension shall be payable to the designated survivor beneficiary. The amount of the survivor pension shall be the greater of:

(1) the amount as calculated under the coverage plan applicable to the deceased member at the time of death as though the deceased member had retired the day preceding death under form of payment B using the actual amount of service credit attributable to the member at the time of death; or

(2) fifty percent of the deceased member's final average salary.

K. If there is a designated survivor beneficiary, if the member had the applicable minimum number of years of service credit required for normal retirement and if the retirement board did not find the death to have been the natural and proximate result of causes arising solely and exclusively out of and in the course of the member's performance of duty with an affiliated public employer, a survivor pension shall be payable to the designated survivor beneficiary. The amount of the survivor pension shall be the greater of:

(1) the amount as calculated under the coverage plan applicable to the deceased member at the time of death as though the deceased member had retired the day preceding death under form of payment B using the actual amount of service credit attributable to the member at the time of death; or

(2) thirty percent of the deceased member's final average salary.

L. If all pension payments permanently terminate before there is paid an aggregate amount equal to the deceased member's accumulated member contributions at time of death, the difference between the amount of accumulated member contributions and the aggregate amount of pension paid shall be paid to the deceased member's refund beneficiary. If no refund beneficiary survives the survivor beneficiary, the difference shall be paid to the estate of the deceased member.

M. For purposes of this section, "service credit" means only the service credit earned by a member during periods of employment with an affiliated public employer."

## **Chapter 225 Section 8 Laws 2013**

SECTION 8. Section 10-11-14.6 NMSA 1978 (being Laws 2009, Chapter 288, Section 12) is amended to read:

"10-11-14.6. CALCULATION OF FINAL AVERAGE SALARY.--Under the Public Employees Retirement Act:

A. for a member who was a member on June 30, 2013, the final average salary is one thirty-sixth of the greatest aggregate amount of salary paid a member for thirty-six consecutive, but not necessarily continuous, months of service credit; and

B. for a member who was not a member on June 30, 2013, the final average salary is one-sixtieth of the greatest aggregate amount of salary paid a member for sixty consecutive, but not necessarily continuous, months of service credit."

## **Chapter 225 Section 9 Laws 2013**

SECTION 9. Section 10-11-26.1 NMSA 1978 (being Laws 1994, Chapter 128, Section 2) is amended to read:

"10-11-26.1. STATE GENERAL MEMBER COVERAGE PLAN 3--  
APPLICABILITY.--State general member coverage plan 3 is applicable to peace officer members and is applicable to state general members in the first full pay period after July 1, 1995 if the retirement board certifies to the secretary of state that a majority of the members voting of those members to be covered under state general member coverage plan 3 has voted to approve adoption of this plan at an election conducted pursuant to Laws 1994, Chapter 128, Section 17."

### **Chapter 225 Section 10 Laws 2013**

SECTION 10. Section 10-11-26.2 NMSA 1978 (being Laws 1994, Chapter 128, Section 3, as amended) is amended to read:

"10-11-26.2. STATE GENERAL MEMBER COVERAGE PLAN 3--AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL RETIREMENT.--

A. Under state general member coverage plan 3:

(1) for a member who on or before June 30, 2013 was a peace officer and for a member who is not a peace officer but was a retired member or a member on June 30, 2013, the age and service credit requirements for normal retirement are:

- service credit; (a) age sixty-five years or older and five or more years of
- credit; (b) age sixty-four years and eight or more years of service
- credit; (c) age sixty-three years and eleven or more years of service
- credit; (d) age sixty-two years and fourteen or more years of service
- service credit; (e) age sixty-one years and seventeen or more years of
- credit; or (f) age sixty years and twenty or more years of service
- (g) any age and twenty-five or more years of service credit;

(2) for a member who is not a peace officer and was not a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

(a) age sixty-five years or older and eight or more years of service credit; or

(b) any age if the member has eight or more years of service credit and the sum of the member's age and years of service credit equals at least eighty-five; and

(3) for a member who on or after July 1, 2013 becomes a peace officer and who was not a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

(a) age sixty years or older and six or more years of service credit; or

(b) any age and twenty-five or more years of service credit.

B. As used in this section, "peace officer" means any employee of the state with a duty to maintain public order or to make arrests for crime, whether that duty extends to all crimes or is limited to specific crimes, and who is not specifically covered by another coverage plan."

## **Chapter 225 Section 11 Laws 2013**

SECTION 11. Section 10-11-26.3 NMSA 1978 (being Laws 1994, Chapter 128, Section 4) is amended to read:

"10-11-26.3. STATE GENERAL MEMBER COVERAGE PLAN 3--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under state general member coverage plan 3:

A. for a member with age and service requirements provided under Paragraph (1) or (3) of Subsection A of Section 10-11-26.2 NMSA 1978, the amount of pension under form of payment A is equal to three percent of final average salary multiplied by service credit. The amount shall not exceed ninety percent of the final average salary; and

B. for a member with age and service requirements provided under Paragraph (2) of Subsection A of Section 10-11-26.2 NMSA 1978, the amount of pension under form of payment A is equal to two and one-half percent of the final average salary multiplied by service credit. The amount shall not exceed ninety percent of the final average salary."

## **Chapter 225 Section 12 Laws 2013**

SECTION 12. Section 10-11-26.5 NMSA 1978 (being Laws 1994, Chapter 128, Section 6, as amended) is amended to read:

"10-11-26.5. STATE GENERAL MEMBER COVERAGE PLAN 3--MEMBER CONTRIBUTION RATE.--A member under state general member coverage plan 3 shall contribute seven and forty-two hundredths percent of salary starting with the first full pay period that ends within the calendar month in which state general member coverage plan 3 becomes applicable to the member, except that a member whose annual salary is greater than twenty thousand dollars (\$20,000) shall contribute eight and ninety-two hundredths percent of salary."

### **Chapter 225 Section 13 Laws 2013**

SECTION 13. Section 10-11-26.6 NMSA 1978 (being Laws 1994, Chapter 128, Section 7, as amended) is amended to read:

"10-11-26.6. STATE GENERAL MEMBER COVERAGE PLAN 3--STATE CONTRIBUTION RATE.--The state shall contribute sixteen and ninety-nine hundredths percent of the salary of each member covered by state general member coverage plan 3 starting with the first pay period that ends within the calendar month in which state general member coverage plan 3 becomes applicable to the member, except that, from July 1, 2013 through June 30, 2014, the state contribution rate shall be sixteen and fifty-nine hundredths percent of the salary of each member."

### **Chapter 225 Section 14 Laws 2013**

SECTION 14. Section 10-11-27 NMSA 1978 (being Laws 1987, Chapter 253, Section 27, as amended by Laws 2003, Chapter 268, Section 9 and by Laws 2003, Chapter 269, Section 1) is amended to read:

"10-11-27. STATE POLICE MEMBER AND ADULT CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--APPLICABILITY--CREDITED SERVICE.--

A. State police member and adult correctional officer member coverage plan 1 is applicable to state police members who are not specifically covered by another coverage plan and to adult correctional officer members.

B. The credited service of a state police member who was a retired member or a member on June 30, 2013 and who has held the permanent rank of patrolman, sergeant, lieutenant or captain and does not hold an exempt rank or who is assigned to the aircraft division as a pilot, or of an adult correctional officer member, shall have actual credited service increased by twenty percent for the purposes of state police member and adult correctional officer member coverage plan 1.



C. Except as provided in Subsection B of this section, the credited service of a member covered under state police member and adult correctional officer member coverage plan 1 shall be credited as provided in Section 10-11-4 NMSA 1978.

D. State police member and adult correctional officer member coverage plan 1 is applicable to adult correctional officer members in the first full pay period after July 1, 2004 if the retirement board certifies to the secretary of state that, of those adult correctional officer members to be covered under state police member and adult correctional officer member coverage plan 1, a majority of the members voting have voted to approve adoption of that plan at an election conducted pursuant to Laws 2003, Chapter 268, Section 16."

### **Chapter 225 Section 15 Laws 2013**

SECTION 15. Section 10-11-27.2 NMSA 1978 (being Laws 2003, Chapter 269, Section 2) is amended to read:

"10-11-27.2. LEGISLATIVE FINDINGS.--The legislature finds that:

A. it is appropriate to recognize the professionalism and dedication of state police officers, who provide an essential service to the citizens of New Mexico;

B. it is appropriate to recognize the hazardous nature of the work performed by state police officers;

C. the spirit of what it takes to be a state police officer is personified by Sergeant Brent H. Bateman, who served with honor as a state police officer for twenty-two years. Sergeant Bateman became ill days after his retirement and passed away a short six months following retirement; and

D. the twenty percent credit toward actual service, as provided in Subsection B of Section 10-11-27 NMSA 1978 under state police member coverage plan 1, is dedicated to Sergeant Brent H. Bateman and all other officers who have served, and who do serve, as New Mexico state police officers."

### **Chapter 225 Section 16 Laws 2013**

SECTION 16. Section 10-11-28 NMSA 1978 (being Laws 1987, Chapter 253, Section 28, as amended) is amended to read:

"10-11-28. STATE POLICE MEMBER AND ADULT CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under state police member and adult correctional officer member coverage plan 1:

A. for a member who was a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

- service; (1) age sixty-five years or older and five or more years of credited
- (2) age sixty-four years and eight or more years of credited service;
- service; (3) age sixty-three years and eleven or more years of credited
- service; (4) age sixty-two years and fourteen or more years of credited
- service; (5) age sixty-one years and seventeen or more years of credited
- (6) age sixty years and twenty or more years of credited service; or
- (7) any age and twenty-five or more years of credited service; and

B. for a member who was not a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

- or (1) age sixty years or older and six or more years of service credit;
- (2) any age and twenty-five or more years of service credit."

### **Chapter 225 Section 17 Laws 2013**

SECTION 17. Section 10-11-29 NMSA 1978 (being Laws 1987, Chapter 253, Section 29, as amended) is amended to read:

"10-11-29. STATE POLICE MEMBER AND ADULT CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--AMOUNT OF PENSION--FORM OF PAYMENT A.-- Under state police member and adult correctional officer member coverage plan 1, the amount of pension under form of payment A is equal to three percent of final average salary multiplied by credited service. The amount shall not exceed ninety percent of the final average salary."

### **Chapter 225 Section 18 Laws 2013**

SECTION 18. Section 10-11-31 NMSA 1978 (being Laws 1987, Chapter 253, Section 31, as amended) is amended to read:

"10-11-31. STATE POLICE MEMBER AND ADULT CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE.--A member under state police member and adult correctional officer member coverage plan 1 shall contribute seven and six-tenths percent of salary, except that a member whose annual salary is greater than twenty thousand dollars (\$20,000) shall contribute nine and one-tenth percent of salary."

### **Chapter 225 Section 19 Laws 2013**

SECTION 19. Section 10-11-32 NMSA 1978 (being Laws 1987, Chapter 253, Section 32, as amended) is amended to read:

"10-11-32. STATE POLICE MEMBER AND ADULT CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--STATE CONTRIBUTION RATE.--The state shall contribute twenty-five and one-half percent of the salary of each member under state police member and adult correctional officer member coverage plan 1, except that, from July 1, 2013 through June 30, 2014, the state contribution rate shall be twenty-five and one-tenth percent of the salary of each member."

### **Chapter 225 Section 20 Laws 2013**

SECTION 20. Section 10-11-33 NMSA 1978 (being Laws 1987, Chapter 253, Section 33) is amended to read:

"10-11-33. JUVENILE CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--APPLICABILITY.--Juvenile correctional officer member coverage plan 1 is applicable to juvenile correctional officer members who are not specifically covered by another coverage plan."

### **Chapter 225 Section 21 Laws 2013**

SECTION 21. Section 10-11-34 NMSA 1978 (being Laws 1987, Chapter 253, Section 34) is amended to read:

"10-11-34. JUVENILE CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under juvenile correctional officer member coverage plan 1, the age and service requirements for normal retirement are:

- A. age sixty-five years or older and five or more years of credited service;
- B. age sixty-four years and eight or more years of credited service;
- C. age sixty-three years and eleven or more years of credited service;
- D. age sixty-two years and fourteen or more years of credited service;

E. age sixty-one years and seventeen or more years of credited service;

F. age sixty years and twenty or more years of credited service; or

G. any age and twenty-five or more years of credited service."

### **Chapter 225 Section 22 Laws 2013**

SECTION 22. Section 10-11-35 NMSA 1978 (being Laws 1987, Chapter 253, Section 35) is amended to read:

"10-11-35. JUVENILE CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under juvenile correctional officer member coverage plan 1, the amount of pension under form of payment A is equal to two and one-half percent of final average salary multiplied by credited service. The amount shall not exceed one hundred percent of the final average salary."

### **Chapter 225 Section 23 Laws 2013**

SECTION 23. Section 10-11-37 NMSA 1978 (being Laws 1987, Chapter 253, Section 37) is amended to read:

"10-11-37. JUVENILE CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE.--A member under juvenile correctional officer member coverage plan 1 shall contribute four percent of salary."

### **Chapter 225 Section 24 Laws 2013**

SECTION 24. Section 10-11-38 NMSA 1978 (being Laws 1987, Chapter 253, Section 38) is amended to read:

"10-11-38. JUVENILE CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--STATE CONTRIBUTION RATE.--The state shall contribute twenty-one and five-tenths percent of the salary of each member under juvenile correctional officer member coverage plan 1."

### **Chapter 225 Section 25 Laws 2013**

SECTION 25. Section 10-11-38.1 NMSA 1978 (being Laws 1994, Chapter 128, Section 9) is amended to read:

"10-11-38.1. JUVENILE CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 2--APPLICABILITY.--Juvenile correctional officer member coverage plan 2 is applicable to juvenile correctional officer members in the first full pay period after July 1,

1995 if the retirement board certifies to the secretary of state that a majority of the members voting of those members to be covered under juvenile correctional officer member coverage plan 2 has voted to approve adoption of this plan at an election conducted pursuant to Laws 1994, Chapter 128, Section 17."

## **Chapter 225 Section 26 Laws 2013**

SECTION 26. Section 10-11-38.2 NMSA 1978 (being Laws 1994, Chapter 128, Section 10) is amended to read:

"10-11-38.2. JUVENILE CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 2--AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL RETIREMENT.--Under juvenile correctional officer member coverage plan 2:

A. for a member who was a retired member or a member on June 30, 2013, the age and service credit requirements for normal retirement are:

- credit; (1) age sixty-five years or older and five or more years of service
- (2) age sixty-four years and eight or more years of service credit;
- (3) age sixty-three years and eleven or more years of service credit;
- (4) age sixty-two years and fourteen or more years of service credit;
- credit; (5) age sixty-one years and seventeen or more years of service
- (6) age sixty years and twenty or more years of service credit; and
- (7) any age and twenty-five or more years of service credit; and

B. for a member who was not a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

- or (1) age sixty years or older and six or more years of service credit;
- (2) any age and twenty-five or more years of service credit."

## **Chapter 225 Section 27 Laws 2013**

SECTION 27. Section 10-11-38.3 NMSA 1978 (being Laws 1994, Chapter 128, Section 11) is amended to read:

"10-11-38.3. JUVENILE CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 2--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under juvenile correctional officer member coverage plan 2, the amount of pension under form of payment A is equal to three percent of final average salary multiplied by service credit. The amount shall not exceed ninety percent of the final average salary."

### **Chapter 225 Section 28 Laws 2013**

SECTION 28. Section 10-11-38.5 NMSA 1978 (being Laws 1994, Chapter 128, Section 13, as amended) is amended to read:

"10-11-38.5. JUVENILE CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 2--MEMBER CONTRIBUTION RATE.--A member under juvenile correctional officer member coverage plan 2 shall contribute four and seventy-eight hundredths percent of salary starting with the first full pay period that ends within the calendar month in which juvenile correctional officer member coverage plan 2 becomes applicable to the member, except that a member whose annual salary is greater than twenty thousand dollars (\$20,000) shall contribute six and twenty-eight hundredths percent of salary."

### **Chapter 225 Section 29 Laws 2013**

SECTION 29. Section 10-11-38.6 NMSA 1978 (being Laws 1994, Chapter 128, Section 14, as amended) is amended to read:

"10-11-38.6. JUVENILE CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 2--STATE CONTRIBUTION RATE.--The state shall contribute twenty-six and twelve-hundredths percent of the salary of each member covered by juvenile correctional officer member coverage plan 2 starting with the first pay period that ends within the calendar month in which juvenile correctional officer member coverage plan 2 becomes applicable to the member, except that, from July 1, 2013 through June 30, 2014, the state contribution rate shall be twenty-five and seventy-two hundredths percent of the salary of each member."

### **Chapter 225 Section 30 Laws 2013**

SECTION 30. Section 10-11-38.7 NMSA 1978 (being Laws 1994, Chapter 128, Section 15) is amended to read:

"10-11-38.7. SERVICE CREDIT UNDER THIS PLAN REQUIRED.--Notwithstanding the provisions of Section 10-11-38.2 NMSA 1978, to qualify for payment under juvenile correctional officer member coverage plan 2, a member shall have one and one-half years of service credit earned under the juvenile correctional officer member coverage plan 2 subsequent to July 1, 1995."

## **Chapter 225 Section 31 Laws 2013**

SECTION 31. Section 10-11-45 NMSA 1978 (being Laws 1987, Chapter 253, Section 45, as amended) is amended to read:

"10-11-45. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 1--AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under municipal general member coverage plan 1:

A. for a member who was a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

- credit; (1) age sixty-five years or older and five or more years of service
- (2) age sixty-four years and eight or more years of service credit;
- (3) age sixty-three years and eleven or more years of service credit;
- (4) age sixty-two years and fourteen or more years of service credit;
- credit; (5) age sixty-one years and seventeen or more years of service
- (6) age sixty years and twenty or more years of service credit; or
- (7) any age and twenty-five or more years of service credit; and

B. for a member who was not a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

- credit; or (1) age sixty-five years or older and eight or more years of service
- (2) any age if the member has eight or more years of service credit and the sum of the member's age and years of service credit equals at least eighty-five."

## **Chapter 225 Section 32 Laws 2013**

SECTION 32. Section 10-11-46 NMSA 1978 (being Laws 1987, Chapter 253, Section 46) is amended to read:

"10-11-46. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 1--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal general member coverage plan 1, the amount of pension under form of payment A is equal to two percent of the

final average salary multiplied by credited service. The amount shall not exceed ninety percent of the final average salary."

### **Chapter 225 Section 33 Laws 2013**

SECTION 33. Section 10-11-48 NMSA 1978 (being Laws 1987, Chapter 253, Section 48) is amended to read:

"10-11-48. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE.--A member under municipal general member coverage plan 1 shall contribute seven percent of salary starting with the first full pay period in the calendar month in which municipal general member coverage plan 1 becomes applicable to the member, except that a member whose annual salary is greater than twenty thousand dollars (\$20,000) shall contribute eight and one-half percent of salary."

### **Chapter 225 Section 34 Laws 2013**

SECTION 34. Section 10-11-49 NMSA 1978 (being Laws 1987, Chapter 253, Section 49) is amended to read:

"10-11-49. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 1--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--An affiliated public employer shall contribute seven and four-tenths percent of the salary of each member it employs and who is covered under municipal general member coverage plan 1, except that, from July 1, 2013 through June 30, 2014, the affiliated public employer contribution rate shall be seven percent of the salary of each member."

### **Chapter 225 Section 35 Laws 2013**

SECTION 35. Section 10-11-51 NMSA 1978 (being Laws 1987, Chapter 253, Section 51, as amended) is amended to read:

"10-11-51. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 2--AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under municipal general member coverage plan 2:

A. for a member who was a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

- (1) age sixty-five years or older and five or more years of service credit;
- (2) age sixty-four years and eight or more years of service credit;
- (3) age sixty-three years and eleven or more years of service credit;



- (4) age sixty-two years and fourteen or more years of service credit;
- (5) age sixty-one years and seventeen or more years of service credit;
- (6) age sixty years and twenty or more years of service credit; or
- (7) any age and twenty-five or more years of service credit; and

B. for a member who was not a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

- (1) age sixty-five years or older and eight or more years of service credit; or
- (2) any age if the member has eight or more years of service credit and the sum of the member's age and years of service credit equals at least eighty-five."

### **Chapter 225 Section 36 Laws 2013**

SECTION 36. Section 10-11-52 NMSA 1978 (being Laws 1987, Chapter 253, Section 52) is amended to read:

"10-11-52. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 2--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal general member coverage plan 2:

A. for a member with age and service requirements provided in Subsection A of Section 10-11-51 NMSA 1978, the amount of pension under form of payment A is equal to two and one-half percent of the final average salary multiplied by credited service. The amount shall not exceed ninety percent of the final average salary; and

B. for a member with age and service requirements provided in Subsection B of Section 10-11-51 NMSA 1978, the amount of pension under form of payment A is equal to two percent of the final average salary multiplied by service credit. The amount shall not exceed ninety percent of the final average salary."

### **Chapter 225 Section 37 Laws 2013**

SECTION 37. Section 10-11-54 NMSA 1978 (being Laws 1987, Chapter 253, Section 54) is amended to read:

"10-11-54. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 2--MEMBER CONTRIBUTION RATE.--A member under municipal general member coverage plan 2

shall contribute nine and fifteen-hundredths percent of salary starting with the first full pay period in the calendar month in which municipal general member coverage plan 2 becomes applicable to the member, except that a member whose annual salary is greater than twenty thousand dollars (\$20,000) shall contribute ten and sixty-five hundredths percent of salary."

### **Chapter 225 Section 38 Laws 2013**

SECTION 38. Section 10-11-55 NMSA 1978 (being Laws 1987, Chapter 253, Section 55) is amended to read:

"10-11-55. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 2--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--An affiliated public employer shall contribute nine and fifty-five hundredths percent of the salary of each member it employs and who is covered under municipal general member coverage plan 2, except that, from July 1, 2013 through June 30, 2014, the affiliated public employer contribution rate shall be nine and fifteen-hundredths percent of the salary of each member."

### **Chapter 225 Section 39 Laws 2013**

SECTION 39. Section 10-11-55.2 NMSA 1978 (being Laws 1993, Chapter 58, Section 2, as amended) is amended to read:

"10-11-55.2. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 3--AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under municipal general member coverage plan 3:

A. for a member who was a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

- (1) age sixty-five years or older and five or more years of service credit;
- (2) age sixty-four years and eight or more years of service credit;
- (3) age sixty-three years and eleven or more years of service credit;
- (4) age sixty-two years and fourteen or more years of service credit;
- (5) age sixty-one years and seventeen or more years of service credit;
- (6) age sixty years and twenty or more years of service credit; or
- (7) any age and twenty-five or more years of service credit; and

B. for a member who was not a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

(1) age sixty-five years or older and eight or more years of service credit; or

(2) any age if the member has eight or more years of service credit and the sum of the member's age and years of service credit equals at least eighty-five."

### **Chapter 225 Section 40 Laws 2013**

SECTION 40. Section 10-11-55.3 NMSA 1978 (being Laws 1993, Chapter 58, Section 3) is amended to read:

"10-11-55.3. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 3--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal general member coverage plan 3:

A. for a member with age and service requirements provided under Subsection A of Section 10-11-55.2 NMSA 1978, the amount of pension under form of payment A is equal to three percent of the final average salary multiplied by credited service. The amount shall not exceed ninety percent of the final average salary; and

B. for a member with age and service requirements provided under Subsection B of Section 10-11-55.2 NMSA 1978, the amount of pension under form of payment A is equal to two and one-half percent of the final average salary multiplied by credited service. The amount shall not exceed ninety percent of the final average salary."

### **Chapter 225 Section 41 Laws 2013**

SECTION 41. Section 10-11-55.5 NMSA 1978 (being Laws 1993, Chapter 58, Section 5) is amended to read:

"10-11-55.5. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 3--MEMBER CONTRIBUTION RATE.--A member under municipal general member coverage plan 3 shall contribute thirteen and fifteen-hundredths percent of salary starting with the first full pay period in the calendar month in which municipal general member coverage plan 3 becomes applicable to the member, except that a member whose annual salary is greater than twenty thousand dollars (\$20,000) shall contribute fourteen and sixty-five hundredths percent of salary."

### **Chapter 225 Section 42 Laws 2013**

SECTION 42. Section 10-11-55.6 NMSA 1978 (being Laws 1993, Chapter 58, Section 6) is amended to read:

"10-11-55.6. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 3--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--An affiliated public employer shall contribute nine and fifty-five hundredths percent of the salary of each member it employs and who is covered under municipal general member coverage plan 3, except that, from July 1, 2013 through June 30, 2014, the affiliated public employer contribution rate shall be nine and fifteen-hundredths percent of the salary of each member."

### **Chapter 225 Section 43 Laws 2013**

SECTION 43. Section 10-11-55.8 NMSA 1978 (being Laws 1998, Chapter 106, Section 2, as amended) is amended to read:

"10-11-55.8. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 4--AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under municipal general member coverage plan 4:

A. for a member who was a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

- (1) age sixty-five years or older and five or more years of service credit;
- (2) age sixty-four years and eight or more years of service credit;
- (3) age sixty-three years and eleven or more years of service credit;
- (4) age sixty-two years and fourteen or more years of service credit;
- (5) age sixty-one years and seventeen or more years of service credit;
- (6) age sixty years and twenty or more years of service credit; or
- (7) any age and twenty-five or more years of service credit; and

B. for a member who was not a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

- (1) age sixty-five years or older and eight or more years of service credit; or

(2) any age if the member has eight or more years of service credit and the sum of the member's age and years of service credit equals at least eighty-five."

### **Chapter 225 Section 44 Laws 2013**

SECTION 44. Section 10-11-55.9 NMSA 1978 (being Laws 1998, Chapter 106, Section 3) is amended to read:

"10-11-55.9. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 4--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal general member coverage plan 4:

A. for a member with age and service requirements provided under Subsection A of Section 10-11-55.8 NMSA 1978, the amount of pension under form of payment A is equal to three percent of the final average salary multiplied by credited service. The amount shall not exceed ninety percent of the final average salary; and

B. for a member with age and service requirements provided under Subsection B of Section 10-11-55.8 NMSA 1978, the amount of pension under form of payment A is equal to two and one-half percent of the final average salary multiplied by credited service. The amount shall not exceed ninety percent of the final average salary."

### **Chapter 225 Section 45 Laws 2013**

SECTION 45. Section 10-11-55.11 NMSA 1978 (being Laws 1998, Chapter 106, Section 5) is amended to read:

"10-11-55.11. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 4--MEMBER CONTRIBUTION RATE.--A member under municipal general member coverage plan 4 shall contribute fifteen and sixty-five hundredths percent of salary starting with the first full pay period in the calendar month in which municipal general member coverage plan 4 becomes applicable to the member, except that a member whose annual salary is greater than twenty thousand dollars (\$20,000) shall contribute seventeen and fifteen-hundredths percent of salary."

### **Chapter 225 Section 46 Laws 2013**

SECTION 46. Section 10-11-55.12 NMSA 1978 (being Laws 1998, Chapter 106, Section 6) is amended to read:

"10-11-55.12. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 4--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--An affiliated public employer shall contribute twelve and five-hundredths percent of the salary of each member it employs and who is covered under municipal general member coverage plan

4, except that, from July 1, 2013 through June 30, 2014, the affiliated public employer contribution rate shall be eleven and sixty-five hundredths percent of the salary of each member."

## **Chapter 225 Section 47 Laws 2013**

SECTION 47. Section 10-11-57 NMSA 1978 (being Laws 1987, Chapter 253, Section 57) is amended to read:

"10-11-57. MUNICIPAL POLICE MEMBER COVERAGE PLAN 1--AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under municipal police member coverage plan 1:

A. for a member who was a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

service; (1) age sixty-five years or older and five or more years of credited

(2) age sixty-four years and eight or more years of credited service;

service; (3) age sixty-three years and eleven or more years of credited

service; (4) age sixty-two years and fourteen or more years of credited

service; (5) age sixty-one years and seventeen or more years of credited

(6) age sixty years and twenty or more years of credited service; or

(7) any age and twenty-five or more years of credited service; and

B. for a member who was not a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

or (1) age sixty years or older and six or more years of service credit;

(2) any age and twenty-five or more years of service credit."

## **Chapter 225 Section 48 Laws 2013**

SECTION 48. Section 10-11-58 NMSA 1978 (being Laws 1987, Chapter 253, Section 58) is amended to read:

"10-11-58. MUNICIPAL POLICE MEMBER COVERAGE PLAN 1--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal police member coverage plan 1, the amount of pension under form of payment A is equal to two percent of the final average salary multiplied by credited service. The amount shall not exceed ninety percent of the final average salary."

### **Chapter 225 Section 49 Laws 2013**

SECTION 49. Section 10-11-60 NMSA 1978 (being Laws 1987, Chapter 253, Section 60) is amended to read:

"10-11-60. MUNICIPAL POLICE MEMBER COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE.--A member under municipal police member coverage plan 1 shall contribute seven percent of salary starting with the first full pay period in the calendar month in which municipal police member coverage plan 1 becomes applicable to the member, except that a member whose annual salary is greater than twenty thousand dollars (\$20,000) shall contribute eight and one-half percent of salary."

### **Chapter 225 Section 50 Laws 2013**

SECTION 50. Section 10-11-61 NMSA 1978 (being Laws 1987, Chapter 253, Section 61) is amended to read:

"10-11-61. MUNICIPAL POLICE MEMBER COVERAGE PLAN 1--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated public employer shall contribute ten and four-tenths percent of the salary of each member it employs and who is covered under municipal police member coverage plan 1, except that, from July 1, 2013 through June 30, 2014, the affiliated public employer contribution rate shall be ten percent of the salary of each member."

### **Chapter 225 Section 51 Laws 2013**

SECTION 51. Section 10-11-63 NMSA 1978 (being Laws 1987, Chapter 253, Section 63) is amended to read:

"10-11-63. MUNICIPAL POLICE MEMBER COVERAGE PLAN 2--AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under municipal police coverage plan 2:

A. for a member who was a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

(1) age sixty-five years or older and five or more years of credited service;

(2) age sixty-four years and eight or more years of credited service;

service; (3) age sixty-three years and eleven or more years of credited

service; (4) age sixty-two years and fourteen or more years of credited

service; (5) age sixty-one years and seventeen or more years of credited

(6) age sixty years and twenty or more years of credited service; or

(7) any age and twenty-five or more years of credited service; and

B. for a member who was not a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

or (1) age sixty years or older and six or more years of service credit;

(2) any age and twenty-five or more years of service credit."

## **Chapter 225 Section 52 Laws 2013**

SECTION 52. Section 10-11-64 NMSA 1978 (being Laws 1987, Chapter 253, Section 64) is amended to read:

"10-11-64. MUNICIPAL POLICE MEMBER COVERAGE PLAN 2--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal police member coverage plan 2:

A. for a member with age and service requirements provided under Subsection A of Section 10-11-63 NMSA 1978, the amount of pension under form of payment A is equal to two and one-half percent of the final average salary multiplied by credited service. The amount shall not exceed ninety percent of the final average salary; and

B. for a member with age and service requirements provided under Subsection B of Section 10-11-63 NMSA 1978, the amount of pension under form of payment A is equal to two percent of the final average salary multiplied by credited service. The amount shall not exceed ninety percent of the final average salary."

## **Chapter 225 Section 53 Laws 2013**

SECTION 53. Section 10-11-66 NMSA 1978 (being Laws 1987, Chapter 253, Section 66) is amended to read:



"10-11-66. MUNICIPAL POLICE MEMBER COVERAGE PLAN 2--MEMBER CONTRIBUTION RATE.--A member under municipal police member coverage plan 2 shall contribute seven percent of salary with the first full pay period in the calendar month in which municipal police member coverage plan 2 becomes applicable to the member, except that a member whose annual salary is greater than twenty thousand dollars (\$20,000) shall contribute eight and one-half percent of salary."

### **Chapter 225 Section 54 Laws 2013**

SECTION 54. Section 10-11-67 NMSA 1978 (being Laws 1987, Chapter 253, Section 67) is amended to read:

"10-11-67. MUNICIPAL POLICE MEMBER COVERAGE PLAN 2--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated public employer shall contribute fifteen and four-tenths percent of the salary of each member it employs and who is covered under municipal police member coverage plan 2, except that, from July 1, 2013 through June 30, 2014, the affiliated public employer contribution rate shall be fifteen percent of the salary of each member."

### **Chapter 225 Section 55 Laws 2013**

SECTION 55. Section 10-11-69 NMSA 1978 (being Laws 1987, Chapter 253, Section 69) is amended to read:

"10-11-69. MUNICIPAL POLICE MEMBER COVERAGE PLAN 3--AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under municipal police member coverage plan 3:

A. for a member who was a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

- (1) age sixty-five years or older and five or more years of credited service;
- (2) age sixty-four years and eight or more years of credited service;
- (3) age sixty-three years and eleven or more years of credited service;
- (4) age sixty-two years and fourteen or more years of credited service;
- (5) age sixty-one years and seventeen or more years of credited service; or
- (6) any age and twenty or more years of credited service; and

B. for a member who was not a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

(1) age sixty years or older and six or more years of service credit;  
or

(2) any age and twenty-five or more years of service credit."

### **Chapter 225 Section 56 Laws 2013**

SECTION 56. Section 10-11-70 NMSA 1978 (being Laws 1987, Chapter 253, Section 70) is amended to read:

"10-11-70. MUNICIPAL POLICE MEMBER COVERAGE PLAN 3--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal police member coverage plan 3:

A. for a member with age and service requirements provided under Subsection A of Section 10-11-69 NMSA 1978, the amount of pension under form of payment A is equal to two and one-half percent of the final average salary multiplied by credited service. The amount shall not exceed ninety percent of the final average salary; and

B. for a member with age and service requirements provided under Subsection B of Section 10-11-69 NMSA 1978, the amount of pension under form of payment A is equal to two percent of the final average salary multiplied by credited service. The amount shall not exceed ninety percent of the final average salary."

### **Chapter 225 Section 57 Laws 2013**

SECTION 57. Section 10-11-72 NMSA 1978 (being Laws 1987, Chapter 253, Section 72) is amended to read:

"10-11-72. MUNICIPAL POLICE MEMBER COVERAGE PLAN 3--MEMBER CONTRIBUTION RATE.--A member under municipal police member coverage plan 3 shall contribute seven percent of salary with the first full pay period in the calendar month in which municipal police member coverage plan 3 becomes applicable to the member, except that a member whose annual salary is greater than twenty thousand dollars (\$20,000) shall contribute eight and one-half percent of salary."

### **Chapter 225 Section 58 Laws 2013**

SECTION 58. Section 10-11-73 NMSA 1978 (being Laws 1987, Chapter 253, Section 73) is amended to read:

"10-11-73. MUNICIPAL POLICE MEMBER COVERAGE PLAN 3--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated public employer shall

contribute eighteen and nine-tenths percent of the salary of each member it employs and who is covered under municipal police member coverage plan 3, except that, from July 1, 2013 through June 30, 2014, the affiliated public employer contribution rate shall be eighteen and one-half percent of the salary of each member."

## **Chapter 225 Section 59 Laws 2013**

SECTION 59. Section 10-11-75 NMSA 1978 (being Laws 1987, Chapter 253, Section 75) is amended to read:

"10-11-75. MUNICIPAL POLICE MEMBER COVERAGE PLAN 4--AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under municipal police member coverage plan 4:

A. for a member who was a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

service; (1) age sixty-five years or older and five or more years of credited

(2) age sixty-four years and eight or more years of credited service;

service; (3) age sixty-three years and eleven or more years of credited

service; (4) age sixty-two years and fourteen or more years of credited

service; or (5) age sixty-one years and seventeen or more years of credited

(6) any age and twenty or more years of credited service; and

B. for a member who was not a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

or (1) age sixty years or older and six or more years of service credit;

(2) any age and twenty-five or more years of service credit."

## **Chapter 225 Section 60 Laws 2013**

SECTION 60. Section 10-11-76 NMSA 1978 (being Laws 1987, Chapter 253, Section 76) is amended to read:

"10-11-76. MUNICIPAL POLICE MEMBER COVERAGE PLAN 4--AMOUNT OF PENSION--FORM OF PENSION A.--Under municipal police member coverage plan 4:

A. for a member with age and service requirements provided under Subsection A of Section 10-11-75 NMSA 1978, the amount of pension under form of payment A is equal to three percent of the final average salary multiplied by credited service. The amount shall not exceed ninety percent of the final average salary; and

B. for a member with age and service requirements provided under Subsection B of Section 10-11-75 NMSA 1978, the amount of pension under form of payment A is equal to two and one-half percent of the final average salary multiplied by credited service. The amount shall not exceed ninety percent of the final average salary."

### **Chapter 225 Section 61 Laws 2013**

SECTION 61. Section 10-11-78 NMSA 1978 (being Laws 1987, Chapter 253, Section 78) is amended to read:

"10-11-78. MUNICIPAL POLICE MEMBER COVERAGE PLAN 4--MEMBER CONTRIBUTION RATE.--A member under municipal police member coverage plan 4 shall contribute twelve and thirty-five hundredths percent of salary starting with the first full pay period in the calendar month in which municipal police member coverage plan 4 becomes applicable to the member, except that a member whose annual salary is greater than twenty thousand dollars (\$20,000) shall contribute thirteen and eighty-five hundredths percent of salary."

### **Chapter 225 Section 62 Laws 2013**

SECTION 62. Section 10-11-79 NMSA 1978 (being Laws 1987, Chapter 253, Section 79) is amended to read:

"10-11-79. MUNICIPAL POLICE MEMBER COVERAGE PLAN 4--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated public employer shall contribute eighteen and nine-tenths percent of the salary of each member it employs and who is covered under municipal police member coverage plan 4, except that, from July 1, 2013 through June 30, 2014, the affiliated public employer contribution rate shall be eighteen and one-half percent of the salary of each member."

### **Chapter 225 Section 63 Laws 2013**

SECTION 63. Section 10-11-81 NMSA 1978 (being Laws 1987, Chapter 253, Section 81) is amended to read:

"10-11-81. MUNICIPAL POLICE MEMBER COVERAGE PLAN 5--AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under municipal police member coverage plan 5:

A. for a member who was a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

service; (1) age sixty-five years or older and five or more years of credited

(2) age sixty-four years and eight or more years of credited service;

service; (3) age sixty-three years and eleven or more years of credited

service; (4) age sixty-two years and fourteen or more years of credited

service; or (5) age sixty-one years and seventeen or more years of credited

(6) any age and twenty or more years of credited service; and

B. for a member who was not a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

or (1) age sixty years or older and six or more years of service credit;

(2) any age and twenty-five or more years of service credit."

## **Chapter 225 Section 64 Laws 2013**

SECTION 64. Section 10-11-82 NMSA 1978 (being Laws 1987, Chapter 253, Section 82) is amended to read:

"10-11-82. MUNICIPAL POLICE MEMBER COVERAGE PLAN 5--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal police member coverage plan 5:

A. for a member with age and service requirements provided under Subsection A of Section 10-11-81 NMSA 1978, the amount of pension under form of payment A is equal to three and one-half percent of the final average salary multiplied by credited service. The amount shall not exceed ninety percent of the final average salary; and

B. for a member with age and service requirements provided under Subsection B of Section 10-11-81 NMSA 1978, the amount of pension under form of payment A is equal to three percent of the final average salary multiplied by credited service. The amount shall not exceed ninety percent of the final average salary."

### **Chapter 225 Section 65 Laws 2013**

SECTION 65. Section 10-11-84 NMSA 1978 (being Laws 1987, Chapter 253, Section 84) is amended to read:

"10-11-84. MUNICIPAL POLICE MEMBER COVERAGE PLAN 5--MEMBER CONTRIBUTION RATE.--A member under municipal police member coverage plan 5 shall contribute sixteen and three-tenths percent of salary starting with the first full pay period in the calendar month in which municipal police member coverage plan 5 becomes applicable to the member, except that a member whose annual salary is greater than twenty thousand dollars (\$20,000) shall contribute seventeen and eight-tenths percent of salary."

### **Chapter 225 Section 66 Laws 2013**

SECTION 66. Section 10-11-85 NMSA 1978 (being Laws 1987, Chapter 253, Section 85) is amended to read:

"10-11-85. MUNICIPAL POLICE MEMBER COVERAGE PLAN 5--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated public employer shall contribute eighteen and nine-tenths percent of the salary of each member it employs and who is covered under municipal police member coverage plan 5, except that, from July 1, 2013 through June 30, 2014, the affiliated public employer contribution rate shall be eighteen and one-half percent of the salary of each member."

### **Chapter 225 Section 67 Laws 2013**

SECTION 67. Section 10-11-87 NMSA 1978 (being Laws 1987, Chapter 253, Section 87) is amended to read:

"10-11-87. MUNICIPAL FIRE MEMBER COVERAGE PLAN 1--AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under municipal fire member coverage plan 1:

A. for a member who was a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

(1) age sixty-five years or older and five or more years of credited service;

(2) age sixty-four years and eight or more years of credited service;

service; (3) age sixty-three years and eleven or more years of credited

service; (4) age sixty-two years and fourteen or more years of credited

service; (5) age sixty-one years and seventeen or more years of credited

(6) age sixty years and twenty or more years of credited service; or

(7) any age and twenty-five or more years of credited service; and

B. for a member who was not a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

or (1) age sixty years or older and six or more years of service credit;

(2) any age and twenty-five or more years of service credit."

### **Chapter 225 Section 68 Laws 2013**

SECTION 68. Section 10-11-88 NMSA 1978 (being Laws 1987, Chapter 253, Section 88) is amended to read:

"10-11-88. MUNICIPAL FIRE MEMBER COVERAGE PLAN 1--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal fire member coverage plan 1, the amount of pension under form of payment A is equal to two percent of the final average salary multiplied by credited service. The amount shall not exceed ninety percent of the final average salary."

### **Chapter 225 Section 69 Laws 2013**

SECTION 69. 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 thousand dollars (\$20,000) shall contribute nine and one-half percent of salary."

### **Chapter 225 Section 70 Laws 2013**

SECTION 70. Section 10-11-91 NMSA 1978 (being Laws 1987, Chapter 253, Section 91, as amended) is amended to read:

"10-11-91. MUNICIPAL FIRE MEMBER COVERAGE PLAN 1--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated public employer shall contribute eleven and four-tenths percent of the salary of each member it employs and covers under municipal fire member coverage plan 1, except that, from July 1, 2013 through June 30, 2014, the affiliated public employer contribution rate shall be eleven percent of the salary of each member."

### **Chapter 225 Section 71 Laws 2013**

SECTION 71. Section 10-11-93 NMSA 1978 (being Laws 1987, Chapter 253, Section 93) is amended to read:

"10-11-93. MUNICIPAL FIRE MEMBER COVERAGE PLAN 2--AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under municipal fire member coverage plan 2:

A. for a member who was a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

- service; (1) age sixty-five years or older and five or more years of credited
- (2) age sixty-four years and eight or more years of credited service;
- service; (3) age sixty-three years and eleven or more years of credited
- service; (4) age sixty-two years and fourteen or more years of credited
- service; (5) age sixty-one years and seventeen or more years of credited
- (6) age sixty years and twenty or more years of credited service; or
- (7) any age and twenty-five or more years of credited service; and

B. for a member who was not a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

- or (1) age sixty years or older and six or more years of service credit;



(2) any age and twenty-five or more years of service credit."

### **Chapter 225 Section 72 Laws 2013**

SECTION 72. Section 10-11-94 NMSA 1978 (being Laws 1987, Chapter 253, Section 94) is amended to read:

"10-11-94. MUNICIPAL FIRE MEMBER COVERAGE PLAN 2--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal fire member contribution plan 2:

A. for a member with age and service requirements provided under Subsection A of Section 10-11-93 NMSA 1978, the amount of pension under form of payment A is equal to two and one-half percent of the final average salary multiplied by credited service. The amount shall not exceed ninety percent of the final average salary; and

B. for a member with age and service requirements provided under Subsection B of Section 10-11-93 NMSA 1978, the amount of pension under form of payment A is equal to two percent of the final average salary multiplied by credited service. The amount shall not exceed ninety percent of the final average salary."

### **Chapter 225 Section 73 Laws 2013**

SECTION 73. 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 thousand dollars (\$20,000) shall contribute nine and one-half percent of salary."

### **Chapter 225 Section 74 Laws 2013**

SECTION 74. Section 10-11-97 NMSA 1978 (being Laws 1987, Chapter 253, Section 97, as amended) is amended to read:

"10-11-97. MUNICIPAL FIRE MEMBER COVERAGE PLAN 2--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated public employer shall contribute seventeen and nine-tenths percent of the salary of each member it employs and covers under municipal fire member coverage plan 2, except that, from July 1, 2013 through June 30, 2014, the affiliated public employer contribution rate shall be seventeen and one-half percent of the salary of each member."

## **Chapter 225 Section 75 Laws 2013**

SECTION 75. Section 10-11-99 NMSA 1978 (being Laws 1987, Chapter 253, Section 99) is amended to read:

"10-11-99. MUNICIPAL FIRE MEMBER COVERAGE PLAN 3--AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under municipal fire member coverage plan 3:

A. for a member who was a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

- service; (1) age sixty-five years or older and five or more years of credited
- (2) age sixty-four years and eight or more years of credited service;
- service; (3) age sixty-three years and eleven or more years of credited
- service; (4) age sixty-two years and fourteen or more years of credited
- service; or (5) age sixty-one years and seventeen or more years of credited
- (6) any age and twenty or more years of credited service; and

B. for a member who was not a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

- or (1) age sixty years or older and six or more years of service credit;
- (2) any age and twenty-five or more years of service credit."

## **Chapter 225 Section 76 Laws 2013**

SECTION 76. Section 10-11-100 NMSA 1978 (being Laws 1987, Chapter 253, Section 100) is amended to read:

"10-11-100. MUNICIPAL FIRE MEMBER COVERAGE PLAN 3--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal fire member coverage plan 3:

A. for a member with age and service requirements provided under Subsection A of Section 10-11-99 NMSA 1978, the amount of pension under form of

payment A is equal to two and one-half percent of the final average salary multiplied by credited service. The amount shall not exceed ninety percent of the final average salary; and

B. for a member with age and service requirements provided under Subsection B of Section 10-11-99 NMSA 1978, the amount of pension under form of payment A is equal to two percent of the final average salary multiplied by credited service. The amount shall not exceed ninety percent of the final average salary."

### **Chapter 225 Section 77 Laws 2013**

SECTION 77. 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 thousand dollars (\$20,000) shall contribute nine and one-half percent of salary."

### **Chapter 225 Section 78 Laws 2013**

SECTION 78. Section 10-11-103 NMSA 1978 (being Laws 1987, Chapter 253, Section 103, as amended) is amended to read:

"10-11-103. MUNICIPAL FIRE MEMBER COVERAGE PLAN 3--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated public employer shall contribute twenty-one and sixty-five hundredths percent of the salary of each member it employs and covers under municipal fire member coverage plan 3, except that, from July 1, 2013 through June 30, 2014, the affiliated public employer contribution rate shall be twenty-one and twenty-five hundredths percent of the salary of each member."

### **Chapter 225 Section 79 Laws 2013**

SECTION 79. Section 10-11-105 NMSA 1978 (being Laws 1987, Chapter 253, Section 105) is amended to read:

"10-11-105. MUNICIPAL FIRE MEMBER COVERAGE PLAN 4--AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under municipal fire member coverage plan 4:

A. for a member who was a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

- service;
- (1) age sixty-five years or older and five or more years of credited
- (2) age sixty-four years and eight or more years of credited service;
- service;
- (3) age sixty-three years and eleven or more years of credited
- service;
- (4) age sixty-two years and fourteen or more years of credited
- service; or
- (5) age sixty-one years and seventeen or more years of credited
- (6) any age and twenty or more years of credited service; and

B. for a member who was not a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

- or
- (1) age sixty years or older and six or more years of service credit;
- (2) any age and twenty-five or more years of service credit."

## **Chapter 225 Section 80 Laws 2013**

SECTION 80. Section 10-11-106 NMSA 1978 (being Laws 1987, Chapter 253, Section 106) is amended to read:

"10-11-106. MUNICIPAL FIRE MEMBER COVERAGE PLAN 4--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal fire member coverage plan 4:

A. for a member with age and service requirements provided under Subsection A of Section 10-11-105 NMSA 1978, the amount of pension under form of payment A is equal to three percent of the final average salary multiplied by credited service. The amount shall not exceed ninety percent of the final average salary; and

B. for a member with age and service requirements provided under Subsection B of Section 10-11-105 NMSA 1978, the amount of pension under form of payment A is equal to two and one-half percent of the final average salary multiplied by credited service. The amount shall not exceed ninety percent of the final average salary."

## **Chapter 225 Section 81 Laws 2013**

SECTION 81. 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 thousand dollars (\$20,000) shall contribute fourteen and three-tenths percent of salary."

### **Chapter 225 Section 82 Laws 2013**

SECTION 82. Section 10-11-109 NMSA 1978 (being Laws 1987, Chapter 253, Section 109, as amended) is amended to read:

"10-11-109. MUNICIPAL FIRE MEMBER COVERAGE PLAN 4--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated public employer shall contribute twenty-one and sixty-five hundredths percent of the salary of each member it employs and covers under municipal fire member coverage plan 4, except that, from July 1, 2013 through June 30, 2014, the affiliated public employer contribution rate shall be twenty-one and twenty-five hundredths percent of the salary of each member."

### **Chapter 225 Section 83 Laws 2013**

SECTION 83. Section 10-11-111 NMSA 1978 (being Laws 1987, Chapter 253, Section 111) is amended to read:

"10-11-111. MUNICIPAL FIRE MEMBER COVERAGE PLAN 5--AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under municipal fire member coverage plan 5:

A. for a member who was a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

(1) age sixty-five years or older and five or more years of credited service;

(2) age sixty-four years and eight or more years of credited service;

(3) age sixty-three years and eleven or more years of credited service;

(4) age sixty-two years and fourteen or more years of credited service;

(5) age sixty-one years and seventeen or more years of credited service; or

(6) any age and twenty or more years of credited service; and

B. for a member who was not a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

(1) age sixty years or older and six or more years of service credit; or

(2) any age and twenty-five or more years of service credit."

### **Chapter 225 Section 84 Laws 2013**

SECTION 84. Section 10-11-112 NMSA 1978 (being Laws 1987, Chapter 253, Section 112) is amended to read:

"10-11-112. MUNICIPAL FIRE MEMBER COVERAGE PLAN 5--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal fire member coverage plan 5:

A. for a member with age and service requirements provided under Subsection A of Section 10-11-111 NMSA 1978, the amount of pension under form of payment A is equal to three and one-half percent of the final average salary multiplied by credited service. The amount shall not exceed ninety percent of the final average salary; and

B. for a member with age and service requirements provided under Subsection B of Section 10-11-111 NMSA 1978, the amount of pension under form of payment A is equal to three percent of the final average salary multiplied by credited service. The amount shall not exceed ninety percent of the final average salary."

### **Chapter 225 Section 85 Laws 2013**

SECTION 85. 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 thousand dollars (\$20,000) shall contribute seventeen and seven-tenths percent of salary."

### **Chapter 225 Section 86 Laws 2013**

SECTION 86. Section 10-11-115 NMSA 1978 (being Laws 1987, Chapter 253, Section 115, as amended) is amended to read:

"10-11-115. MUNICIPAL FIRE MEMBER COVERAGE PLAN 5--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated public employer shall contribute twenty-one and sixty-five hundredths percent of the salary of each member it employs and covers under municipal fire member coverage plan 5, except that, from July 1, 2013 through June 30, 2014, the affiliated public employer contribution rate shall be twenty-one and twenty-five hundredths percent of the salary of each member."

### **Chapter 225 Section 87 Laws 2013**

SECTION 87. Section 10-11-115.2 NMSA 1978 (being Laws 2003, Chapter 268, Section 3) is amended to read:

"10-11-115.2. MUNICIPAL DETENTION OFFICER MEMBER COVERAGE PLAN 1--AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT--CALCULATION OF CREDITED SERVICE.--

A. Under municipal detention officer member coverage plan 1, for a member who was a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

- service; (1) age sixty-five years or older and five or more years of credited
- (2) age sixty-four years and eight or more years of credited service;
- service; (3) age sixty-three years and eleven or more years of credited
- service; (4) age sixty-two years and fourteen or more years of credited
- service; (5) age sixty-one years and seventeen or more years of credited
- (6) age sixty years and twenty or more years of credited service; or
- (7) any age and twenty-five or more years of credited service.

B. For a member who was not a retired member or a member on June 30, 2013, the age and service requirements for normal retirement are:

- or (1) age sixty years or older and six or more years of service credit;

(2) any age and twenty-five or more years of service credit.

C. For the purposes of determining retirement eligibility and the amount of pension, the credited service of a municipal detention officer member who was a retired member or a member on June 30, 2013 shall be increased by twenty percent for the purposes of municipal detention officer member coverage plan 1.

D. Except as provided in Subsection C of this section, the credited service of a municipal detention officer member shall be credited as provided under Section 10-11-4 NMSA 1978."

### **Chapter 225 Section 88 Laws 2013**

SECTION 88. Section 10-11-115.3 NMSA 1978 (being Laws 2003, Chapter 268, Section 4) is amended to read:

"10-11-115.3. MUNICIPAL DETENTION OFFICER MEMBER COVERAGE PLAN 1--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal detention officer member coverage plan 1, the amount of pension under form of payment A is equal to three percent of the final average salary multiplied by credited service. The amount shall not exceed ninety percent of the final average salary."

### **Chapter 225 Section 89 Laws 2013**

SECTION 89. Section 10-11-115.5 NMSA 1978 (being Laws 2003, Chapter 268, Section 6) is amended to read:

"10-11-115.5. MUNICIPAL DETENTION OFFICER MEMBER COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE.--A member under municipal detention officer member coverage plan 1 shall contribute sixteen and sixty-five hundredths percent of salary with the first full pay period in the calendar month in which municipal detention officer member coverage plan 1 becomes applicable to the member, except that a member whose annual salary is greater than twenty thousand dollars (\$20,000) shall contribute eighteen and fifteen-hundredths percent of salary."

### **Chapter 225 Section 90 Laws 2013**

SECTION 90. Section 10-11-115.6 NMSA 1978 (being Laws 2003, Chapter 268, Section 7) is amended to read:

"10-11-115.6. MUNICIPAL DETENTION OFFICER MEMBER COVERAGE PLAN 1--EMPLOYER CONTRIBUTION RATE.--The affiliated public employer shall contribute seventeen and five-hundredths percent of the salary of each member under municipal detention officer member coverage plan 1 starting with the first pay period that ends within the calendar month in which municipal detention officer member coverage plan 1 becomes applicable to the member, except that, from July 1, 2013 through June 30,



2014, the affiliated public employer contribution rate shall be sixteen and sixty-five hundredths percent of the salary of each member."

## **Chapter 225 Section 91 Laws 2013**

SECTION 91. Section 10-11-118 NMSA 1978 (being Laws 1987, Chapter 253, Section 118, as amended) is amended to read:

"10-11-118. COST-OF-LIVING ADJUSTMENTS--QUALIFIED PENSION RECIPIENT.--

A. For the purposes of this section:

(1) "preceding calendar year" means the twelve-month period ending on the December 31 preceding the July 1 in which pensions are being adjusted; and

(2) "second preceding calendar year" means the full calendar year prior to the preceding calendar year.

B. A qualified pension recipient is eligible for a cost-of-living pension adjustment. The amount of pension payable to a qualified pension recipient who:

(1) retires pursuant to normal retirement after working for at least twenty-five years under one or more applicable coverage plans and whose annual pension benefit, after all previous annual cost-of-living adjustments, is equal to an amount not greater than twenty thousand dollars (\$20,000), shall be increased by two and one-half percent each July 1. The amount of the increase shall be determined by multiplying the amount of pension, inclusive of all prior adjustments, by two and one-half percent;

(2) is a disability retired member whose annual pension benefit, after all previous annual cost-of-living adjustments, is equal to an amount not greater than twenty thousand dollars (\$20,000), shall be increased by two and one-half percent each July 1. The amount of the increase shall be determined by multiplying the amount of pension, inclusive of all prior adjustments, by two and one-half percent; and

(3) does not meet the requirements provided in Paragraph (1) or (2) of this subsection shall be increased by two percent each July 1. The amount of the increase shall be determined by multiplying the amount of pension, inclusive of all prior adjustments, by two percent.

C. A qualified pension recipient is:

(1) a normal retired member who:

(a) retires on or before June 30, 2014 and has been retired for at least two full calendar years from the effective date of the latest retirement prior to July 1 of the year in which the pension is being adjusted;

(b) retires between July 1, 2014 and June 30, 2015 and has been retired for at least three full calendar years from the effective date of the latest retirement prior to July 1 of the year in which the pension is being adjusted;

(c) retires between July 1, 2015 and June 30, 2016 and has been retired for at least four full calendar years from the effective date of the latest retirement prior to July 1 of the year in which the pension is being adjusted; or

(d) retires on or after July 1, 2016 and has been retired for at least seven full calendar years from the effective date of the latest retirement prior to July 1 of the year in which the pension is being adjusted;

(2) a normal retired member who has attained age sixty-five years and has been retired for at least one full calendar year from the effective date of the latest retirement prior to July 1 of the year in which the pension is being adjusted;

(3) a disability retired member who has been retired for at least one full calendar year from the effective date of the latest retirement prior to July 1 of the year in which the pension is being adjusted;

(4) a survivor beneficiary who has received a survivor pension for at least two full calendar years; or

(5) a survivor beneficiary of a deceased retired member who otherwise would have been retired at least two full calendar years from the effective date of the latest retirement prior to July 1 of the year in which the pension is being adjusted.

D. A qualified pension recipient may decline an increase in a pension by giving the association written notice of the decision to decline the increase at least thirty days prior to the date the increase would take effect."

## **Chapter 225 Section 92 Laws 2013**

SECTION 92. REPEAL.--Section 10-11-36 NMSA 1978 (being Laws 1987, Chapter 253, Section 36) is repealed.

## **Chapter 225 Section 93 Laws 2013**

SECTION 93. 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.

## **Chapter 225 Section 94 Laws 2013**

SECTION 94. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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SFC/Senate Bill 27, aa

Approved April 5, 2013

## **LAWS 2013, CHAPTER 226**

AN ACT

RELATING TO CAPITAL EXPENDITURES; ENACTING THE 2013 WORK NEW MEXICO ACT; 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; 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 226 Section 1 Laws 2013**

SECTION 1. SHORT TITLE.--This act may be cited as the "2013 Work New Mexico Act".

### **Chapter 226 Section 2 Laws 2013**

SECTION 2. 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 the 2013 Work New Mexico 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 the 2013 Work New Mexico Act.

B. The agencies named in the 2013 Work New Mexico 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 that act. If an agency has not certified the need for severance tax bond proceeds for a particular project, including projects that have been reauthorized, by the end of fiscal year 2015, 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 2017; and

(2) all remaining balances from the proceeds of severance tax bonds appropriated for a project in the 2013 Work New Mexico Act shall revert to the severance tax bonding fund three months after the latest reversion date specified for that type of project in Paragraph (1) of this subsection.

E. Except for appropriations to the capital program fund, money from severance tax bond proceeds provided pursuant to this act shall not be used to pay indirect project costs.

F. Except for a project that was originally funded using a tax-exempt loan or bond issue, a project involving repayment of debt previously incurred shall be funded through the issuance of taxable severance tax bonds with a term that does not extend beyond the fiscal year in which they are issued.

G. For the purpose of this section, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses covered by binding written obligations to third parties.

## **Chapter 226 Section 3 Laws 2013**

### **SECTION 3. GENERAL FUND AND OTHER FUND APPROPRIATIONS--LIMITATIONS--REVERSIONS.--**

A. Except as otherwise specifically provided by law:

(1) the unexpended balance of an appropriation made in the 2013 Work New Mexico Act from the general fund or other state funds shall revert no later than the following dates:

(a) for a project for which an appropriation was made to match federal grants, six months after completion of the project;

(b) for a project for which an appropriation was made to purchase vehicles, including emergency vehicles and other vehicles that require special equipment; heavy equipment; books; educational technology; or other equipment or furniture that is not related to a more inclusive construction or renovation project, at the end of the fiscal year two years following the fiscal year in which the appropriation was made for the purchase; and

(c) for any other project for which an appropriation was made, within six months of completion of the project, but no later than the end of fiscal year 2017; and

(2) all remaining balances from an appropriation made in the 2013 Work New Mexico Act for a project shall revert three months after the latest reversion date specified for that type of project in Paragraph (1) of this subsection.

B. Except for appropriations to the capital program fund, money from appropriations made in the 2013 Work New Mexico Act shall not be used to pay indirect project costs.

C. Except as provided in Subsection E of this section, the balance of an appropriation made from the general fund shall revert in the time frame set forth in Subsection A of this section to the capital projects fund.

D. Except as provided in Subsection E of this section, the balance of an appropriation made from other state funds shall revert in the time frame set forth in Subsection A of this section to the originating fund.

E. The balance of an appropriation made from the general fund or other state 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.

F. For the purpose of this section, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses covered by binding written obligations to third parties.

### **Chapter 226 Section 4 Laws 2013**

SECTION 4. ADMINISTRATIVE OFFICE OF THE COURTS PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico Act, upon certification by the administrative office of the courts that the need exists for the issuance of the bonds, one million dollars (\$1,000,000) is appropriated to the administrative office of the courts to purchase and install security and other equipment and to make infrastructure improvements at magistrate courts and judicial district courts statewide.

### **Chapter 226 Section 5 Laws 2013**

SECTION 5. AGING AND LONG-TERM SERVICES DEPARTMENT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico 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. seventy-five thousand dollars (\$75,000) to purchase and install meals equipment in the Albuquerque centralized kitchen in Bernalillo county;
2. eleven thousand seven hundred dollars (\$11,700) to purchase and install meals equipment in the Pueblo of Isleta senior center in Bernalillo county;
3. three thousand eight hundred fifty dollars (\$3,850) to purchase and install meals equipment in the Reserve and Glenwood senior centers in Catron county;
4. sixty thousand dollars (\$60,000) to make improvements for building code compliance, including purchase and installation of equipment, to the Reserve senior center in Catron county;

5. one hundred fifty thousand dollars (\$150,000) to construct and equip improvements to the senior center at the Pueblo of Acoma in Cibola county;

6. sixteen thousand three hundred dollars (\$16,300) to make improvements for building code compliance, including purchase and installation of equipment, to the Alice Converse senior center in Curry county;

7. fifty-five thousand dollars (\$55,000) to make improvements for building code compliance, including purchase and installation of equipment, to the Baxter-Curren senior center in Curry county;

8. eleven thousand seven hundred dollars (\$11,700) to purchase and install meals equipment in the Melrose senior center in Curry county;

9. seventy-five thousand dollars (\$75,000) to plan, design, construct, equip and furnish a senior center in Fort Sumner in De Baca county;

10. five thousand nine hundred dollars (\$5,900) to purchase and install meals equipment in the Puerto de Luna senior center in Guadalupe county;

11. two thousand dollars (\$2,000) to purchase and install meals equipment in the Ena Mitchell senior center in Hidalgo county;

12. fifty-five thousand dollars (\$55,000) to make improvements for building code compliance, including purchase and installation of equipment, to the Jal senior center in Lea county;

13. forty-nine thousand four hundred dollars (\$49,400) to purchase and install meals equipment in senior centers countywide in Lincoln county;

14. two hundred forty-five thousand dollars (\$245,000) to design, construct, equip and furnish a senior center in Carrizozo in Lincoln county;

15. twenty-five thousand one hundred dollars (\$25,100) to purchase and install meals equipment in the Deming-Luna senior center in Luna county;

16. one hundred ninety-three thousand five hundred dollars (\$193,500) to plan and design the senior center in the Church Rock chapter of the Navajo Nation in McKinley county;

17. seventy-eight thousand five hundred dollars (\$78,500) to make improvements for building code compliance, including purchase and installation of equipment, to the Ford Canyon senior center in Gallup in McKinley county;

18. forty-two thousand six hundred dollars (\$42,600) to purchase and install meals equipment in the Gallup citywide senior centers in McKinley county;

19. fifty thousand dollars (\$50,000) to plan, design and construct a senior center in the Manuelito chapter of the Navajo Nation in McKinley county;

20. seventy-five thousand dollars (\$75,000) to construct and renovate the senior center in the Manuelito chapter of the Navajo Nation in McKinley county;

21. one hundred seventy thousand dollars (\$170,000) to plan, design and construct a long-term care facility in the Navajo Nation in Navajo in McKinley county;

22. thirty-eight thousand six hundred dollars (\$38,600) to purchase and install meals equipment in the Pueblo of Zuni senior center in McKinley county;

23. sixteen thousand three hundred ten dollars (\$16,310) to purchase and install meals equipment in the Mora senior center in Mora county;

24. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct, furnish and equip a senior center in Wagon Mound in Mora county;

25. two hundred forty thousand dollars (\$240,000) to furnish and equip the assisted living facilities and senior center in the Pueblo of Isleta in Bernalillo county;

26. one hundred three thousand six hundred dollars (\$103,600) to make improvements for building code compliance, including purchase and installation of equipment, to the Alamogordo senior center in Otero county;

27. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct, equip, purchase and install improvements to the senior center and garage, including site improvements and furniture, in Tularosa in Otero county;

28. forty-five thousand three hundred dollars (\$45,300) to purchase and install meals equipment in senior centers countywide in Quay county;

29. twenty-five thousand dollars (\$25,000) to make improvements for building code compliance, including purchase and installation of equipment, to the Tucumcari senior center in Quay county;

30. one hundred fifteen thousand nine hundred dollars (\$115,900) to purchase and install meals equipment in senior centers countywide in Rio Arriba county;

31. seventy-eight thousand dollars (\$78,000) to make improvements for building code compliance, including purchase and installation of equipment, to the Chama senior center in Rio Arriba county;

32. twenty-two thousand four hundred dollars (\$22,400) to purchase and install meals equipment in the Portales senior center community services center in Roosevelt county;



33. six thousand seven hundred fifty dollars (\$6,750) to purchase and install meals equipment in the Bonnie Dallas senior center in San Juan county;

34. twenty-seven thousand six hundred dollars (\$27,600) to make improvements for building code compliance, including purchase and installation of equipment, to the Bonnie Dallas senior center in San Juan county;

35. twelve thousand eight hundred dollars (\$12,800) to make improvements for building code compliance, including purchase and installation of equipment, to the Lower Valley senior center in San Juan county;

36. fourteen thousand dollars (\$14,000) to purchase and install meals equipment in the Aztec senior center in San Juan county;

37. thirteen thousand two hundred fifty dollars (\$13,250) to purchase and install meals equipment in the Blanco senior center in San Juan county;

38. fifty thousand dollars (\$50,000) to plan and design the renovation and conversion of a senior center to a group home in the Two Grey Hills chapter of the Navajo Nation in San Juan county;

39. six thousand three hundred ten dollars (\$6,310) to purchase and install meals equipment in senior centers countywide in San Miguel county;

40. forty-four thousand five hundred dollars (\$44,500) to make improvements for building code compliance, including purchase and installation of equipment, to the Jemez senior center in Sandoval county;

41. five hundred sixty-two thousand six hundred dollars (\$562,600) to make improvements for building code compliance, including purchase and installation of equipment, lighting and renovations to the parking lot, to the Meadowlark senior center in Sandoval county;

42. twenty-nine thousand four hundred fifty dollars (\$29,450) to purchase and install meals equipment in the Meadowlark senior center in Sandoval county;

43. forty-six thousand two hundred dollars (\$46,200) to purchase and install meals equipment in senior centers countywide in Sandoval county;

44. two hundred fifty thousand dollars (\$250,000) to plan, design and construct a senior center in Bernalillo in Sandoval county;

45. ten thousand nine hundred dollars (\$10,900) to purchase and install meals equipment in the Pueblo of Cochiti senior center in Sandoval county;

46. twenty-four thousand one hundred dollars (\$24,100) to make improvements for building code compliance, including purchase and installation of equipment, to the Cuba senior center in Sandoval county;

47. three thousand six hundred dollars (\$3,600) to purchase and install meals equipment in the Pueblo of San Felipe senior center in Sandoval county;

48. five thousand dollars (\$5,000) to make improvements for building code compliance, including purchase and installation of equipment, to the Pueblo of Santa Ana senior center in Sandoval county;

49. forty-five thousand dollars (\$45,000) to make improvements for building code compliance, including purchase and installation of equipment, to the Benny Chavez senior center in Santa Fe county;

50. twenty-five thousand dollars (\$25,000) to make improvements for building code compliance, including purchase and installation of equipment, to the Rio en Medio senior center in Santa Fe county;

51. one hundred thousand dollars (\$100,000) to make improvements for building code compliance, including purchase and installation of equipment, to the Edgewood senior center in Santa Fe county;

52. five thousand four hundred dollars (\$5,400) to purchase and install meals equipment in the Pueblo of Nambe senior center in Santa Fe county;

53. eight thousand four hundred dollars (\$8,400) to purchase and install meals equipment in the Pueblo of Pojoaque senior center in Santa Fe county;

54. six thousand five hundred dollars (\$6,500) to purchase and install meals equipment in the Pueblo of San Ildefonso senior center in Santa Fe county;

55. one hundred fifty-four thousand dollars (\$154,000) to make improvements for building code compliance, including purchase and installation of equipment, to the

Mary Esther Gonzales senior center in Santa Fe county;

56. eighty-two thousand seventy-two dollars (\$82,072) to purchase and install meals equipment in senior centers citywide in Santa Fe in Santa Fe county;

57. twenty-five thousand dollars (\$25,000) to make improvements for building code compliance, including purchase and installation of equipment, to the Truth or Consequences senior center in Sierra county;

58. three thousand one hundred dollars (\$3,100) to purchase and install meals equipment in the Truth or Consequences senior center in Sierra county;

59. twenty-six thousand one hundred dollars (\$26,100) to purchase and install meals equipment in senior centers countywide in Socorro county;

60. thirty-three thousand dollars (\$33,000) to make improvements for building code compliance, including purchase and installation of equipment, to the Socorro senior center in Socorro county;

61. eighteen thousand two hundred dollars (\$18,200) to purchase and install meals equipment in the Ancianos senior center in Taos county;

62. thirty-seven thousand six hundred dollars (\$37,600) to purchase and install meals equipment in senior centers countywide in Torrance county;

63. one thousand three hundred dollars (\$1,300) to purchase and install meals equipment in the Clayton senior center in Union county; and

64. three hundred thousand dollars (\$300,000) to make improvements for building code compliance, including purchase and installation of equipment, to the Fred Luna senior center in Valencia county.

## **Chapter 226 Section 6 Laws 2013**

SECTION 6. STATE ARMORY BOARD PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico Act, upon certification by the state armory board that the need exists for the issuance of the bonds, five hundred thousand dollars (\$500,000) is appropriated to the state armory board for improvements, repairs and demolition, including energy-efficient systems, to correct infrastructure deficiencies and staging areas at facilities statewide.

## **Chapter 226 Section 7 Laws 2013**

SECTION 7. BERNALILLO COUNTY METROPOLITAN COURT PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico Act, upon certification by the Bernalillo county metropolitan court that the need exists for the issuance of the bonds, three hundred sixty-nine thousand dollars (\$369,000) is appropriated to the Bernalillo county metropolitan court to plan, design and construct public restroom facilities and egress access on the fourth floor of the Bernalillo county metropolitan courthouse in Albuquerque in Bernalillo county.

## **Chapter 226 Section 8 Laws 2013**

SECTION 8. BORDER AUTHORITY PROJECT--SEVERANCE TAX BONDS.-- Pursuant to the provisions of Section 2 of the 2013 Work New Mexico Act, upon

certification by the border authority that the need exists for the issuance of the bonds, three hundred fifty thousand dollars (\$350,000) is appropriated to the border authority to construct a commercial lane, including related infrastructure, on the southbound road at the port of entry in Santa Teresa in Dona Ana county.

## **Chapter 226 Section 9 Laws 2013**

SECTION 9. CAPITAL PROGRAM FUND PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico Act, upon certification by the property control 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. three million dollars (\$3,000,000) for building repairs, including ventilation modifications, at the state scientific laboratory building in Albuquerque in Bernalillo county;
2. two million eight hundred thousand dollars (\$2,800,000) to remove the existing inoperable digester and to purchase and install a new tissue digester to dispose of carcass and other high-risk infectious disease materials in the veterinary diagnostic services division's facility of the New Mexico department of agriculture in Albuquerque in Bernalillo county;
3. two million dollars (\$2,000,000) to plan, design, construct, renovate, equip, furnish and make infrastructure improvements to juvenile detention facilities statewide in support of the Cambiar objectives, including improvements to comply with the Americans with Disabilities Act of 1990 and for accessibility, security and a centralized waste removal system;
4. one million five hundred thousand dollars (\$1,500,000) to plan, design, construct and make improvements and other necessary upgrades for liability, energy efficiency, safety and code compliance at the Tiwa building in Albuquerque in Bernalillo county;
5. four million three hundred thousand dollars (\$4,300,000) to decommission and demolish, including abatement, the old Fort Bayard medical center in Grant county;
6. four million eight hundred thousand dollars (\$4,800,000) for heating, ventilation and air conditioning system upgrades and infrastructure improvements in housing units and support buildings at the central New Mexico correctional facility in Valencia county and the western New Mexico correctional facility in Cibola county;
7. two million five hundred thousand dollars (\$2,500,000) for security upgrades, including construction and the purchase and installation of equipment, at correctional facilities statewide;

8. four million dollars (\$4,000,000) to plan, design, construct, install and equip patient health and safety upgrades at the New Mexico behavioral health institute in Las Vegas in San Miguel county, at the New Mexico state veterans' home in Truth or Consequences in Sierra county, at the Sequoyah facility in Albuquerque in Bernalillo county, at the Los Lunas facility in Valencia county and at Fort Bayard medical center in Santa Clara in Grant county;

9. one million five hundred thousand dollars (\$1,500,000) for facilities upgrades at the New Mexico behavioral health institute in Las Vegas in San Miguel county, at New Mexico state veterans' home in Truth or Consequences in Sierra county and at the Sequoyah facility in Albuquerque in Bernalillo county;

10. three million five hundred thousand dollars (\$3,500,000) to construct, renovate, expand, furnish and equip the state police district office in Espanola in

Rio Arriba county;

11. eight hundred thousand dollars (\$800,000) for designing, constructing, installing and equipping the state police district office, including a secondary access road, in Las Vegas in San Miguel county;

12. two million one hundred thousand dollars (\$2,100,000) to demolish the old Meadows building, including rerouting utilities, excavation and other site improvements, in preparation for phase 3 of the New Meadows building at the New Mexico behavioral health institute in Las Vegas in San Miguel county;

13. six hundred thousand dollars (\$600,000) for renovations at the dormitories, including upgrading fire suppression and heating, ventilation and air conditioning systems, at the New Mexico law enforcement academy in Santa Fe county;

14. six hundred thousand dollars (\$600,000) for architectural design and to renovate and expand the state commission of public records facility in Santa Fe in Santa Fe county;

15. three million five hundred thousand dollars (\$3,500,000) to plan, design, repair and renovate correctional facilities statewide to correct security and safety hazards and address operational interruptions and facility deterioration;

16. four million five hundred thousand dollars (\$4,500,000) to plan and design repairs and renovations, infrastructure upgrades and construction, including demolition, at state buildings statewide; and

17. one million dollars (\$1,000,000) to plan, design, construct, renovate and furnish the human services department drug and substance abuse treatment facility in

Los Lunas in Valencia county.

## **Chapter 226 Section 10 Laws 2013**

~~[SECTION 10. CORRECTIONS DEPARTMENT PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico Act, upon certification by the corrections department that the need exists for the issuance of the bonds, ten thousand dollars (\$10,000) is appropriated to the corrections department to plan, design, purchase and construct a multipurpose facility serving individuals recently released from prison who are transitioning back into society in the south valley area of Bernalillo county.] LINE-ITEM VETOED.~~

## **Chapter 226 Section 11 Laws 2013**

SECTION 11. CULTURAL AFFAIRS DEPARTMENT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico 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. five hundred thousand dollars (\$500,000) to plan, design, renovate and construct improvements, including equipment and seating upgrades, to the museum of space history theater and facilities in Alamogordo in Otero county;

2. one hundred seventeen thousand three hundred thirty-six dollars (\$117,336) to construct, renovate, purchase, install and equip interior and exterior improvements, including a shed, to the Santa Fe children's museum facility and parking lot in Santa Fe in Santa Fe county;

3. two million five hundred thousand dollars (\$2,500,000) for project completion and for purchasing and installing equipment at museums and monuments statewide;

4. three million dollars (\$3,000,000) to plan, design, upgrade, renovate and make critical repairs at museums and monuments statewide[; and

~~5. sixty four thousand dollars (\$64,000) to the arts division to restore the state public art collection statewide]. LINE-ITEM VETOED.~~

## **Chapter 226 Section 12 Laws 2013**

SECTION 12. CUMBRES AND TOLTEC SCENIC RAILROAD COMMISSION PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico Act, upon certification by the Cumbres and Toltec scenic railroad commission that the need exists for the issuance of the bonds, eight hundred fifty thousand dollars (\$850,000) is appropriated to the Cumbres and Toltec scenic

railroad commission for track and locomotive upgrades and rehabilitation as required to comply with federal railroad administration standards and for improvements and rehabilitation of passenger cars for the Cumbres and Toltec scenic railroad that operates between New Mexico and Colorado.

### **Chapter 226 Section 13 Laws 2013**

~~[SECTION 13. COMMISSION FOR DEAF AND HARD-OF-HEARING PERSONS PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico Act, upon certification by the commission for deaf and hard-of-hearing persons that the need exists for the issuance of the bonds, sixty thousand dollars (\$60,000) is appropriated to the commission for deaf and hard-of-hearing persons to purchase land for and plan, design, construct, purchase, improve, renovate, equip and furnish a deaf culture multipurpose center and to plan and design an apartment complex for the deaf and deaf-blind in Albuquerque in Bernalillo county.]~~  
*LINE-ITEM VETOED.*

### **Chapter 226 Section 14 Laws 2013**

~~[SECTION 14. FIRST JUDICIAL DISTRICT COURT PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico Act, upon certification by the first judicial district court that the need exists for the issuance of the bonds, forty-five thousand dollars (\$45,000) is appropriated to the first judicial district court to purchase and install touchscreen computers in the first judicial district courthouse in Santa Fe in Santa Fe county.]~~ *LINE-ITEM VETOED.*

### **Chapter 226 Section 15 Laws 2013**

SECTION 15. SECOND JUDICIAL DISTRICT COURT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico Act, upon certification by the second judicial district court that the need exists for the issuance of the bonds, the following amounts are appropriated to the second judicial district court for the following purposes:

~~[1. one hundred twenty-seven thousand eight hundred fifty dollars (\$127,850) to purchase and install large computer monitors in the second judicial district court in Albuquerque in Bernalillo county;]~~ *LINE-ITEM VETOED.*

2. one hundred seventy-four thousand one hundred dollars (\$174,100) to purchase and install security equipment in the second judicial district court in Albuquerque in Bernalillo county; and

3. one hundred fifty-two thousand dollars (\$152,000) to purchase a server for court functions in the second judicial district court in Albuquerque in Bernalillo county.

## **Chapter 226 Section 16 Laws 2013**

~~[SECTION 16. THIRD JUDICIAL DISTRICT ATTORNEY'S OFFICE PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico Act, upon certification by the third judicial district attorney's office that the need exists for the issuance of the bonds, sixty thousand dollars (\$60,000) is appropriated to the third judicial district attorney's office to purchase and install information technology upgrades, including related equipment, furniture and infrastructure, for the third judicial district attorney's office in Dona Ana county.] LINE-ITEM VETOED.~~

## **Chapter 226 Section 17 Laws 2013**

SECTION 17. ECONOMIC DEVELOPMENT DEPARTMENT PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico Act, upon certification by the economic development department that the need exists for the issuance of the bonds, five hundred thousand dollars (\$500,000) is appropriated to the economic development department for infrastructure projects in downtown mainstreet districts statewide.

## **Chapter 226 Section 18 Laws 2013**

SECTION 18. PUBLIC EDUCATION DEPARTMENT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico 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. ninety thousand dollars (\$90,000) to purchase and equip a school bus for East Mountain high school in Bernalillo county;
2. fifty thousand dollars (\$50,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at East Mountain high school in Bernalillo county;
3. seventy-five thousand dollars (\$75,000) to design, purchase and install an electronic digital security system at East Mountain high school in Bernalillo county;
4. fifty thousand dollars (\$50,000) to expand the facility and purchase equipment and information technology, including related equipment, furniture and infrastructure, at the Albuquerque institute of math and science in Albuquerque in Bernalillo county;
5. fifty thousand dollars (\$50,000) to purchase and install information technology, including related equipment, furniture and infrastructure, for the Cesar Chavez community school in Albuquerque in Bernalillo county;



6. one hundred ten thousand dollars (\$110,000) to purchase property for and to design and construct a facility for Cien Aguas international school in Albuquerque in Bernalillo county;

7. sixty-five thousand dollars (\$65,000) to purchase and install information technology, smart boards and smart lab upgrades, including related equipment, furniture and infrastructure, in the Gilbert L. Sena charter high school in Albuquerque in Bernalillo county;

8. two hundred sixty thousand dollars (\$260,000) to purchase furniture and equipment for the Health Leadership charter high school in Albuquerque in Bernalillo county;

9. eighty thousand dollars (\$80,000) to purchase a school bus for La Promesa early learning center in Albuquerque in Bernalillo county;

10. one hundred five thousand dollars (\$105,000) to purchase and install information technology, including related furniture, equipment and infrastructure, at La Promesa early learning center in Albuquerque in Bernalillo county;

11. eighty-two thousand dollars (\$82,000) to furnish La Promesa early learning center in Albuquerque in Bernalillo county;

12. one hundred fifty-eight thousand dollars (\$158,000) to purchase and install playground equipment at La Promesa early learning center in Albuquerque in Bernalillo county;

13. two hundred thirty-five thousand dollars (\$235,000) to purchase property for and to plan, design, construct, renovate and equip facilities and classrooms, including purchasing and installing information technology and related furniture and equipment, for the Media Arts Collaborative charter school in Albuquerque in Bernalillo county;

14. ninety thousand dollars (\$90,000) to purchase and install information technology, including related equipment, furniture and infrastructure, in Montessori elementary school in Albuquerque in Bernalillo county;

15. one hundred seventy thousand dollars (\$170,000) to plan, design and construct a soccer field and track, including bleachers and wind breakers, for the Southwest Aeronautics, Mathematics and Science academy in Albuquerque in Bernalillo county;

16. forty-five thousand dollars (\$45,000) to purchase and install a flight simulator for the Southwest Aeronautics, Mathematics and Science academy in Albuquerque in Bernalillo county;

17. thirty-five thousand dollars (\$35,000) to purchase and install smart labs and information technology, including related equipment, furniture and infrastructure, for the Southwest Aeronautics, Mathematics and Science academy in Albuquerque in Bernalillo county;

18. seventy thousand dollars (\$70,000) to purchase information technology for Southwest Intermediate learning center in Albuquerque in Bernalillo county;

19. thirty-five thousand dollars (\$35,000) to purchase and construct a portable classroom for Southwest Primary learning center in Albuquerque in Bernalillo county;

20. one hundred thousand dollars (\$100,000) to purchase and install equipment for and to upgrade the smart lab at Southwest Secondary learning center in Albuquerque in Bernalillo county;

21. fifty thousand dollars (\$50,000) to purchase and install furniture and equipment for Tierra Adentro charter school in Albuquerque in Bernalillo county;

22. thirty-five thousand dollars (\$35,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at A. Montoya elementary school in the Albuquerque public school district in Bernalillo county;

~~[23. forty five thousand dollars (\$45,000) to purchase a facility for la academia de Esperanza in the Albuquerque public school district in Bernalillo county;]~~  
*LINE-ITEM VETOED.*

24. one hundred twenty-two thousand dollars (\$122,000) to purchase and install security cameras and information technology, including related equipment, furniture and infrastructure, at Adobe Acres elementary school in the Albuquerque public school district in Bernalillo county;

25. sixty thousand dollars (\$60,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Alameda elementary school in the Albuquerque public school district in Bernalillo county;

26. seventy thousand dollars (\$70,000) to purchase and install information technology and a communication and telephone system, including related equipment, furniture and infrastructure, at Alamosa elementary school in the Albuquerque public school district in Bernalillo county;

27. two hundred thousand dollars (\$200,000) to purchase and install awnings to cover the bleachers at Volcano Vista high school in the Albuquerque public school district in Bernalillo county;

28. seventy-five thousand dollars (\$75,000) to purchase rifles and equipment for junior reserve officers training corps programs in the Albuquerque public school district in Bernalillo county;

29. two hundred fifteen thousand six hundred dollars (\$215,600) to purchase and install rifle safety and marksmanship target systems in public schools in the Albuquerque public school district in Bernalillo county;

30. forty-five thousand dollars (\$45,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Albuquerque high school in the Albuquerque public school district in Bernalillo county;

31. seventy thousand dollars (\$70,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Alvarado elementary school in the Albuquerque public school district in Bernalillo county;

32. ten thousand dollars (\$10,000) to purchase and install furniture, fixtures and equipment in Apache elementary school in the Albuquerque public school district in Bernalillo county;

33. sixty-eight thousand five hundred dollars (\$68,500) to purchase and install information technology, including related equipment, furniture and infrastructure, at Armijo elementary school in the Albuquerque public school district in Bernalillo county;

34. eighty thousand dollars (\$80,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Atrisco elementary school in the Albuquerque public school district in Bernalillo county;

35. seventy thousand dollars (\$70,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Atrisco Heritage academy high school in the Albuquerque public school district in Bernalillo county;

36. fifty thousand dollars (\$50,000) to plan, design, construct, improve, equip and furnish improvements to the grounds, fields and playground, including irrigation, landscaping and drainage, at Bandelier elementary school in the Albuquerque public school district in Bernalillo county;

37. thirty thousand dollars (\$30,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Bandelier elementary school in the Albuquerque public school district in Bernalillo county;

38. fifty thousand dollars (\$50,000) to purchase and install security cameras and information technology, including related equipment, furniture and infrastructure, in Barcelona elementary school in the Albuquerque public school district in Bernalillo county;

39. one hundred ten thousand dollars (\$110,000) to purchase and install security cameras and information technology, including related equipment, furniture and infrastructure, at Bel-Air elementary school in the Albuquerque public school district in Bernalillo county;

40. forty-six thousand dollars (\$46,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Bellehaven elementary school in the Albuquerque public school district in Bernalillo county;

41. fifteen thousand dollars (\$15,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Carlos Rey elementary school in the Albuquerque public school district in Bernalillo county;

42. ninety-nine thousand dollars (\$99,000) to plan, design, construct, renovate, equip and furnish playground improvements, including drainage and landscaping, at Chamiza elementary school in the Albuquerque public school district in Bernalillo county;

43. forty-five thousand dollars (\$45,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Chaparral elementary school in the Albuquerque public school district in Bernalillo county;

~~[44. twenty-five thousand dollars (\$25,000) to plan, design, renovate, construct, furnish and equip a weight room at Cibola high school in the Albuquerque public school district in Bernalillo county;] *LINE-ITEM VETOED.*~~

45. sixty thousand dollars (\$60,000) to purchase and install security cameras and information technology, including related equipment, furniture and infrastructure, at Cleveland middle school in the Albuquerque public school district in Bernalillo county;

46. thirty-five thousand dollars (\$35,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Cochiti elementary school in the Albuquerque public school district in Bernalillo county;

~~[47. seventeen thousand five hundred dollars (\$17,500) to plan, design, construct, renovate, refurbish, equip and furnish improvements at school facilities, including purchasing and installing a rock climbing wall and gymnasium equipment, at Collet Park elementary school in the Albuquerque public school district in Bernalillo county;] *LINE-ITEM VETOED.*~~

48. fifteen thousand dollars (\$15,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Coronado elementary school in the Albuquerque public school district in Bernalillo county;

49. seventy thousand dollars (\$70,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Del Norte high school in the Albuquerque public school district in Bernalillo county;

50. one hundred ninety-five thousand dollars (\$195,000) to purchase a building for the Digital Arts and Technology academy in the Albuquerque public school district in Bernalillo county;

51. one hundred thirty-two thousand five hundred dollars (\$132,500) to plan, design, construct, renovate, equip and furnish improvements to school facilities, playgrounds and the gymnasium, including site and drainage improvements, at Dolores Gonzales elementary school in the Albuquerque public school district in Bernalillo county;

52. one hundred ten thousand dollars (\$110,000) to purchase and install security cameras and information technology, including related equipment, furniture and infrastructure, at Double Eagle elementary school in the Albuquerque public school district in Bernalillo county;

53. fifty thousand dollars (\$50,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Douglas MacArthur elementary school in the Albuquerque public school district in Bernalillo county;

54. fifty-five thousand dollars (\$55,000) to purchase and install security cameras and information technology, including related equipment, furniture and infrastructure, at Duranes elementary school in the Albuquerque public school district in Bernalillo county;

55. five thousand dollars (\$5,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Ecademy high school in the Albuquerque public school district in Bernalillo county;

56. forty-five thousand dollars (\$45,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Edmund G. Ross elementary school in the Albuquerque public school district in Bernalillo county;

57. fifty thousand dollars (\$50,000) to plan, design, construct, renovate, equip and furnish improvements to facilities and grounds at Edward Gonzales elementary school in the Albuquerque public school district in Bernalillo county;

58. thirty-five thousand dollars (\$35,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Emerson elementary school in the Albuquerque public school district in Bernalillo county;

59. fifty thousand dollars (\$50,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Ernie Pyle elementary school in the Albuquerque public school district in Bernalillo county;

60. five thousand dollars (\$5,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Freedom high school in the Albuquerque public school district in Bernalillo county;

61. fifteen thousand dollars (\$15,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Garfield middle school in the Albuquerque public school district in Bernalillo county;

62. fifty thousand dollars (\$50,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Griegos elementary school in the Albuquerque public school district in Bernalillo county;

63. thirty-five thousand dollars (\$35,000) to purchase and install books, furniture and information technology, including related equipment, furniture and infrastructure, at Harrison middle school in the Albuquerque public school district in Bernalillo county;

64. ten thousand dollars (\$10,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Hawthorne elementary school in the Albuquerque public school district in Bernalillo county;

65. one hundred eight thousand dollars (\$108,000) to purchase and install security cameras and information technology, including related equipment, furniture and infrastructure, at Hawthorne elementary school in the Albuquerque public school district in Bernalillo county;

66. twenty thousand dollars (\$20,000) to furnish and equip Highland high school in the Albuquerque public school district in Bernalillo county;

67. thirty thousand dollars (\$30,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Highland high school in the Albuquerque public school district in Bernalillo county;

68. one hundred forty-two thousand dollars (\$142,000) to purchase and install security cameras and information technology, including related equipment, furniture and infrastructure, at Hodgin elementary school in the Albuquerque public school district in Bernalillo county;

69. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, renovate, equip and furnish facility and infrastructure improvements and to purchase and install equipment and information technology, including related

equipment, furniture and infrastructure, at Hoover middle school in the Albuquerque public school district in Bernalillo county;

70. thirty-five thousand dollars (\$35,000) to purchase and install security cameras and information technology, including related equipment, furniture and infrastructure, at Hubert H. Humphrey elementary school in the Albuquerque public school district in Bernalillo county;

71. sixty thousand dollars (\$60,000) to plan, design, construct, renovate, equip and furnish improvements to the grounds at Jefferson middle school in the Albuquerque public school district in Bernalillo county;

72. thirty thousand dollars (\$30,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Jefferson middle school in the Albuquerque public school district in Bernalillo county;

73. one hundred thousand dollars (\$100,000) to plan, design, renovate, equip and furnish site improvements at Jimmy E. Carter middle school in the Albuquerque public school district in Bernalillo county;

74. twenty-five thousand dollars (\$25,000) to purchase and install books, furniture and information technology, including related equipment, furniture and infrastructure, at John Adams middle school in the Albuquerque public school district in Bernalillo county;

75. twenty-four thousand five hundred dollars (\$24,500) to purchase and install security cameras and information technology, including related equipment, furniture and infrastructure, at John Adams middle school in the Albuquerque public school district in Bernalillo county;

76. fifty thousand dollars (\$50,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Kennedy middle school in the Albuquerque public school district in Bernalillo county;

77. thirty thousand dollars (\$30,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Kirtland elementary school in the Albuquerque public school district in Bernalillo county;

78. thirty thousand dollars (\$30,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Kit Carson elementary school in the Albuquerque public school district in Bernalillo county;

79. seventy thousand dollars (\$70,000) to purchase and install equipment, including seating, fixtures, lighting, sound equipment, furniture and stage curtains, and to purchase and install information technology, including related furniture, equipment

and infrastructure, at La Cueva high school in the Albuquerque public school district in Bernalillo county;

~~[80. thirty thousand dollars (\$30,000) to purchase and install physical education equipment at La Cueva high school in the Albuquerque public school district in Bernalillo county;] *LINE-ITEM VETOED.*~~

81. one hundred fifty thousand dollars (\$150,000) to purchase and install security cameras and information technology, including related equipment, furniture and infrastructure, at La Cueva high school in the Albuquerque public school district in Bernalillo county;

82. fifty thousand dollars (\$50,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at La Luz elementary school in the Albuquerque public school district in Bernalillo county;

83. twenty thousand dollars (\$20,000) to purchase and install furniture, fixtures and equipment in La Mesa elementary school in the Albuquerque public school district in Bernalillo county;

84. ten thousand dollars (\$10,000) to purchase and install library books, furniture, shelving and information technology, including related equipment, furniture and infrastructure, at La Mesa elementary school in the Albuquerque public school district in Bernalillo county;

85. fifty thousand dollars (\$50,000) to purchase and install security cameras and information technology, including related equipment, furniture and infrastructure, at La Mesa elementary school in the Albuquerque public school district in Bernalillo county;

86. sixty-five thousand dollars (\$65,000) to purchase and install information technology and an intercom system, including related equipment, furniture and infrastructure, at Lew Wallace elementary school in the Albuquerque public school district in Bernalillo county;

87. fifteen thousand dollars (\$15,000) to purchase and install security cameras and information technology, including related equipment, furniture and infrastructure, at Longfellow elementary school in the Albuquerque public school district in Bernalillo county;

88. thirty-five thousand dollars (\$35,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Los Padillas elementary school in the Albuquerque public school district in Bernalillo county;



89. twenty thousand dollars (\$20,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Los Ranchos elementary school in the Albuquerque public school district in Bernalillo county;

90. twenty-five thousand dollars (\$25,000) to purchase and install security cameras and information technology, including related equipment, furniture and infrastructure, at Lowell elementary school in the Albuquerque public school district in Bernalillo county;

~~91. eighty thousand dollars (\$80,000) to plan, design, construct, equip and furnish improvements to the weight room at Lyndon B. Johnson middle school in the Albuquerque public school district in Bernalillo county;~~ *LINE-ITEM VETOED.*

92. twenty thousand dollars (\$20,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Madison middle school in the Albuquerque public school district in Bernalillo county;

93. thirty thousand dollars (\$30,000) to plan, design, construct, purchase, equip and furnish site improvements, including portable classroom installation and related equipment and infrastructure upgrades, at Manzano Mesa elementary school in the Albuquerque public school district in Bernalillo county;

94. thirty thousand dollars (\$30,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Mark Twain elementary school in the Albuquerque public school district in Bernalillo county;

95. fifty thousand dollars (\$50,000) to purchase and install library books, furniture and information technology, including related equipment, furniture and infrastructure, at Mark Twain elementary school in the Albuquerque public school district in Bernalillo county;

96. twenty thousand dollars (\$20,000) to purchase and install cafeteria tables, furniture and related equipment at Matheson Park elementary school in the Albuquerque public school district in Bernalillo county;

97. ten thousand dollars (\$10,000) to purchase and install information technology, including related equipment, furniture and infrastructure, in McCollum elementary school in the Albuquerque public school district in Bernalillo county;

98. one hundred forty-two thousand four hundred sixty-eight dollars (\$142,468) to purchase and install security cameras and information technology, including related equipment, furniture and infrastructure, at McKinley middle school in the Albuquerque public school district in Bernalillo county;

99. fifty thousand dollars (\$50,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Mission Avenue elementary school in the Albuquerque public school district in Bernalillo county;

100. one hundred ten thousand dollars (\$110,000) to purchase and install security cameras and information technology, including related equipment, furniture and infrastructure, at Mitchell elementary school in the Albuquerque public school district in Bernalillo county;

101. thirty thousand dollars (\$30,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Monte Vista elementary school in the Albuquerque public school district in Bernalillo county;

~~[102. seventy five thousand dollars (\$75,000) to purchase and install marquees and information technology, including related equipment, furniture and infrastructure, at Monte Vista elementary school in the Albuquerque public school district in Bernalillo county;] LINE-ITEM VETOED.~~

103. thirty thousand dollars (\$30,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Montezuma elementary school in the Albuquerque public school district in Bernalillo county;

104. forty thousand dollars (\$40,000) to purchase and install security cameras and information technology, including related equipment, furniture and infrastructure, at Montezuma elementary school in the Albuquerque public school district in Bernalillo county;

105. one hundred twenty-five thousand dollars (\$125,000) to purchase and install security cameras and information technology, including related equipment, furniture and infrastructure, in Navajo elementary school in the Albuquerque public school district in Bernalillo county;

106. five thousand dollars (\$5,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at New Futures high school in the Albuquerque public school district in Bernalillo county;

~~[107. twenty five thousand dollars (\$25,000) to plan and design a facility for the Nuestros Valores charter school in the Albuquerque public school district in Bernalillo county;] LINE-ITEM VETOED.~~

108. ninety thousand dollars (\$90,000) to purchase and install information technology, including related equipment, furniture and infrastructure, in the Nuestros Valores charter school in the Albuquerque public school district in Bernalillo county;

109. sixty thousand dollars (\$60,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Osuna elementary school in the Albuquerque public school district in Bernalillo county;

110. one hundred six thousand dollars (\$106,000) to purchase and install security cameras and information technology, including related equipment, furniture and infrastructure, at Painted Sky elementary school in the Albuquerque public school district in Bernalillo county;

111. sixty thousand dollars (\$60,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Petroglyph elementary school in the Albuquerque public school district in Bernalillo county;

112. forty-five thousand dollars (\$45,000) to purchase and install security cameras and information technology, including related equipment, furniture and infrastructure, at Reginald Chavez elementary school in the Albuquerque public school district in Bernalillo county;

113. fifteen thousand dollars (\$15,000) to plan, design, construct, renovate, equip and furnish site, playground and drainage improvements at Reginald Chavez elementary school in the Albuquerque public school district in Bernalillo county;

114. one hundred thousand dollars (\$100,000) to purchase and install equipment, including seating, lighting and sound, and information technology, including related equipment, furniture and infrastructure, at Rio Grande high school in the Albuquerque public school district in Bernalillo county;

115. one hundred ninety-two thousand dollars (\$192,000) to construct an auto body and paint shop at Robert F. Kennedy charter school in the Albuquerque public school district in Bernalillo county;

116. ninety-five thousand dollars (\$95,000) to purchase, renovate and equip a facility for a media center for Robert F. Kennedy charter school in the Albuquerque public school district in Bernalillo county;

117. thirty thousand dollars (\$30,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Rudolfo Anaya elementary school in the Albuquerque public school district in Bernalillo county;

118. twenty-five thousand dollars (\$25,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at S.Y. Jackson elementary school in the Albuquerque public school district in Bernalillo county;

119. thirty-six thousand five hundred dollars (\$36,500) to purchase and install information technology, including related equipment, furniture and infrastructure,

at San Antonito elementary school in the Albuquerque public school district in Bernalillo county;

120. twenty-five thousand dollars (\$25,000) to purchase and install security cameras and information technology, including related equipment, furniture and infrastructure, at Seven Bar elementary school in the Albuquerque public school district in Bernalillo county;

121. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, renovate, furnish, equip and improve a pre-kindergarten playground, including fencing, drainage and landscaping, at Sierra Vista elementary school in the Albuquerque public school district in Bernalillo county;

122. sixty thousand dollars (\$60,000) to purchase and install security cameras and information technology, including related equipment, furniture and infrastructure, at Taft middle school in the Albuquerque public school district in Bernalillo county;

123. one hundred twelve thousand dollars (\$112,000) to purchase and install security cameras and information technology, including related equipment, furniture and infrastructure, at Tomasita elementary school in the Albuquerque public school district in Bernalillo county;

124. eighty-three thousand four hundred dollars (\$83,400) to purchase and install information technology, including related equipment, furniture and infrastructure, at Valle Vista elementary school in the Albuquerque public school district in Bernalillo county;

~~[125. twenty-five thousand dollars (\$25,000) to equip cultural programs at Valley high school in the Albuquerque public school district in Bernalillo county;] LINE-ITEM VETOED.~~

~~[126. thirty thousand dollars (\$30,000) to purchase football equipment for Valley high school in the Albuquerque public school district in Bernalillo county;] LINE-ITEM VETOED.~~

127. twenty-five thousand dollars (\$25,000) to refurbish and make improvements throughout Valley high school in the Albuquerque public school district in Bernalillo county;

128. twenty-five thousand dollars (\$25,000) to purchase and install a spectator roof and outdoor bench seating at Valley high school in the Albuquerque public school district in Bernalillo county;

~~[129. thirty thousand dollars (\$30,000) to purchase boys' and girls' sports program equipment, including cross country, track, wrestling and volleyball, for Valley~~

~~high school in the Albuquerque public school district in Bernalillo county;]~~ *LINE-ITEM VETOED.*

130. sixty thousand dollars (\$60,000) to purchase and install library books, furniture, shelving and information technology, including related equipment, furniture and infrastructure, at Van Buren middle school in the Albuquerque public school district in Bernalillo county;

131. forty-five thousand dollars (\$45,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Washington middle school in the Albuquerque public school district in Bernalillo county;

132. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate, equip and furnish improvements to the facilities and site, including the purchase and installation of information technology and related infrastructure, at West Mesa high school in the Albuquerque public school district in Bernalillo county;

133. fifty thousand dollars (\$50,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at West Mesa high school in the Albuquerque public school district in Bernalillo county;

134. fifty-five thousand dollars (\$55,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Wherry elementary school in the Albuquerque public school district in Bernalillo county;

135. thirty thousand dollars (\$30,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Whittier elementary school in the Albuquerque public school district in Bernalillo county;

136. ninety-five thousand dollars (\$95,000) to purchase and install information technology, including related furniture, equipment and infrastructure, in Wilson middle school in the Albuquerque public school district in Bernalillo county;

137. fifty thousand dollars (\$50,000) to purchase and install security cameras and information technology, including related equipment, furniture and infrastructure, at Zia elementary school in the Albuquerque public school district in Bernalillo county;

138. fifty thousand dollars (\$50,000) to design, purchase and install a shade structure at Zia elementary school in the Albuquerque public school district in Bernalillo county;

139. one hundred sixty thousand dollars (\$160,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Zuni elementary school in the Albuquerque public school district in Bernalillo county;

140. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase and install playground improvements and equipment at East Grand Plains elementary school in the Roswell independent school district in Chaves county;

141. fifteen thousand dollars (\$15,000) to purchase vocational equipment for the Melrose public school district in Curry county;

142. three hundred ten thousand dollars (\$310,000) to purchase and install artificial turf at the Field of Dreams athletic fields site in the Las Cruces public school district in Dona Ana county;

143. two hundred twenty-eight thousand dollars (\$228,000) to plan, design, purchase, install and equip auditorium seats in the Artesia high school auditorium in the Artesia public school district in Eddy county;

144. sixty-one thousand dollars (\$61,000) to plan, design, purchase, construct and replace sewer lines at Artesia high school in the Artesia public school district in Eddy county;

145. seventy-five thousand dollars (\$75,000) to purchase and install information technology, including related equipment, furniture and infrastructure, in the offices of the Artesia public school district in Eddy county;

146. twenty-five thousand dollars (\$25,000) to plan, design, purchase and install bleachers in the gymnasium at Carlsbad high school in the Carlsbad municipal school district in Eddy county;

147. one hundred ninety thousand dollars (\$190,000) to plan, design, purchase and install a hardwood floor in the gymnasium at Carlsbad high school in the Carlsbad municipal school district in Eddy county;

148. fifty thousand dollars (\$50,000) to plan, design, purchase and install stadium seating to comply with the Americans with Disabilities Act of 1990 at Carlsbad high school in the Carlsbad municipal school district in Eddy county;

149. one hundred twenty-three thousand dollars (\$123,000) to plan, design, purchase and install artificial playground turf at the early childhood education center in the Carlsbad municipal school district in Eddy county;

150. sixty thousand dollars (\$60,000) to plan, design, purchase and install information technology, document cameras and smart boards, including related equipment, furniture and infrastructure, at Joe Stanley Smith elementary school in the Carlsbad municipal school district in Eddy county;

151. fifty thousand dollars (\$50,000) to plan, design, purchase and install information technology and smart boards, including related equipment, furniture and

infrastructure, at Pate elementary school in the Carlsbad municipal school district in Eddy county;

152. twenty-five thousand dollars (\$25,000) to purchase and equip an activity bus for the Corona public school district in Lincoln county;

153. forty-five thousand dollars (\$45,000) to construct storm drainage improvements at Chamisa elementary school in the Los Alamos public school district in Los Alamos county;

154. one hundred sixty thousand dollars (\$160,000) to replace the roof over the locker room in the gymnasium at Los Alamos middle school in the Los Alamos public school district in Los Alamos county;

155. fifty thousand dollars (\$50,000) to construct improvements to locker room walls at Los Alamos middle school in the Los Alamos public school district in Los Alamos county;

156. seventeen thousand dollars (\$17,000) to purchase equipment and information technology, including related furniture and infrastructure, for vocational and career programs in the Logan municipal school district in Quay county;

157. one hundred thousand dollars (\$100,000) to purchase an activity bus for McCurdy charter school in Espanola in Rio Arriba county;

158. seventy-five thousand dollars (\$75,000) to plan, design, construct and install plumbing system improvements in the multipurpose building in the Dora consolidated school district in Roosevelt county;

159. one hundred thousand dollars (\$100,000) to plan, design, construct and install bleachers, team seating and an officials' station in the gymnasium at Floyd high school in the Floyd municipal school district in Roosevelt county;

160. one hundred fifty-five thousand dollars (\$155,000) to purchase and equip activity buses for the Las Vegas city public school district in San Miguel county;

161. ten thousand dollars (\$10,000) to plan, design, construct, equip, purchase and install a security camera system, including infrastructure, for the inclusive campus in the Pecos independent school district in San Miguel county;

162. one hundred forty thousand dollars (\$140,000) to purchase and equip an activity bus for the west Las Vegas public school district in San Miguel county;

163. three hundred sixty-five thousand dollars (\$365,000) to purchase and install information technology, including related equipment, furniture and infrastructure,

to support the implementation of the partnership for assessment of readiness for college and careers districtwide in the Rio Rancho public school district in Sandoval county;

164. one hundred thousand dollars (\$100,000) to construct parking facilities to address emergency and safety concerns in the student parking areas at V. Sue Cleveland high school in the Rio Rancho public school district in Sandoval county;

165. eighty-eight thousand dollars (\$88,000) to construct parking facilities to address safety concerns and emergency access and egress in the visitor parking areas at V. Sue Cleveland high school in the Rio Rancho public school district in Sandoval county;

166. forty thousand dollars (\$40,000) to purchase and install information technology and smart boards, including related equipment, furniture and infrastructure, at Agua Fria elementary school in the Santa Fe public school district in Santa Fe county;

~~[167. ten thousand dollars (\$10,000) to purchase and install a marquee at Capshaw middle school in the Santa Fe public school district in Santa Fe county;] *LINE-ITEM VETOED.*~~

168. fifty thousand dollars (\$50,000) to purchase, repair, replace and install perimeter fencing for the playground at El Dorado elementary school in the Santa Fe public school district in Santa Fe county;

169. one hundred thousand dollars (\$100,000) to plan, design, renovate and construct roofs at El Dorado elementary school in the Santa Fe public school district in Santa Fe county;

~~[170. ten thousand dollars (\$10,000) to purchase and install a marquee at the academy at Larragoite in the Santa Fe public school district in Santa Fe county;] *LINE-ITEM VETOED.*~~

171. thirty thousand dollars (\$30,000) to purchase and install a public address system at Ramirez Thomas elementary school in the Santa Fe public school district in Santa Fe county;

172. fifty-seven thousand dollars (\$57,000) to plan, design, renovate, purchase and install a fire security system at Wood Gormley elementary school in the Santa Fe public school district in Santa Fe county;

173. two hundred ninety-eight thousand three hundred fifty-seven dollars (\$298,357) to purchase and install robot equipment and related infrastructure statewide for the public school robot education programs that participate in the annual robot competition in Albuquerque in Bernalillo county;



174. one hundred thousand dollars (\$100,000) to plan, design and construct an educational agriculture farm at Willie Chavez park for the Belen consolidated school district in Valencia county;

175. one hundred thousand dollars (\$100,000) to purchase and equip activity vehicles and utility trailers for the School of Dreams academy in the Los Lunas public school district in Valencia county; and

176. one hundred thousand dollars (\$100,000) to plan, design and construct an outdoor amphitheater at Valencia high school in the Los Lunas public school district in Valencia county.

## **Chapter 226 Section 19 Laws 2013**

SECTION 19. ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico 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. five hundred thousand dollars (\$500,000) to purchase and equip law enforcement and forestry vehicles for the state parks division and the forestry division of the department; and

2. two million five hundred thousand dollars (\$2,500,000) for wildfire mitigation at urban forest interfaces for communities at risk statewide.

## **Chapter 226 Section 20 Laws 2013**

SECTION 20. STATE PARKS DIVISION OF THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT PROJECTS--SEVERANCE TAX BONDS.-- Pursuant to the provisions of Section 2 of the 2013 Work New Mexico 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. forty five thousand dollars (\$45,000) to purchase land for a public recreational park and horse sanctuary and to design, construct and repair recreational trails in the park and sanctuary between Placitas and Algedones in eastern Sandoval county; and] *LINE-ITEM VETOED.*~~

2. one million dollars (\$1,000,000) for infrastructure improvements, including equipping and furnishing, at state parks statewide.

## Chapter 226 Section 21 Laws 2013

SECTION 21. OFFICE OF THE STATE ENGINEER PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico 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. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct a pedestrian bridge over the Albuquerque metropolitan area flood control authority drain for access to the Robert F. Kennedy charter school in Albuquerque in Bernalillo county;
2. two million seven hundred thousand dollars (\$2,700,000) for construction and rehabilitation of dams 1 and 2 in Springer in Colfax county;
3. twenty thousand dollars (\$20,000) for a hydrologic study of the upper Rio Hondo basin, including purchase and installation of well-monitoring equipment, in Lincoln county;
4. one hundred thousand dollars (\$100,000) to plan and design, including completion of required studies and environmental impact statements, the Morphy lake dam rehabilitation project in Mora county;
5. one million eight hundred thousand dollars (\$1,800,000) to plan, design and make improvements to Bradner dam in San Miguel county;
6. two hundred fifty-five thousand dollars (\$255,000) to plan, design and construct the Lomitas Negras water quality structure and park for the south Sandoval county arroyo flood control authority to reduce the risk of flooding in Corrales in Sandoval county;
7. two hundred sixty-five thousand dollars (\$265,000) to design and construct a pedestrian bridge crossing the Black arroyo and a pedestrian trail system and parking access at either end of the bridge for the south Sandoval county arroyo flood control authority to provide safe access to the Maggie M. Cordova elementary school in Rio Rancho in Sandoval county;
8. eighty-two thousand dollars (\$82,000) to plan, design and construct river restoration on Galisteo creek in Santa Fe county;
9. fifty thousand dollars (\$50,000) to plan, design, renovate and construct improvements, including dredging, to the Nambe dam in Santa Fe county;
10. fifty thousand dollars (\$50,000) to plan and purchase water rights for Questa in Taos county;

11. twenty-five thousand dollars (\$25,000) for a hydrological study, including planning and designing existing maps and continuing lithologic descriptions, of the regional aquifer system in Union county; and

12. four hundred twenty-five thousand dollars (\$425,000) to construct a flood control facility and infrastructure downstream of interstate 25 in Belen in Valencia county.

## **Chapter 226 Section 22 Laws 2013**

SECTION 22. INDIAN WATER RIGHTS SETTLEMENTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico Act, upon certification by the office of the state engineer that the need exists for the issuance of the bonds, ten million dollars (\$10,000,000) 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 corresponding commitments have been made for the federal portion of the settlements in the *Navajo Nation*, *Taos* and *Aamodt* cases, the money may be expended by the interstate stream commission in fiscal year 2014 and subsequent fiscal years to implement the state's portion of the settlements, and any unexpended or unencumbered balances shall not revert at the end of a fiscal year.

## **Chapter 226 Section 23 Laws 2013**

SECTION 23. DEPARTMENT OF ENVIRONMENT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico 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. one hundred fifty-one thousand dollars (\$151,000) to construct and equip water system and site improvements, including drilling a well, electrical improvements and replacing fences, gates, distribution lines and pipelines, for the Cedar Crest mutual domestic water consumers and sewage works association in Bernalillo county;

2. three hundred ninety thousand dollars (\$390,000) to plan, design and construct improvements to the water system, including distribution lines, in Tijeras in Bernalillo county;

3. one hundred thousand dollars (\$100,000) to plan, design and construct water system improvements, including purchase and installation of equipment, in Dexter in Chaves county;

4. one hundred twelve thousand dollars (\$112,000) to plan, design and construct a sewer line to building 1166 in the Roswell international air center in Chaves county;

5. two hundred five thousand dollars (\$205,000) to design and construct wastewater system improvements, including expansion of wastewater lagoons, closure of old lagoons and replacement of failing sewer trunk lines, for the Cebolleta land grant in Cibola county;

6. fifty thousand dollars (\$50,000) to design and construct a waterline extension, including a new water well and water storage tank, for the Mountain View waterline in the Ramah chapter of the Navajo Nation in Cibola county;

7. fifty thousand dollars (\$50,000) to plan, design, renovate, construct and equip water and wastewater system improvements in Cimarron in Colfax county;

8. sixty-five thousand dollars (\$65,000) to plan, design, construct and equip water system improvements, including a water tank and installation of water lines, in Eagle Nest in Colfax county;

~~9. seventy-five thousand dollars (\$75,000) to plan, design, drill and construct a well for Maxwell in Colfax county;]~~ *LINE-ITEM VETOED.*

10. seventy-five thousand dollars (\$75,000) to plan, design, construct, install, equip and furnish modifications to the water treatment plant in Springer in Colfax county;

11. three hundred thousand dollars (\$300,000) to plan, design and construct phase 2 water system improvements at the municipal airport in Clovis in Curry county;

12. one hundred thousand dollars (\$100,000) to plan, design and construct water system improvements in Melrose in Curry county;

13. one hundred seventy-five thousand dollars (\$175,000) to plan, design, purchase and construct a maintenance building and lanes for a collection center and to purchase trucks and equipment for De Baca county;

14. six hundred thousand dollars (\$600,000) to design and construct water and wastewater system infrastructure in Sunland Park and the Santa Teresa border region for the Camino Real regional utility authority in

Dona Ana county;

15. fifty-one thousand dollars (\$51,000) to plan, design and construct wastewater system improvements, including a collection system, for the Desert Aire mutual domestic water and sewer works association in Dona Ana county;

16. fifty thousand dollars (\$50,000) to plan, design and construct water system improvements, including a well and water lines, for the Desert Aire mutual domestic water and sewer works association in Dona Ana county;

17. one hundred seventy-five thousand dollars (\$175,000) to purchase and install information technology, including related equipment, furniture and infrastructure, for the lower Rio Grande public water works authority in Dona Ana county;

18. three hundred twenty-one thousand dollars (\$321,000) to plan, design and construct sewer systems in high-priority water well protection areas in Las Cruces in Dona Ana county;

19. three million two hundred thousand dollars (\$3,200,000) to plan, design, repair and upgrade the water lines and meters and to expand the wastewater treatment plant in Santa Teresa in Dona Ana county;

20. three hundred twenty-five thousand dollars (\$325,000) to plan, design and construct a water tower at the industrial park in Artesia in Eddy county;

21. one hundred fifty thousand dollars (\$150,000) to purchase a refuse collection truck for Loving in Eddy county;

22. thirty-five thousand dollars (\$35,000) to plan, design, purchase, construct and equip water system improvements, including a pump house, booster station, water storage tank, water lines, meters and water hauling tractor trailer, for the Pastura mutual domestic water consumers association in Guadalupe county;

23. twenty-five thousand dollars (\$25,000) to design and construct an equipment storage building for the Hollywood Ranch domestic water users association in

Santa Rosa in Guadalupe county;

24. one hundred thousand dollars (\$100,000) to remove and dispose of asbestos contamination, including abatement in the old hospital building, at the hospital site in Lordsburg in Hidalgo county;

25. three hundred sixty thousand dollars (\$360,000) to construct and upgrade a pipeline to convey reclaimed effluent waters for irrigation and firefighting purposes in Hobbs in Lea county;

26. two hundred thousand dollars (\$200,000) to design and construct utility extensions for sewer and water service at the baseball complex in Hobbs in Lea county;

27. three hundred fifty thousand dollars (\$350,000) to purchase and install water meters and related equipment in Lovington in Lea county;

28. thirty thousand dollars (\$30,000) to plan, design and construct water system improvements, including lines, fire hydrants, valves and appurtenances, for the Alto Lakes water and sanitation district in Lincoln county;

29. forty-five thousand dollars (\$45,000) to purchase and equip a pneumatic tire forklift for the Greentree solid waste authority in Lincoln county;

30. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to water storage tanks in Capitan in Lincoln county;

31. one hundred eighty-five thousand dollars (\$185,000) to plan, design and construct new well houses, including demolition, site preparation, well head rehabilitation, fencing and purchase and installation of a generator, for Carrizozo in Lincoln county;

32. fifty-five thousand dollars (\$55,000) to plan, design and construct a water transmission line, including related distribution line improvements, and to purchase easements in Corona in Lincoln county;

33. twenty-five thousand dollars (\$25,000) to plan, design, renovate and construct improvements to water storage tanks, including valves, gates, gauges, interior and exterior surfaces and associated materials, in Corona in Lincoln county;

34. twenty-five thousand dollars (\$25,000) to design and construct phase 2 water system improvements, including treatment plant technology upgrades, replacement of water lines, installation of hydrants, gate valves, meters, meter boxes, standpipes and appurtenances, for the Nogal mutual domestic water consumers association in Lincoln county;

35. one hundred eighty thousand dollars (\$180,000) to plan, design and construct phase 2 of the sewer trunk replacement, including installation of sewer mains, manholes, valves, connections and other materials, in Ruidoso in Lincoln county;

36. one hundred forty thousand dollars (\$140,000) to plan, design and construct phase 1 of the Agua Fria sewer line extension project in Ruidoso Downs in Lincoln county;

37. four hundred fifty thousand dollars (\$450,000) to plan, design, construct and equip a new lined solid waste cell at the Butterfield trail regional landfill in Deming in Luna county;

38. one hundred thousand dollars (\$100,000) to plan, design and construct water system improvements, including replacing water lines, valves and hydrants, for the Gamarco water and sanitation district in McKinley county;

39. fifty thousand dollars (\$50,000) for site assessment, environmental monitoring and site remediation at the Gallup-McKinley county public school district maintenance facility site at 700 Boardman avenue in Gallup in McKinley county to address environmental damage from solid and hazardous wastes buried at the site;

~~[40. fifty thousand dollars (\$50,000) to plan, design and construct the sewer lagoon at the Red Rock chapter of the Navajo Nation in McKinley county;] LINE-ITEM VETOED.~~

41. six hundred thousand dollars (\$600,000) to construct a water drill well pump system at the Red Willow farmland in the Tohatchi chapter of the Navajo Nation in McKinley county;

42. fifty thousand dollars (\$50,000) to plan, design, construct and equip improvements to the water system and site for the Ya-ta-Hey water and sanitation district in Ya-ta-Hey in McKinley county;

43. two hundred forty-three thousand dollars (\$243,000) to plan, design and construct water and wastewater system improvements, including installing reclaimed water lines and effluent water lines and purchasing rights of way, in Alamogordo in Otero county;

44. two hundred twenty-five thousand dollars (\$225,000) to plan, design, construct, equip and furnish improvements to the wastewater treatment facility and system in Cloudcroft in Otero county;

45. seventy-two thousand eight hundred dollars (\$72,800) to plan, design, purchase and install a supervisory control and data acquisition system for the Timberon water and sanitation district in Otero county;

46. forty-two thousand five hundred sixty dollars (\$42,560) to plan, design and construct improvements to the electrical system in the Timberon water and sanitation district maintenance barn in Otero county;

47. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to the wastewater system in San Jon in Quay county;

48. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and install water and sewer lines on east Route 66 in Tucumcari in Quay county;

49. fifty thousand one hundred fifty dollars (\$50,150) to plan, design and construct water system improvements, including tanks, pumps, hydrants, lines and meters, for La Madera mutual domestic water consumers association in Rio Arriba county;

50. thirty-five thousand dollars (\$35,000) to design and construct improvements to the water system for the Canjilon mutual domestic water consumers and mutual sewage works association in Canjilon in Rio Arriba county;

51. one hundred thousand dollars (\$100,000) to plan, design, drill, construct and equip a supplemental well, including installation of a pump house and water line to link the well to the existing line, for the Chamita mutual domestic water consumers and sewage works association in Rio Arriba county;

52. seventy-five thousand dollars (\$75,000) to plan, construct and equip improvements to the water system and water supply well for the Ancones mutual domestic water and wastewater consumers association in La Madera in

Rio Arriba county;

53. one hundred sixty-four thousand dollars (\$164,000) to purchase, install and equip a trash truck container in Elida in Roosevelt county;

54. one hundred seventy-two thousand dollars (\$172,000) to design and construct a pump station for the regional water system for the eastern New Mexico water utility authority in Portales in Roosevelt county;

55. one hundred fifty-one thousand dollars (\$151,000) to plan, design and construct improvements to the water distribution system, including fire hydrants, fire protection and water circulation upgrades, in Portales in Roosevelt county;

56. seventy-seven thousand eight hundred dollars (\$77,800) to design and construct improvements to the water system, including replacing piping and transferring water taps to the new water lines, for the Southside mutual domestic water association in San Juan county;

57. fifty thousand dollars (\$50,000) to plan and design the erection of a new water tank for the Southside mutual domestic water association in San Juan county;

58. two million dollars (\$2,000,000) to design and construct improvements to the Valley Acres wastewater system in Kirtland in San Juan county;



59. thirty-two thousand dollars (\$32,000) to purchase and install a water storage tank for the Chapelle mutual domestic water consumers association in San Miguel county;

60. ten thousand dollars (\$10,000) to drill and construct a water supply well for El Creston mutual domestic water consumers association in San Miguel county;

61. ten thousand dollars (\$10,000) to plan, design and construct a water storage tank for El Valle water alliance in La Sacatosa in San Miguel county;

62. fifty thousand dollars (\$50,000) to plan water system improvements for the Rowe mutual domestic water consumers association in San Miguel county;

63. ten thousand dollars (\$10,000) to plan, design and construct water system improvements, including a water storage tank, for the Sena mutual domestic water consumers association in San Miguel county;

64. fifty thousand dollars (\$50,000) to plan, design and construct sewer system improvements and a sewer line extension along New Mexico highway 63 and Rincon road in Pecos in San Miguel county;

65. fifty thousand dollars (\$50,000) to plan, design and construct water system improvements and a water line along New Mexico highway 63 to connect wells and water storage tanks in Pecos in San Miguel county;

~~[66. seventy-five thousand dollars (\$75,000) to design and construct a water line extension and a wastewater line from Corrales road to access points for Casa San Ysidro museum and old San Ysidro church on Old Church road in Corrales in Sandoval county;] *LINE-ITEM VETOED.*~~

67. one hundred sixty-five thousand six hundred dollars (\$165,600) to acquire property for and to plan, design and construct improvements to the wastewater system, including the sewer lift stations and sewer line extensions, in Cuba in Sandoval county;

68. thirty-five thousand dollars (\$35,000) to plan, design and construct improvements to the water system, including replacing and extending water lines, purchasing and installing fire hydrants and replacing water meters, in Cuba in Sandoval county;

69. two hundred fifty thousand dollars (\$250,000) to plan, design, construct and equip improvements to las acequias de Placitas water system in Placitas in Sandoval county;

70. one million seventy-five thousand dollars (\$1,075,000) to plan, design and construct water system improvements, including water lines, in Rio Rancho in Sandoval county;

71. fifty thousand dollars (\$50,000) to plan, design and construct water distribution system infrastructure in Agua Fria in Santa Fe county;

72. two hundred thousand dollars (\$200,000) to plan, design and construct wells for the Eldorado Area water and sanitation district in Santa Fe county;

~~[73. five thousand dollars (\$5,000) to plan, design and construct water system improvements, including a treatment system and fence, at the Nambe community center and park in Santa Fe county;]~~ *LINE-ITEM VETOED.*

74. seventy thousand dollars (\$70,000) to construct wastewater infrastructure at the Pueblo of Tesuque in Santa Fe county;

75. two hundred fifty thousand dollars (\$250,000) to purchase and equip trucks, trailers and compactors for the solid waste department in Sierra county;

76. two hundred fourteen thousand dollars (\$214,000) to design and construct water system improvements, including replacing water lines and fire hydrants, in Elephant Butte in Sierra county;

77. one hundred thousand dollars (\$100,000) to construct phase 3 water system improvements in the Alamo chapter of the Navajo Nation in Socorro county;

78. fifty thousand eight hundred thirty dollars (\$50,830) to design and construct a telemetry system for the municipal water system in Magdalena in Socorro county;

79. fifty thousand dollars (\$50,000) for well and water system construction and improvements, land purchase, generators and refurbishing of sewer manholes in the El Prado water and sanitation district in Taos county;

~~[80. fifty thousand dollars (\$50,000) to purchase and equip a vector truck for El Valle de los Ranchos water and sanitation district in Taos county;]~~ *LINE-ITEM VETOED.*

81. forty thousand dollars (\$40,000) to construct a fence for Las Trampas mutual domestic water consumers and mutual sewage works association in Taos county;

82. twenty-five thousand dollars (\$25,000) to design and construct water system improvements for the Llano Quemado mutual domestic water consumers association in Taos county;

83. fifty thousand one hundred dollars (\$50,100) to design and construct a water distribution expansion, including water lines, valves and hydrants, for the lower Arroyo Hondo mutual domestic water consumers and mutual sewage works association in Taos county;

84. one hundred twenty-five thousand dollars (\$125,000) to construct water system improvements, including the purchase and installation of new water storage tanks, a pump station, water lines and meters, for the Lower Des Montes mutual domestic water consumers association in Des Montes and Valdez in Taos county;

85. fifty thousand dollars (\$50,000) to design and construct improvements to the water system, including a potable water uranium treatment system, a storage tank, well vault, well house, piping, meters, flow hydrant and related equipment and technology, for the upper Arroyo Hondo mutual domestic water consumers association in Taos county;

86. fifty thousand dollars (\$50,000) to plan, design and construct wastewater system improvements in Questa in Taos county;

87. fifty-three thousand dollars (\$53,000) to plan, design and construct sewer lines and extensions to the Pineridge subdivision in Red River in Taos county;

88. one hundred seventy thousand dollars (\$170,000) to construct solid waste landfill cells at the regional landfill for the Estancia Valley solid waste authority in Torrance county;

89. sixty thousand dollars (\$60,000) to plan, design and construct water system improvements, including replacement of the waterline from the main meter to the first village meter, in Encino in Torrance county;

90. twenty thousand dollars (\$20,000) to construct sewer system improvements to the lines and lift station in Estancia in Torrance county;

91. four hundred fifty thousand dollars (\$450,000) to plan, design, construct and equip water system improvements, including drilling wells, replacing meters and improving storage, in Moriarty in Torrance county;

92. three hundred ten thousand dollars (\$310,000) to plan, design, construct, purchase, install and equip improvements to the water system, including a water tank, in Des Moines in Union county;

93. fifteen thousand dollars (\$15,000) to plan, design and construct water system improvements, including a well for fire suppression, in Bartola canyon in Valencia county;

94. three hundred thousand dollars (\$300,000) to purchase and install radio-read water meters for the water system in Bosque Farms in Valencia county; and

95. two hundred fifty thousand dollars (\$250,000) to plan, design and construct wastewater system improvements in Peralta in Valencia county.

### **Chapter 226 Section 24 Laws 2013**

SECTION 24. STATE FAIR COMMISSION PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico 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. fifty-nine thousand dollars (\$59,000) to purchase, install and acquire exhibits, displays, storage for art and exhibitions and equipment at the African American performing arts center at the New Mexico state fairgrounds in Albuquerque in Bernalillo county;

2. sixty thousand dollars (\$60,000) to make infrastructure improvements and purchase and install equipment at the African American performing arts center at the New Mexico state fairgrounds in Albuquerque in Bernalillo county; and

3. one million seventy thousand dollars (\$1,070,000) to plan, design and construct infrastructure improvements and deferred maintenance to facilities at the New Mexico state fairgrounds in Albuquerque in Bernalillo county.

### **Chapter 226 Section 25 Laws 2013**

SECTION 25. DEPARTMENT OF GAME AND FISH PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico Act, upon certification by the department of game and fish that the need exists for the issuance of the bonds, one hundred fifty thousand dollars (\$150,000) is appropriated to the department of game and fish to plan, design, construct, equip and landscape a cold water fish production facility in Santa Rosa in Guadalupe county.

### **Chapter 226 Section 26 Laws 2013**

~~[SECTION 26. GOVERNOR'S COMMISSION ON DISABILITY PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico Act, upon certification by the governor's commission on disability that the need exists for the issuance of the bonds, one hundred thousand dollars (\$100,000) is appropriated to the governor's commission on disability for repairs, modifications and retrofitting of homes for people with disabilities and low-income families statewide.]~~  
*LINE-ITEM VETOED.*

## Chapter 226 Section 27 Laws 2013

SECTION 27. DEPARTMENT OF HEALTH PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico Act, upon certification by the department of health that the need exists for the issuance of the bonds, nine hundred thousand dollars (\$900,000) is appropriated to the department of health to purchase and install furniture, fixtures and equipment to complete phase 2 of the New Meadows building at the New Mexico behavioral health institute in Las Vegas in San Miguel county.

## Chapter 226 Section 28 Laws 2013

SECTION 28. INDIAN AFFAIRS DEPARTMENT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico 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. five hundred eighty-seven thousand five hundred dollars (\$587,500) to purchase land and buildings from Bernalillo county to expand the campus of the Indian pueblo cultural center in Albuquerque in Bernalillo county;

2. one hundred sixty thousand three hundred forty-two dollars (\$160,342) to purchase and install security cameras and infrastructure campuswide at southwestern Indian polytechnic institute in Albuquerque in Bernalillo county;

~~[3. fifty thousand dollars (\$50,000) to plan, design, construct, equip and furnish an emergency medical services building in the To'hajiilee chapter of the Navajo Nation in Bernalillo county;]~~ *LINE-ITEM VETOED.*

~~[4. ninety five thousand dollars (\$95,000) to plan, design and construct a recreational and cultural park in the Pueblo of Acoma in Cibola county;]~~ *LINE-ITEM VETOED.*

5. sixty-one thousand dollars (\$61,000) to purchase and equip a handicapped-accessible van for the Pueblo of Acoma in Cibola county;

6. one hundred twenty thousand dollars (\$120,000) to purchase and equip an ambulance for the fire and rescue department at the Pueblo of Laguna in Cibola county;

7. one hundred fourteen thousand dollars (\$114,000) to plan, design, construct, furnish and equip the fire and rescue substation in the Pueblo of Laguna in Cibola county;

8. one hundred fifty thousand dollars (\$150,000) to extend a powerline and construct house wiring improvements in the Baahaali chapter of the Navajo Nation in McKinley county;

9. one hundred twenty-five thousand dollars (\$125,000) to extend powerlines in the Baca Prewitt chapter of the Navajo Nation in McKinley county;

~~[10. one hundred thousand dollars (\$100,000) to construct the chapter house for the Chichiltah chapter of the Navajo Nation in McKinley county;]~~ *LINE-ITEM VETOED.*

11. one hundred fifty thousand dollars (\$150,000) to plan, design and construct a chapter house facility and parking lot in the Iyanbito chapter of the Navajo Nation in McKinley county;

12. forty-five thousand dollars (\$45,000) to construct bathroom additions in the Mariano Lake chapter of the Navajo Nation in McKinley county;

13. fifty thousand dollars (\$50,000) to construct, purchase and install bathroom fixtures and plumbing in the Mariano Lake chapter of the Navajo Nation in McKinley county;

~~[14. fifty thousand dollars (\$50,000) to plan, design and construct a multipurpose center in the Mexican Springs chapter of the Navajo Nation in McKinley county;]~~ *LINE-ITEM VETOED.*

~~[15. seventy thousand dollars (\$70,000) to plan, design and construct roof and building repairs for the multipurpose building in the Rock Springs chapter of the Navajo Nation in McKinley county;]~~ *LINE-ITEM VETOED.*

16. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct and renovate the head start building in the Tse'ii'ahi chapter of the Navajo Nation in McKinley county;

17. two hundred fifty thousand dollars (\$250,000) to plan, design and construct phase 1 of the veterans' memorial park at the Pueblo of Zuni in McKinley county;

18. one hundred eighty-eight thousand dollars (\$188,000) to plan, design and construct a veterans service center, including office space, health, recreation and farmers' market facilities, for the Pueblo of Isleta in Valencia county;

19. fifty thousand dollars (\$50,000) to plan, design and construct a veterans facility in the Rock Springs chapter of the Navajo Nation in McKinley and San Juan counties;

20. one hundred thousand dollars (\$100,000) to purchase school buses for the Pueblo of Sandia in Sandoval county;

21. fifty thousand dollars (\$50,000) to renovate the chapter house in the White Rock chapter of the Navajo Nation in San Juan county;

22. two hundred thousand dollars (\$200,000) to design and construct infrastructure improvements to the I-Sah-Din-Dii housing development for the Mescalero Apache tribe in Otero county;

23. ten thousand dollars (\$10,000) to purchase continuous positive airway pressure respiratory ventilators for the emergency medical service in the Jicarilla Apache Nation in Dulce in Rio Arriba county;

24. eighty-seven thousand dollars (\$87,000) to purchase cardiac defibrillators and related equipment for the emergency medical service in the Jicarilla Apache Nation in Dulce in Rio Arriba county;

25. one hundred twenty-five thousand dollars (\$125,000) to plan and design a judicial complex that includes police and fire departments, a courthouse and a jail, in Ohkay Owingeh in Rio Arriba county;

~~[26. thirty thousand dollars (\$30,000) to purchase and install propane tanks for Cove chapter veterans residing in the Navajo Nation in San Juan county;]~~  
*LINE-ITEM VETOED.*

~~[27. fifty thousand dollars (\$50,000) to plan, design and construct a multipurpose building in the Crystal chapter of the Navajo Nation in San Juan county;]~~  
*LINE-ITEM VETOED.*

28. eighty-five thousand dollars (\$85,000) for demolition of the condemned senior center in the Gadii'ahi-To'koi chapter of the Navajo Nation in San Juan county;

29. one hundred fifteen thousand five hundred dollars (\$115,500) to construct bathroom additions in the Lake Valley chapter of the Navajo Nation in San Juan county;

30. fifty thousand dollars (\$50,000) to construct bathroom additions and water and sewer improvements in the Nageezi chapter of the Navajo Nation in San Juan county;

~~[31. fifty thousand dollars (\$50,000) to design and construct a parking lot at the Newcomb chapter of the Navajo Nation in San Juan county;]~~ *LINE-ITEM VETOED.*

32. seventy thousand dollars (\$70,000) to design and construct security fencing at the Shiprock irrigation compound in Shiprock in the Navajo Nation in San Juan county;

33. fifty-two thousand dollars (\$52,000) to purchase and install information technology, including related equipment, furniture and infrastructure, for departments at five Sandoval Indian pueblos in Sandoval county;

34. fifty thousand dollars (\$50,000) to renovate and equip the Cochiti library and cultural building at the Pueblo of Cochiti in Sandoval county;

35. one hundred fifty thousand dollars (\$150,000) to renovate the multiuse facility in the Pueblo of Cochiti in Sandoval county;

36. ninety-five thousand dollars (\$95,000) to purchase and equip buses for education programs at the Pueblo of Jemez in Sandoval county;

37. one hundred thousand dollars (\$100,000) to construct fire apparatus bays for the Pueblo of Jemez in Sandoval county;

38. fifty thousand dollars (\$50,000) to plan, design, purchase, install and prepare the site for a veterans' building in the Pueblo of Jemez in Sandoval county;

39. one hundred fifty-five thousand dollars (\$155,000) to plan, design and construct a judicial complex at the Pueblo of San Felipe in Sandoval county;

40. fifty thousand dollars (\$50,000) to construct, equip and furnish a multipurpose education, health and wellness center for the Pueblo of Santa Ana in Sandoval county;

41. one hundred ninety-six thousand two hundred thirty-four dollars (\$196,234) to plan, design, construct, furnish and equip a regional police substation and temporary holding facility for the Pueblo of Santa Ana in Sandoval county;

42. one hundred fifty thousand dollars (\$150,000) to purchase a trash truck for curbside trash pickup in the Pueblo of Santo Domingo in Sandoval county;

43. fifty thousand dollars (\$50,000) to plan, design and construct a water line for Cayaditto camp and Torreon south in the Torreon-Star Lake chapter of the Navajo Nation in Sandoval county;

44. seventy-five thousand dollars (\$75,000) to erect a series of wireless radio antennas to create an internet service signal canopy in the Pueblo of Zia in Sandoval county;



45. five hundred thousand dollars (\$500,000) to plan and design a fitness and wellness center at the institute of American Indian arts in Santa Fe county;

46. forty-one thousand seven hundred dollars (\$41,700) to plan, design and construct improvements to the administration building in the Pueblo of Nambe in Santa Fe county;

~~[47. one hundred thousand dollars (\$100,000) for improvements, including interior and exterior plaster and stucco, to the Poeh center at the Pueblo of Pojoaque in Santa Fe county;]~~ *LINE-ITEM VETOED.*

48. one hundred thousand dollars (\$100,000) to plan, design and construct a basketball and volleyball court in the teen center of the Pueblo of Pojoaque wellness center in Santa Fe county;

49. seven hundred eight thousand dollars (\$708,000) to plan, design, construct, equip and furnish a regional wellness and education center, including classrooms and laboratories, at the Santa Fe Indian school in Santa Fe in Santa Fe county;

~~[50. thirty thousand dollars (\$30,000) to plan, design and construct an educational complex at the Pueblo of Tesuque in Santa Fe county;]~~ and *LINE ITEM VETOED.*

51. eighty-five thousand dollars (\$85,000) to plan, design and construct a veterans' living memorial park at the Pueblo of Taos in Taos county.

## **Chapter 226 Section 29 Laws 2013**

SECTION 29. INTERSTATE STREAM COMMISSION PROJECTS-- SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico 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. twenty thousand dollars (\$20,000) to plan, design and construct improvements to the Little Gardens lateral of Los Ranchos de Atrisco acequia in Bernalillo county;

2. thirty thousand dollars (\$30,000) to plan, design and construct improvements to acequias Anton Chico, La Loma and Tecolotito in Guadalupe county;

3. sixty thousand dollars (\$60,000) to plan and design a diversion dam for the Colonias community ditch in Guadalupe county;

~~[4. thirty-six thousand five hundred dollars (\$36,500) to plan, design and construct improvements, including a concrete ditch lining, for the east Puerto de Luna ditch association in Guadalupe county;] LINE-ITEM VETOED.~~

5. thirty thousand dollars (\$30,000) to construct improvements and to pay off a loan for a diversion dam for the west Puerto de Luna acequia association in Guadalupe county;

6. fifty thousand dollars (\$50,000) to construct improvements to la acequia de Santa Cruz in Santa Fe and Rio Arriba counties;

7. forty-five thousand dollars (\$45,000) to plan, design and construct improvements to the acequia de los Barriales in Servilleta Plaza in Rio Arriba county;

8. forty-one thousand eight hundred fifty dollars (\$41,850) to construct improvements to la acequia del Llano de Santa Cruz in Rio Arriba county;

9. fifty thousand dollars (\$50,000) to plan, design and construct improvements, including dam and head gates, to the acequia del Molino in Servilleta plaza in Rio Arriba county;

10. one hundred thousand dollars (\$100,000) to purchase water rights and storage space at the reservoirs in northern New Mexico for use by the memberships of acequias nortenas and the Rio de Chama acequias on the Rio Chama in Rio Arriba county;

11. twenty thousand dollars (\$20,000) to plan, design and construct improvements, including installation of head gates, to the acequia Mesa del Medio in Coyote in

Rio Arriba county;

12. eighty thousand dollars (\$80,000) to plan, design and construct improvements to the acequia de La Plaza de Dixon in Rio Arriba county;

13. seventy-two thousand dollars (\$72,000) to construct acequia improvements, including purchase and installation of culverts, for la acequia del Llano in Dixon in Rio Arriba county;

14. twelve thousand dollars (\$12,000) to plan, design and construct improvements, including purchase, cutting and installation of steel culverts and dike improvements, to acequia del Rincon in Embudo in Rio Arriba county;

15. thirty thousand four hundred dollars (\$30,400) to construct improvements, including terracing, replacement of conveyance and control systems,

stabilization and riparian habitat restoration, to rehabilitate the Cecilia ditch in Gallina in Rio Arriba county;

16. fifteen thousand dollars (\$15,000) to plan, design and construct ditch improvements, including a concrete-capped gabion and irrigation pipeline water control system, for the Gallina east and west community ditch in Rio Arriba county and to pay off an interstate stream commission loan;

17. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to acequia del Molino in east Pecos in San Miguel county;

18. twenty-five thousand dollars (\$25,000) to construct infrastructure improvements, including piping and concrete structures, to the northside acequia madre de Villanueva in San Miguel county;

19. six thousand dollars (\$6,000) to construct improvements, including repairing and replacing sections of the cement ditch, for the northside acequia madre de Villanueva in San Miguel county;

20. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to the west Pecos acequia in San Miguel county;

21. forty thousand dollars (\$40,000) to design and construct improvements to the Archibeque ditch in Sandoval county;

22. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to the Los Pinos ditch in Sandoval county;

23. thirty thousand dollars (\$30,000) to plan, design and construct improvements, including replacement of pipe, head gates, valves and related infrastructure, for the Ponderosa community ditch in Sandoval county;

24. twenty thousand dollars (\$20,000) to construct improvements, including replacing the concrete lining, head gates and turnouts, to the San Ysidro community ditch system in Sandoval county;

25. forty-six thousand seven hundred fifty dollars (\$46,750) to plan, design and construct system improvements, including providing connections to acequia water sources and purchasing rights of way, for the acequia Agua Fria in Santa Fe county;

26. forty thousand dollars (\$40,000) for improvements, including restoration of the pond and acequia and the installation of head gates, for the acequia de los Chupaderos in Santa Fe county;

27. fifty thousand dollars (\$50,000) to construct improvements to acequia de los Indios, including repairing wells, gates and linings, in El Rancho in Santa Fe county;

28. four thousand eight hundred dollars (\$4,800) to plan, design and construct improvements, including erosion and flood control, to the acequia de Sombrillo in Santa Fe county;

29. sixteen thousand dollars (\$16,000) to construct and install infiltration and diversion improvements to the acequia largo de Jacona in Santa Fe county;

30. ten thousand dollars (\$10,000) to construct improvements, including installation of culverts, to mitigate erosion and rehabilitate the acequia del Potrero in Chimayo in Santa Fe county;

31. eighty-two thousand six hundred sixty-seven dollars (\$82,667) to construct improvements, including replacement of valves and pipeline, to the acequia de la Cienega in La Cienega in Santa Fe county;

32. fifty thousand three hundred eighty-six dollars (\$50,386) to improve the electrical system to convey water from the well to the acequia for the acequia de la Cienega in La Cienega in Santa Fe county;

33. ninety-four thousand dollars (\$94,000) to plan, design and construct improvements, including culverts and lining, to the acequias La Nueva, del Llano and Comunidad in the Pueblo of Nambe in Santa Fe county;

34. twenty-five thousand dollars (\$25,000) to plan, design and construct a diversion for the acequia de la Otra Banda in Jacona in Santa Fe county;

35. thirty-four thousand dollars (\$34,000) to plan, design and construct riverbank improvements for the acequia de la Otra Banda on Pueblo of Pojoaque land in Jacona in Santa Fe county;

36. nine thousand five hundred dollars (\$9,500) to construct improvements to the acequia de Morada in Santa Fe in Santa Fe county;

37. fifteen thousand dollars (\$15,000) to purchase, construct and install improvements, including a channel, to the acequia de la Sevadilla in Taos county;

38. twenty-five thousand dollars (\$25,000) for improvements, including the installation of piping, for the acequia de San Juan de Nepumuceno in Llano de San Juan in Taos county;

39. sixteen thousand dollars (\$16,000) to pay back a water project fund loan for improvements to the Talpa reservoir inlet acequia for acequia del Monte del Rio Chiquito in Taos county;

40. sixteen thousand four hundred dollars (\$16,400) to pay off a water project fund loan for the acequias Madre and Monte del Rio Chiquito in Taos county;

41. twenty-five thousand dollars (\$25,000) to plan, design and construct a fence at the Talpa irrigation reservoir in Taos county[; and

~~42. twenty-five thousand dollars (\$25,000) to construct a diversion dam and reconstruct portions of the existing acequia de Arriba del Llano de San Miguel in Taos county].~~ *LINE-ITEM VETOED.*

### **Chapter 226 Section 30 Laws 2013**

~~[SECTION 30. LEGISLATIVE COUNCIL SERVICE PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico Act, upon certification by the legislative council service that the need exists for the issuance of the bonds, one hundred eighty-five thousand dollars (\$185,000) is appropriated to the legislative council service to study, plan, design, install and construct a photovoltaic solar array to provide electrical energy to the capitol complex in Santa Fe in Santa Fe county.]~~ *LINE-ITEM VETOED.*

### **Chapter 226 Section 31 Laws 2013**

~~SECTION 31. LOCAL GOVERNMENT DIVISION OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION PROJECTS--SEVERANCE TAX~~

~~BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico 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. one hundred forty-five thousand four hundred fifty dollars (\$145,450) to purchase, plan, design and construct a park and outdoor facilities along the bluff area of the Arenal drain from west Central avenue to Bridge street, both within and outside the city limits of Albuquerque in Bernalillo county;~~

~~2. sixty-five thousand dollars (\$65,000) to purchase equipment and to plan, design and construct improvements to the Atrisco Valley little league facility and parking lot in Bernalillo county;~~

~~3. one hundred seventy thousand dollars (\$170,000) to purchase and equip head start program buses in Bernalillo county;~~

~~[4. sixty thousand dollars (\$60,000) to purchase land and plan, design, construct, equip and furnish site improvements at and near Los Vecinos community center in Bernalillo county;] *LINE-ITEM VETOED.*~~

~~[5. twenty-five thousand dollars (\$25,000) to purchase and install information technology and surveillance equipment and to design, construct and install a greenhouse and showers for a center serving Native Americans in Bernalillo county;] *LINE-ITEM VETOED.*~~

6. seven hundred seventy thousand dollars (\$770,000) to purchase, design and construct fields and facilities for the North Valley little league in Bernalillo county;

7. seventy-five thousand dollars (\$75,000) to plan, design and construct the playground and purchase and install equipment at Pajarito mesa in Bernalillo county;

8. seventy-five thousand dollars (\$75,000) to plan, design, construct and furnish landscaping improvements at the Paradise Hills community center in Bernalillo county;

9. fifty thousand dollars (\$50,000) to purchase and equip police cruisers for Bernalillo county;

~~[10. fifteen thousand dollars (\$15,000) to plan, design, construct and install public art on county-owned buildings and land in Bernalillo county;] *LINE-ITEM VETOED.*~~

11. one hundred thousand dollars (\$100,000) to plan, design, construct and install gutters, a liner and decking at the Rio Grande indoor pool in Bernalillo county;

12. one hundred thousand dollars (\$100,000) to construct backboard walls for the tennis complex in the south valley area of Bernalillo county;

13. one million one hundred fourteen thousand five hundred dollars (\$1,114,500) to purchase land for a wildlife refuge in the south valley area of Bernalillo county;

14. twenty-six thousand six hundred sixty-seven dollars (\$26,667) to plan, design and construct the playground and purchase and install equipment at the early childhood education center at Los Padillas community center in Bernalillo county;

15. two hundred forty-seven thousand one hundred five dollars (\$247,105) to purchase, plan, design, construct and equip a route 66 visitors center on west Central avenue in Bernalillo county;

16. twenty-five thousand one hundred sixty-seven dollars (\$25,167) to plan, design, construct, purchase and install park benches and improvements at Alamosa park in Albuquerque in Bernalillo county;

17. one hundred ten thousand dollars (\$110,000) to plan, design and construct infrastructure and safety improvements to Altamonte little league park in Albuquerque in Bernalillo county;

18. two hundred thirty-two thousand five hundred dollars (\$232,500) to plan, design, construct and equip the jaguar yard "jag joint" in the Albuquerque biopark in Bernalillo county;

19. one hundred nine thousand five hundred dollars (\$109,500) to plan, design and construct shade structures, safety netting and security fencing and to purchase maintenance vehicles for Dale Bellamah park in Albuquerque in Bernalillo county;

20. twenty thousand dollars (\$20,000) to renovate, upgrade, furnish and equip the Ernie Pyle library in Albuquerque in Bernalillo county;

21. one million fourteen thousand forty-one dollars (\$1,014,041) to plan, design, construct, furnish and equip phase 2 of a building addition and to design, construct, purchase and install exhibits, furnishings and equipment for the Explora science center and children's museum in Albuquerque in Bernalillo county;

22. six hundred eighty-eight thousand three hundred thirty-four dollars (\$688,334) to purchase and equip a fire engine for east side fire department operations in Albuquerque in Bernalillo county;

23. four hundred eighty-nine thousand one hundred twenty-eight dollars (\$489,128) to purchase and equip a fire engine for west side fire department operations in Albuquerque in Bernalillo county;

24. seven hundred fifteen thousand seven hundred fifty dollars (\$715,750) to renovate and equip the Hiland theater in Albuquerque in Bernalillo county;

25. five hundred seventy thousand dollars (\$570,000) to design a library for the southeast heights area of Albuquerque in Bernalillo county;

26. one hundred ten thousand dollars (\$110,000) to purchase and install dental equipment and information technology, including related equipment and furniture, at the Hinkle, Candelaria and Gonzales low-income clinics in Albuquerque in Bernalillo county;

27. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, purchase and install equipment and furnishings, including vehicles and

playground and recreation equipment, and to purchase and install security and information technology upgrades, including related furniture, equipment and infrastructure, for the Mesa Verde community center in Albuquerque in Bernalillo county;

28. one hundred eighty-nine thousand four hundred forty-four dollars (\$189,444) to plan, design, renovate and construct improvements, including acquisition of artifacts and fabrication of exhibits, in the Albuquerque museum of art and history in Albuquerque in Bernalillo county;

29. one hundred eighty thousand dollars (\$180,000) to plan and design phase 3 improvements to the North Domingo Baca multigenerational center gymnasium and spray park in Albuquerque in Bernalillo county;

30. two hundred thousand dollars (\$200,000) to plan, design, construct, renovate and equip the North Domingo Baca multigenerational center in Albuquerque in Bernalillo county;

31. fifteen thousand dollars (\$15,000) to plan, design and construct a pedestrian and bicycle path between Old Town and the biopark in Albuquerque in Bernalillo county;

32. fifty thousand dollars (\$50,000) to improve, purchase and install backstops and fencing for the Petroglyph little league in Albuquerque in Bernalillo county;

33. ten thousand dollars (\$10,000) to purchase and install fence toppers for the Petroglyph little league fields in Albuquerque in Bernalillo county;

34. fifty thousand dollars (\$50,000) to purchase and install score booths on fields for the Petroglyph little league in Albuquerque in Bernalillo county;

35. thirty thousand dollars (\$30,000) to purchase and install scoreboards for the Petroglyph little league in Albuquerque in Bernalillo county;

36. ten thousand dollars (\$10,000) to purchase a utility vehicle for the Petroglyph little league in Albuquerque in Bernalillo county;

37. four hundred eighty-six thousand four hundred twenty-six dollars (\$486,426) to purchase and equip vehicles for the police department in Albuquerque in Bernalillo county;

38. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to Roadrunner little league park and infrastructure in Albuquerque in Bernalillo county;



39. ten thousand dollars (\$10,000) to renovate and upgrade San Pedro library, including parking lot improvements, lighting and landscaping, in Albuquerque in Bernalillo county;

40. fifty thousand dollars (\$50,000) to design and construct sidewalks and ramps and purchase and install water fountains and safety nets for the softball fields at Santa Barbara-Martineztown park in Albuquerque in Bernalillo county;

41. seven thousand five hundred dollars (\$7,500) to purchase a colposcope camera system to facilitate forensic examinations of sexual assault victims in Albuquerque in Bernalillo county;

42. four hundred thousand dollars (\$400,000) to construct the gateway landscape in the south Martineztown neighborhood of Albuquerque in Bernalillo county;

43. twenty-five thousand dollars (\$25,000) to plan and design building modifications to upgrade veterans' transitional living facilities pursuant to the Affordable Housing Act in Albuquerque in Bernalillo county;

44. forty thousand dollars (\$40,000) to plan, purchase, construct, equip and furnish a community development facility in the west Central metropolitan redevelopment district in Albuquerque in Bernalillo county;

45. one hundred thousand dollars (\$100,000) to plan, design and construct phase 2 infrastructure improvements for the economic development project at Fifty-seventh street and Central avenue in the west Central metropolitan redevelopment district in Albuquerque in Bernalillo county;

46. four hundred eighty-three thousand six hundred thirty-four dollars (\$483,634) to plan, design, construct, acquire rights of way, furnish and equip a westside library in Albuquerque in Bernalillo county;

~~[47. one hundred thousand dollars (\$100,000) to purchase greenhouse equipment for adult day habilitation in Albuquerque in Bernalillo county;]~~ *LINE-ITEM VETOED.*

48. sixty thousand dollars (\$60,000) to purchase and install playground equipment inclusive of children with special needs in parks in Albuquerque in Bernalillo county;

49. two hundred three thousand dollars (\$203,000) to purchase equipment and to plan, design and rehabilitate affordable housing for low-income seniors and families pursuant to the Affordable Housing Act in the Barelmas neighborhood in Albuquerque in Bernalillo county;

50. one hundred twenty-five thousand dollars (\$125,000) to plan, design, purchase and install multimedia training equipment and information technology, including related furniture and infrastructure, in the Corinne Wolfe children's services and advocacy center in Albuquerque in Bernalillo county;

51. two hundred ninety-nine thousand nine hundred dollars (\$299,900) to purchase, install and equip mobile food units in Bernalillo county;

52. seven thousand five hundred dollars (\$7,500) to purchase and install information technology, including related furniture, equipment and infrastructure, for rape crisis assistance programs in Albuquerque in Bernalillo county;

~~[53. twenty thousand dollars (\$20,000) to purchase, retrofit and equip a vehicle as a mobile "Rec and Roll" community center in Albuquerque in Bernalillo county;]~~ *LINE-ITEM VETOED.*

54. fourteen thousand dollars (\$14,000) to purchase and install bleachers at the Wyoming boulevard recreational center for the New Mexico sheriff and police athletic league in Albuquerque in Bernalillo county;

55. one hundred forty-one thousand five hundred dollars (\$141,500) to purchase, plan, design and construct a multipurpose room for the youth crisis shelter in the south valley in Albuquerque in Bernalillo county;

56. seven hundred fifty-seven thousand seven hundred fifteen dollars (\$757,715) to purchase, plan, design and renovate facilities for a transitional living and substance abuse recovery center for adolescents and young adults in Albuquerque in Bernalillo county;

~~[57. seventy-five thousand dollars (\$75,000) to plan, design, purchase and construct arches on east Central avenue in Albuquerque in Bernalillo county;]~~ *LINE-ITEM VETOED.*

58. seventy thousand dollars (\$70,000) to purchase, plan, design, construct and equip route 66 visitors' centers on east and west Central avenue in Bernalillo county;

59. twenty-five thousand dollars (\$25,000) to plan, design, construct, equip and furnish improvements to the geographic information systems and 911 building in Catron county;

60. eighty thousand dollars (\$80,000) to purchase and equip law enforcement vehicles for Catron county;

61. seventy-nine thousand five hundred dollars (\$79,500) to plan, design, purchase and install flooring in the multipurpose facility in Reserve in Catron county;

62. one hundred thousand dollars (\$100,000) to purchase, install and equip a cylinder recharging station, including cylinders and valves, for the east Grand Plains volunteer fire department in Chaves county;

63. one hundred fifty thousand dollars (\$150,000) to design, construct, purchase and equip a tanker truck and related equipment for the Midway volunteer fire department in Chaves county;

64. two hundred fifteen thousand dollars (\$215,000) to design, construct, purchase and install lighting and bleachers at the sports complex in Dexter in Chaves county;

65. one hundred ninety-three thousand dollars (\$193,000) to renovate, furnish and equip the municipal building in Hagerman in Chaves county;

~~[66. thirty five thousand dollars (\$35,000) to purchase and equip a tractor for Lake Arthur in Chaves county;] *LINE-ITEM VETOED.*~~

~~[67. one hundred fifty thousand dollars (\$150,000) for a bronze statue of Nancy Lopez and her father to be installed at the country club at Spring River in Roswell in Chaves county;] *LINE-ITEM VETOED.*~~

68. four hundred fifty thousand dollars (\$450,000) to design, construct and renovate fire station 1 in Roswell in Chaves county;

69. one hundred fifty thousand dollars (\$150,000) to plan, design and renovate the restroom facility in the Fisk building in Roswell in Chaves county;

70. thirty thousand dollars (\$30,000) to plan, design, construct, purchase, install and improve playground equipment in parks in Roswell in Chaves county;

71. three hundred thousand dollars (\$300,000) to plan, design, construct, furnish and equip the relocation and renovation of the thirteenth judicial district complex in Grants in Cibola county;

72. seventy thousand dollars (\$70,000) to plan and design a combined facility to house a primary care clinic and ambulance service in Cimarron for the south central Colfax county special hospital district;

73. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate, equip and furnish the business enterprise center, including parking lot improvements, resurfacing and lighting, in Clovis in Curry county;

74. fifty thousand dollars (\$50,000) to replace the roof on the food bank in Clovis in Curry county;

75. forty thousand dollars (\$40,000) to plan, design, construct and equip a plaque and fencing for the Martin Luther King, Jr., memorial at Potter park in Clovis in Curry county;

76. two hundred twenty-nine thousand dollars (\$229,000) for site development and to plan, design and construct farmers' market and youth recreation center facilities in the Anthony water and sanitation district in Dona Ana county;

77. sixty thousand dollars (\$60,000) to plan, design, construct, purchase and install shade structures and bleachers at the Butterfield park ballpark in Dona Ana county;

78. fifty thousand dollars (\$50,000) to plan, design, construct, purchase and install improvements and equipment in Del Cerro park in Dona Ana county;

79. sixty-seven thousand five hundred dollars (\$67,500) to plan, design and construct improvements, including improvements to comply with the federal Americans with Disabilities Act of 1990, at the southern New Mexico fair and rodeo facility in Dona Ana county;

80. two million two hundred fifty thousand dollars (\$2,250,000) to purchase property for and to plan, design, construct, purchase, install and equip the Mesilla valley regional dispatch authority emergency 911 center in Dona Ana county;

81. fifty thousand dollars (\$50,000) to plan, design, construct and landscape a walkway and exercise path along Anthony drive in Anthony in Dona Ana county;

82. four hundred twenty-five thousand dollars (\$425,000) to plan, design and construct a multipurpose municipal building in Anthony in Dona Ana county;

83. ten thousand dollars (\$10,000) to plan, design, construct and equip outdoor lighting at the Anthony ballpark [~~in Chaparral~~] in Dona Ana county; *LINE-ITEM VETOED.*

84. forty thousand dollars (\$40,000) to plan, design, construct and install a gas line on County Line road to the Betty McKnight community center in Chaparral in Dona Ana county;

85. fifty thousand dollars (\$50,000) to plan, design and construct improvements to Delores Wright park in Chaparral in Dona Ana county;

86. ninety thousand dollars (\$90,000) to plan, design, construct, equip and install lighting improvements to the Dona Ana ballpark in Dona Ana county;

87. forty thousand dollars (\$40,000) to purchase, plan, design, construct and equip improvements for La Mesa ballpark in Dona Ana county;

88. nine hundred forty-three thousand dollars (\$943,000) to plan, design, construct and renovate the heating, ventilation, air conditioning and lighting systems at the third judicial district court facility in Dona Ana county;

89. one hundred forty thousand dollars (\$140,000) to plan, design, renovate and equip a child crisis health facility in Las Cruces in Dona Ana county;

~~[90. two hundred fifty thousand dollars (\$250,000) to construct a downtown civic plaza in Las Cruces in Dona Ana county;]~~ *LINE-ITEM VETOED.*

91. sixty thousand dollars (\$60,000) to construct and renovate the ball fields in the Hadley avenue recreation area in Las Cruces in Dona Ana county;

92. seventy-five thousand dollars (\$75,000) to design and construct improvements and restoration of facilities and grounds at Klein park in Las Cruces in Dona Ana county;

93. fifty thousand dollars (\$50,000) to enhance and construct street lighting in the Mesquite historic district of Las Cruces in Dona Ana county;

94. twenty-five thousand dollars (\$25,000) for site improvements and construction of a Vietnam war memorial in veterans' park in Las Cruces in Dona Ana county;

95. two hundred fifteen thousand dollars (\$215,000) to purchase and equip an animal transport van for the Mesilla Valley animal service center in Las Cruces in Dona Ana county;

96. four hundred fifty-two thousand dollars (\$452,000) to plan, design and construct improvements to the public safety building in Mesilla in Dona Ana county;

97. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, renovate and equip the community center in Mesquite in Dona Ana county;

98. thirty-five thousand dollars (\$35,000) to plan, design, renovate, construct and equip the kitchen in the Placitas community center in Dona Ana county;

99. sixty thousand dollars (\$60,000) to plan, design, construct and install a shade structure at the Radium Springs recreation area in Dona Ana county;

100. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase and install equipment at the Salem-Garfield community park in Salem in Dona Ana county;

~~[101. fifteen thousand dollars (\$15,000) to plan, design, construct and equip an animal shelter in Sunland Park in Dona Ana county;]~~ *LINE-ITEM VETOED.*

102. one hundred ten thousand dollars (\$110,000) to purchase and equip a lift and utility trucks for Sunland Park in Dona Ana county;

103. fifty thousand dollars (\$50,000) to plan, design, construct and equip a shooting range in northern Eddy county;

104. twenty-five thousand dollars (\$25,000) to plan, design, construct and equip anesthesia upgrades at Artesia general hospital in the Artesia special hospital district in Eddy county;

105. two hundred thousand dollars (\$200,000) to plan, design and construct a space for and the installation of a secondary power source for Artesia general hospital in the Artesia special hospital district in Eddy county;

106. fifty thousand dollars (\$50,000) to plan, design and construct improvements and renovations to Guadalupe park, including paving, curbs, gutters, sidewalks and lighting, in Artesia in Eddy county;

107. fifty-five thousand dollars (\$55,000) to plan, design, renovate, construct, furnish and equip an outreach center for at-risk youth in Artesia in Eddy county;

108. eighty thousand dollars (\$80,000) to plan, design, equip, furnish and construct improvements to the Halagueno arts park in Carlsbad in Eddy county;

109. one hundred thousand dollars (\$100,000) to plan, design, furnish, equip and construct improvements to the Noah's Ark animal shelter in Carlsbad in Eddy county;

110. twenty-five thousand dollars (\$25,000) to plan, design, replace, equip, furnish and construct improvements to the Sunset Gardens cemetery in Carlsbad in Eddy county;

111. one hundred seventy-five thousand dollars (\$175,000) to plan, design, purchase, construct, equip and furnish a Pecos valley drug task force complex, including parking, landscaping and fencing, for the county sheriff in Carlsbad in Eddy county;

112. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish a restroom facility for the Lake Carlsbad tennis courts in Carlsbad in Eddy county;

113. forty thousand dollars (\$40,000) to purchase and equip a truck for Hope in Eddy county;

114. two hundred thousand dollars (\$200,000) to plan, design and construct a municipal cemetery in Bayard in Grant county;

115. three hundred thousand dollars (\$300,000) to plan, design, construct, equip and furnish improvements to the sheriff's department in the county administration building, including storage areas, entryways, vaults and retaining walls, in Silver City in Grant county;

116. one hundred thousand dollars (\$100,000) to purchase, plan, design, construct, equip and furnish improvements to the fields in Scott park in Silver City in Grant county;

117. one hundred seventy-five thousand dollars (\$175,000) to purchase, plan, design, construct, equip and furnish lighting improvements to the fields in Scott park in Silver City in Grant county;

118. forty thousand dollars (\$40,000) to purchase and equip an ambulance for Santa Rosa in Guadalupe county;

~~[119. ten thousand dollars (\$10,000) to design, construct, equip and landscape an animal shelter in Santa Rosa in Guadalupe county;] LINE-ITEM VETOED.~~

120. eighty-five thousand dollars (\$85,000) to plan, design and construct a parking facility at the Blue Hole dive and convention center in Santa Rosa in Guadalupe county;

121. one hundred thousand dollars (\$100,000) to design, construct, equip and furnish the downtown beautification project on Main street from avenue M to avenue O in Eunice in Lea county;

122. one hundred ten thousand dollars (\$110,000) to construct a fire station at the Lea county regional airport in Hobbs in Lea county;

123. two hundred fifteen thousand dollars (\$215,000) to plan, design, construct, equip and furnish improvements, including wiring, windows, the roof, accessibility, bathrooms, entrances, exits and removal of asbestos and mold, to the police complex in Jal in Lea county;

124. five hundred thousand dollars (\$500,000) to design and construct a judicial complex in Lovington in Lea county;

125. three hundred seventy-five thousand dollars (\$375,000) to plan, design, construct and equip the Lovington medical clinic expansion in the Nor-Lea special hospital district in Lea county;

126. seventy-four thousand dollars (\$74,000) to plan, design, renovate, construct and equip watershed restoration and improvements to roads, facilities, campgrounds and the site for the Bonito Lake watershed in Lincoln county;

127. fifty thousand dollars (\$50,000) to plan, design, furnish, refurbish and construct improvements to the old city hall building for the Capitan community center in Lincoln county;

128. sixty thousand dollars (\$60,000) to purchase and equip trucks for the water and street department in Capitan in Lincoln county;

129. thirty thousand dollars (\$30,000) to purchase and equip a dump truck for Carrizozo in Lincoln county;

130. one hundred thousand dollars (\$100,000) to design, construct, equip, furnish and upgrade security for an expansion to the district court and county sheriff's complex in Carrizozo in Lincoln county;

131. twenty-five thousand dollars (\$25,000) for phase 1 design of an interoperable public safety radio system in Los Alamos county;

~~[132. fifty thousand dollars (\$50,000) for improvements and equipment for the math and science artwalk in the arts and cultural district in Los Alamos in Los Alamos county;] LINE-ITEM VETOED.~~

133. five hundred fifty thousand dollars (\$550,000) to construct, renovate, equip and furnish a regional law enforcement complex in Luna county;

~~[134. twenty thousand dollars (\$20,000) for renovations to the animal shelter in Gallup in McKinley county;] LINE-ITEM VETOED.~~

135. fourteen thousand dollars (\$14,000) to purchase, install and construct pillars at the veterans' memorial in Gallup in McKinley county;

136. fifty thousand dollars (\$50,000) to purchase and equip vehicles for services for disabled individuals in McKinley county;



137. fifty thousand dollars (\$50,000) to purchase and install office equipment and information technology, including related furniture, equipment and infrastructure, for the Gallup intertribal ceremonial office in Gallup in McKinley county;

138. fifteen thousand dollars (\$15,000) to renovate the kitchen in the community center in Thoreau in McKinley county;

139. one million eight hundred fifty-four thousand dollars (\$1,854,000) to plan, design, construct and furnish the county complex in Mora in Mora county, contingent on Mora county continuing its collaboration with the administrative office of the courts, receiving approval on procurement and design decisions from the administrative office of the courts when constructing the complex and reporting on the progress of the project to the department of finance and administration and the legislative finance committee;

140. one hundred eighty-five thousand dollars (\$185,000) to purchase a road grader and front end loader for the Ramah Navajo school board in Cibola and McKinley counties;

141. five hundred twenty-five thousand dollars (\$525,000) to plan, design, renovate and furnish the Plaza building to house the collections, exhibits, research library and book shop of the history museum of the Tularosa basin historical society in Alamogordo in Otero county;

142. sixty-two thousand eight hundred fifty dollars (\$62,850) to plan, design, renovate, construct and equip the kitchen and a new storage building at the Mayhill community center in Otero county;

143. two hundred thousand dollars (\$200,000) to plan, design, construct, equip, furnish, purchase and install a metal building for an animal shelter, including pad, lighting, fencing and a heating, ventilation and air conditioning system, in Tularosa in Otero county;

144. fifty thousand dollars (\$50,000) to purchase and equip heavy equipment, including a loader and a cement mixer, in Tularosa in Otero county;

145. one hundred ninety thousand dollars (\$190,000) to purchase construction equipment for the Arch Hurley conservancy district in Tukumcari in Quay county;

146. fifty thousand dollars (\$50,000) to purchase, install and equip air conditioning units at the county detention center in Quay county;

147. one hundred thousand dollars (\$100,000) to remove, dispose of, purchase and install windows at the Dan C. Trigg memorial hospital in Tukumcari in Quay county;

148. sixty thousand dollars (\$60,000) to purchase and equip vans and vehicles for transporting juvenile community corrections youth, staff and equipment in Rio Arriba county;

~~[149. one hundred eighty thousand dollars (\$180,000) to purchase and equip an evidence collection vehicle for the sheriff's department in Rio Arriba county;] LINE-ITEM VETOED.~~

~~[150. seventy thousand dollars (\$70,000) to purchase and equip police vehicles for the sheriff's department in Rio Arriba county;] LINE-ITEM VETOED.~~

~~[151. one hundred twenty five thousand dollars (\$125,000) to purchase and install information technology, including related equipment and infrastructure, for the county treasurer's office in Rio Arriba county;] LINE-ITEM VETOED.~~

152. three hundred thousand dollars (\$300,000) to plan, design, construct and remodel the former municipal court and jail buildings to expand the city hall in Espanola in Rio Arriba county;

153. one hundred thousand dollars (\$100,000) to renovate La Joya fire station, including replacing doors and purchasing and installing a heating, ventilation and air conditioning system, in Espanola in Rio Arriba county;

154. one hundred thousand dollars (\$100,000) to design and construct storm drainage improvements at the veterans' memorial wall and amphitheater-style seating for events held at the veterans' memorial park in Espanola in Rio Arriba county;

155. one hundred seventy thousand five hundred dollars (\$170,500) to purchase buses for the north central regional transit district in Espanola in Rio Arriba county;

156. thirteen thousand dollars (\$13,000) to purchase, plan, design, construct, renovate, equip and furnish a community center for the San Joaquin del Rio de Chama land grant in Rio Arriba county;

157. one hundred five thousand dollars (\$105,000) to design, remodel and make improvements to buildings for a residential substance abuse treatment and recovery center in Velarde in Rio Arriba county;

158. seventy-five thousand dollars (\$75,000) to purchase and install information technology, including related furniture, equipment and infrastructure, and office equipment for a residential substance abuse treatment and recovery program in Velarde in Rio Arriba county;

159. one hundred twenty-five thousand dollars (\$125,000) to purchase and install a cooling system at the events arena in Roosevelt county;

160. two hundred twenty thousand dollars (\$220,000) to design and construct medical gas pipelines into the Roosevelt general hospital procedure room and to purchase and install equipment and a telephone system at the clinic and hospital facilities in the Roosevelt county special hospital district in Portales in Roosevelt county;

161. ninety-seven thousand five hundred dollars (\$97,500) to purchase and equip a fire truck for the Pecos Canyon volunteer fire and rescue department in San Miguel county;

~~[162. ninety thousand dollars (\$90,000) to purchase trees and other assets of the former Dixon apple orchard and to purchase farm and harvesting equipment for the mid-region council of governments in Sandoval county;] *LINE-ITEM VETOED.*~~

163. one hundred eighty-five thousand dollars (\$185,000) to purchase and equip ambulances for the fire department in Sandoval county;

164. three hundred ten thousand dollars (\$310,000) to plan, design, construct and install barrier fencing and a trail along the railroad right of way, including pedestrian crossings, in Bernalillo in Sandoval county;

165. twenty-five thousand dollars (\$25,000) for improvements to Coronado little league fields and facilities in Bernalillo in Sandoval county;

166. two hundred seventy-five thousand dollars (\$275,000) to purchase, install and retrofit cell doors in the detention center in Bernalillo in Sandoval county;

167. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, install and equip a regional communications tower and building in Corrales to house equipment for public safety use for Bernalillo and Sandoval counties;

168. one hundred thousand dollars (\$100,000) to construct a reading room in the library in Corrales in Sandoval county;

169. thirteen thousand dollars (\$13,000) for improvements at the recreation center, including a tennis wall and batting cage, in Corrales in Sandoval county;

170. one hundred ninety-five thousand dollars (\$195,000) to plan, design, construct and furnish the judicial and municipal complex in Jemez Springs in Sandoval county;

171. one hundred eighty-two thousand nine hundred twenty-six dollars (\$182,926) to design and construct an all-inclusive park with high standards of accessibility in Rio Rancho in Sandoval county;

~~[172. two hundred twenty thousand dollars (\$220,000) to plan, design, construct and make improvements to the Cibola little league fields and facilities in Rio Rancho in Sandoval county;] LINE-ITEM VETOED.~~

173. five hundred twenty thousand dollars (\$520,000) to plan, design, construct, renovate and equip fire station 1 in Rio Rancho in Sandoval county;

~~[174. ten thousand dollars (\$10,000) to plan, design and construct a medical complex in San Ysidro in Sandoval county;] LINE-ITEM VETOED.~~

175. thirty-three thousand three hundred thirty-three dollars (\$33,333) to purchase and install information technology, including related equipment, furniture and infrastructure, for a records system to serve persons with disabilities in Rio Arriba, Santa Fe, Taos and Colfax counties;

176. two hundred twenty-five thousand dollars (\$225,000) to purchase, plan, design, construct, equip and improve the recreational and baseball fields in the Pojoaque valley in Santa Fe county;

177. one hundred forty-two thousand five hundred dollars (\$142,500) to plan, design, construct, renovate, furnish and equip La Cienega community center, including site preparation and exterior improvements and equipment, in Santa Fe county;

178. eighty-five thousand dollars (\$85,000) for wiring for information technology in the first judicial district courthouse in Santa Fe in Santa Fe county;

179. fifty thousand dollars (\$50,000) to construct infrastructure for a subdivision of affordable housing for veterans and low- to moderate-income families pursuant to the Affordable Housing Act in Santa Fe in Santa Fe county;

~~[180. one hundred forty thousand dollars (\$140,000) to plan and design phase 2 of the Santa Fe botanical gardens at museum hill in Santa Fe in Santa Fe county;] LINE-ITEM VETOED.~~

~~[181. fifty thousand dollars (\$50,000) to purchase and install office equipment and information technology, including scanners, a color copier and related equipment, furniture and infrastructure, for the county clerk's office in Santa Fe county;] LINE-ITEM VETOED.~~

182. four hundred fifty thousand five hundred dollars (\$450,500) to plan, design, construct, equip and furnish improvements to the fairgrounds, including utilities and construction of an extension office, in Santa Fe in Santa Fe county;

183. two hundred thirty thousand dollars (\$230,000) to purchase and install medical and security equipment and information technology, including related infrastructure, furniture and equipment, at the women's health services facility in Santa Fe in Santa Fe county;

184. two hundred sixteen thousand dollars (\$216,000) to plan, design, repair, renovate and equip the sexual assault service provider and trauma treatment center and site, including purchasing and installing information technology and related infrastructure, in Santa Fe in Santa Fe county;

185. fifty thousand dollars (\$50,000) to plan, design and construct interior and exterior renovations and improvements to El Museo Cultural facility in Santa Fe in Santa Fe county;

186. one hundred thirty-five thousand dollars (\$135,000) to design, construct, equip and furnish the pavilion, including lighting, and to design, purchase and install a counter in the cafe at the concession facility at the Santa Fe farmers' market in Santa Fe in Santa Fe county;

187. fifty thousand dollars (\$50,000) to plan, design, purchase and install playground improvements and equipment at la Comunidad de los Ninos head start facility in Santa Fe in Santa Fe county;

188. fifty thousand dollars (\$50,000) to plan, construct and renovate security lighting, parking lots and sidewalks at the Alto street La Familia medical center in Santa Fe in Santa Fe county;

189. twenty thousand dollars (\$20,000) to plan, design and construct improvements to Larragoite park in Santa Fe in Santa Fe county;

190. nine hundred thousand dollars (\$900,000) to plan, design, renovate, construct, furnish and equip the expansion of the main police station in Santa Fe in Santa Fe county;

191. two hundred thirty thousand dollars (\$230,000) to plan, design, construct, purchase, furnish and equip the rodeo indoor arena and disaster relief facility in Santa Fe in Santa Fe county;

192. thirty-five thousand dollars (\$35,000) to plan, design and construct the southwest activity node park in Santa Fe in Santa Fe county;

~~[193. sixty-five thousand dollars (\$65,000) to purchase theater and convention equipment in Santa Fe in Santa Fe county;] LINE-ITEM VETOED.~~

194. one hundred fifty thousand dollars (\$150,000) for phase 2 planning, design and construction of the water history park and museum in Santa Fe in Santa Fe county;

~~[195. fifteen thousand dollars (\$15,000) to plan, design, construct, renovate, furnish and equip solar improvements at the Tesuque fire department in Santa Fe county;] LINE-ITEM VETOED.~~

196. one hundred thousand dollars (\$100,000) for infrastructure and parking lot improvements for historical buildings and for the seventh judicial district court, seventh judicial district attorney, county detention facility, county treasurer, county assessor, county clerk and county administration office in Truth or Consequences in Sierra county;

197. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and equip facilities, including an emergency room and central physical plant, for the Sierra Vista hospital and clinic in Truth or Consequences in Sierra county;

198. one hundred thousand dollars (\$100,000) to plan, design, construct and equip an animal shelter in Truth or Consequences in Sierra county;

199. four hundred thousand dollars (\$400,000) to design, construct and equip a rodeo facility and soccer facilities, including parking lots, bathrooms, horse stalls and related equipment, in Socorro in Socorro county;

200. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements, including renovation of the parking area and installation of surrounding fencing, at the Talpa community center in Taos county;

201. thirty thousand dollars (\$30,000) to plan, design, construct, replace and renovate the bathrooms, lighting and electrical systems at the Filemon Sanchez park in Taos county;

202. eighty thousand dollars (\$80,000) to purchase and equip vehicles for the sheriff's department in Taos county;

203. seventy-five thousand dollars (\$75,000) to plan, design, fence and construct a veterans' cemetery in Taos county;

204. one hundred fifty thousand dollars (\$150,000) to plan, design, renovate, construct, equip and furnish the Amalia Costilla community center in Taos county;

205. fifty thousand dollars (\$50,000) to plan, design, construct, renovate, purchase and equip improvements to the Cerro community center in Taos county;

206. fifty thousand dollars (\$50,000) to purchase public works vehicles and equipment for Questa in Taos county;

207. fifty thousand dollars (\$50,000) to plan, design and construct a daycare center in Red River in Taos county;

208. one hundred thousand dollars (\$100,000) to purchase public works equipment, including a road grader and dump truck, in Red River in Taos county;

209. fifty thousand dollars (\$50,000) to plan, design and construct a fire station for the San Cristobal fire department in Taos county;

210. twenty-five thousand dollars (\$25,000) for renovations to the plaza in the arts and cultural district in Taos in Taos county;

~~[211. fifty thousand dollars (\$50,000) for the Canon de Carnue land grant to purchase la tiendita de Manzano in Torrance county;] *LINE-ITEM VETOED.*~~

212. fifty thousand dollars (\$50,000) to plan, design, construct and equip improvements to county buildings, including community centers, senior centers, administrative buildings and the animal shelter, in Torrance county;

213. thirty thousand dollars (\$30,000) to purchase and equip fire engines for the district 3 and district 5 volunteer fire departments in Torrance county;

214. fifty thousand dollars (\$50,000) to plan, design, purchase, construct, renovate and equip a multipurpose facility for tri-county youth and their families in Torrance county;

215. ten thousand dollars (\$10,000) to plan, design, construct and equip additions to the district 3 and district 5 volunteer fire stations in Torrance county;

216. one hundred ten thousand dollars (\$110,000) to purchase and install doors, including handicapped-accessible doors, and to make improvements to the community center and administrative office building in Estancia in Torrance county;

~~[217. twenty-five thousand dollars (\$25,000) to equip KXNM radio station in McIntosh in Torrance county;] *LINE-ITEM VETOED.*~~

218. seventy thousand dollars (\$70,000) to plan, design and construct a multipurpose building in Mountainair in Torrance county;

~~[219. twenty-five thousand dollars (\$25,000) to purchase or construct a building for a music and arts center in Mountainair in Torrance county;] *LINE-ITEM VETOED.*~~

220. seventy-five thousand dollars (\$75,000) to plan and design a judicial complex in Union county;

221. one hundred ten thousand dollars (\$110,000) to purchase a truck for the road department in Union county;

222. forty-five thousand dollars (\$45,000) to purchase and install an emergency backup generator for the Meadow Lake fire department in Valencia county;

223. forty-five thousand dollars (\$45,000) to purchase and install an emergency backup generator at the Manzano Vista fire department in Valencia county;

224. two hundred ten thousand dollars (\$210,000) to purchase and equip patrol vehicles for the sheriff's department in Valencia county;

225. seventy thousand dollars (\$70,000) to resurface and rehabilitate the tennis courts in Bosque Farms in Valencia county;

226. four hundred seventy-five thousand dollars (\$475,000) to design and construct entrances, restroom facilities, drainage and parking improvements, control gates and landscaping at the Enchantment little league fields in Los Lunas in Valencia county; and

227. one hundred fifty thousand dollars (\$150,000) to plan, design and construct improvements to the county animal control shelter facility in Los Lunas in Valencia county.

## **Chapter 226 Section 32 Laws 2013**

SECTION 32. SECRETARY OF STATE PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico Act, upon certification by the secretary of state that the need exists for the issuance of the bonds, the following amounts are appropriated to the secretary of state for the following purposes:

1. one million dollars (\$1,000,000) to purchase and install information technology hardware at the office of the secretary of state; and

2. six million dollars (\$6,000,000) to purchase and install voting tabulator systems, including related information technology, statewide.

## **Chapter 226 Section 33 Laws 2013**



SECTION 33. SPACEPORT AUTHORITY PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico Act, upon certification by the spaceport authority that the need exists for the issuance of the bonds, three million dollars (\$3,000,000) is appropriated to the spaceport authority to plan, design and construct, including rights of way, easements and archaeological studies, the southern access road to Spaceport America in Dona Ana and Sierra counties.

### **Chapter 226 Section 34 Laws 2013**

SECTION 34. SUPREME COURT BUILDING COMMISSION PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico Act, upon certification by the supreme court building commission that the need exists for the issuance of the bonds, three hundred thousand dollars (\$300,000) is appropriated to the supreme court building commission to repair, replace and install the railing and cork flooring at the supreme court building in Santa Fe in Santa Fe county.

### **Chapter 226 Section 35 Laws 2013**

SECTION 35. TAXATION AND REVENUE DEPARTMENT PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico Act, upon certification by the taxation and revenue department that the need exists for the issuance of the bonds, one million five hundred thousand dollars (\$1,500,000) is appropriated to the taxation and revenue department to purchase and install equipment, including a predictive collection dialer, mail extraction units, microfilm cameras and scanners, at the taxation and revenue department in Santa Fe in Santa Fe county.

### **Chapter 226 Section 36 Laws 2013**

SECTION 36. DEPARTMENT OF TRANSPORTATION PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico Act, upon certification by the department of transportation that the need exists for the issuance of the bonds, the following amounts are appropriated to the department of transportation for the following purposes:

~~[1. one hundred seventy-seven thousand dollars (\$177,000) to plan, design and construct road, drainage, sidewalk and bicycle facility improvements to Second street between Alameda boulevard and Alameda road in the north valley in Bernalillo county;] *LINE-ITEM VETOED.*~~

2. one hundred twenty-five thousand dollars (\$125,000) to purchase rights of way for and to plan, design and construct improvements to the intersection of Second street and Rio Bravo boulevard in Bernalillo county;

3. sixty thousand dollars (\$60,000) to plan, design and construct median improvements, including irrigation, to Alameda boulevard between the Rio Grande and Second street in the north valley in Bernalillo county;

4. one hundred fifty thousand dollars (\$150,000) to plan, design and construct quiet railroad crossings in the south valley of Bernalillo county;

5. one hundred ninety-seven thousand dollars (\$197,000) to construct Cypress road from Central avenue to Cypress circle in the city of Albuquerque and in the south valley area of Bernalillo county;

6. twenty-eight thousand four hundred dollars (\$28,400) to design and construct drainage improvements to Foothill drive in the south valley area of Bernalillo county;

7. forty-seven thousand five hundred dollars (\$47,500) to plan, design and construct road and drainage improvements to Lovejoy lane in the south valley area of Bernalillo county;

8. two hundred seventy-five thousand dollars (\$275,000) to plan, design and construct a left-turn bay on Paseo del Norte for fire station access west of Lowell street in Bernalillo county;

9. three hundred three thousand dollars (\$303,000) to plan, design and construct improvements, including environmental remediation, to the Albuquerque railyards in Bernalillo county;

10. fifty thousand dollars (\$50,000) to plan, design and construct improvements on Four Hills road in Albuquerque in Bernalillo county;

11. sixty thousand dollars (\$60,000) to plan, design and construct safety and accessibility improvements to the Tramway boulevard multi-use trail in Albuquerque in Bernalillo county;

12. nine hundred fifty thousand dollars (\$950,000) to plan, design and construct two-lane off-ramps at the Unser boulevard and Ninety-eighth street-Arroyo Vista boulevard interchanges on westbound interstate 40 in Albuquerque in Bernalillo county;

13. fifteen thousand dollars (\$15,000) to plan, design and construct a mid-block pedestrian safety crossing with pedestrian signal on Zuni road near Pennsylvania street in the international district in southeast Albuquerque in Bernalillo county;

14. four hundred thirty thousand dollars (\$430,000) to plan, design and construct improvements to Zuni road in Albuquerque in Bernalillo county;

15. six hundred eighty-one thousand dollars (\$681,000) to plan, design and construct improvements to Fourth street in Los Ranchos de Albuquerque in Bernalillo county;

16. one hundred eighty thousand dollars (\$180,000) to plan, design and construct sidewalk improvements, including improvements to comply with the federal Americans with Disabilities Act of 1990, on Elford, Macy, Edwin and Talmadge avenues and on Fifth street in Dexter in Chaves county;

17. three hundred twenty-five thousand dollars (\$325,000) to plan, design and construct improvements to streets in Roswell in Chaves county;

18. two hundred fifty-nine thousand dollars (\$259,000) to plan, design and construct road, drainage and sidewalk improvements, including water and sanitary sewer replacement and signage, along Second street in Grants in Cibola county;

19. three hundred twenty-eight thousand dollars (\$328,000) to plan, design and construct phase 4 improvements on Uranium avenue in Milan in Cibola county;

20. three hundred fifty thousand dollars (\$350,000) to plan, design and construct improvements, including chip sealing, to county road L between county road 12 and county road 14 and county road 13 from county road L to county road M in Curry county;

21. one hundred eighty-two thousand five hundred dollars (\$182,500) to plan, design and construct improvements, including chip sealing and caliche, to roads in Curry county;

22. two hundred fifty thousand dollars (\$250,000) to plan and design the widening of Wilhite road between Norris street and Prince street in Clovis in Curry county;

23. two hundred fifty thousand dollars (\$250,000) to plan, design and construct road and drainage improvements to Baylor Canyon road in Dona Ana county;

24. two hundred ninety-nine thousand dollars (\$299,000) to plan, design and construct improvements, including curbs, gutters and drainage, to Corona road in the east mesa area of Dona Ana county;

25. one hundred seventy thousand dollars (\$170,000) to plan, design and construct improvements, including shoulders and travel and bike lanes, to Dripping Springs road and Soledad Canyon road in Dona Ana county;

26. three hundred thirty-nine thousand dollars (\$339,000) to plan, design and construct improvements, including roadway, shoulder and surfacing, to Kit Carson road in Dona Ana county;

27. fifty-five thousand dollars (\$55,000) for a rail feasibility study to assess passenger rail service connecting the El Paso metro area and southern Dona Ana county to Spaceport America in Sierra county;

28. two hundred ten thousand dollars (\$210,000) to plan, design and construct improvements to streets in Anthony in Dona Ana county;

29. one hundred thousand dollars (\$100,000) to purchase rights of way for and to plan, design and construct improvements, including paving, curbs, gutters and drainage, to Desert Aire drive from Shiprock road to Finley street in Chaparral in Dona Ana county;

30. three hundred twenty-six thousand dollars (\$326,000) to plan, design and construct road and drainage improvements to old Sequoia road from Amparo road to Tornillo Flats drive in Chaparral in Dona Ana county;

~~31. twenty thousand dollars (\$20,000) to plan, design and construct street improvements in Las Cruces in Dona Ana county;~~ *LINE-ITEM VETOED.*

32. eighty thousand dollars (\$80,000) to plan, design and install transit system bus shelters and acquire rights of way in central Las Cruces in Dona Ana county;

33. seven thousand dollars (\$7,000) to plan, design and construct improvements to Airport road westward from Pete V. Domenici memorial highway in Santa Teresa in Dona Ana county;

34. three hundred thousand dollars (\$300,000) to plan, design and construct street and drainage improvements in Sunland Park in Dona Ana county;

35. two hundred fifty thousand dollars (\$250,000) to plan, design and construct road and drainage improvements in Tortugas in Dona Ana county;

36. two hundred seventy thousand dollars (\$270,000) to plan, design and construct improvements to North Canal street from Pierce street to Orchard lane in Carlsbad in Eddy county;

37. one hundred eighty-two thousand dollars (\$182,000) to plan, design, construct and equip lighting improvements to Carrasco and Diaz avenues in Hurley in Grant county;

38. two hundred fifty-six thousand dollars (\$256,000) to plan, design and construct road improvements to New Mexico highway 39 in Harding county;

39. three hundred sixty-four thousand dollars (\$364,000) to plan, design, construct and pave county road 001 in Hidalgo county;

40. two hundred ten thousand dollars (\$210,000) to design and construct street improvements, including curbs, gutters, surfacing and sidewalks and improvements for code and for federal Americans with Disabilities Act of 1990 compliance, in Eunice in Lea county;

41. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to Bonito road in Lincoln county;

42. fifty thousand dollars (\$50,000) to design and construct road improvements to county road 19 in McKinley county;

43. two hundred thousand dollars (\$200,000) to plan, design and construct improvements, including right-of-way acquisition, to Superman Canyon road, also known as county road 43, in McKinley county;

44. one hundred thousand dollars (\$100,000) to purchase rights of way for and to plan, design and construct the Allison road bridge in Gallup in McKinley county;

45. one hundred seventy-five thousand dollars (\$175,000) to plan, design and construct improvements for pedestrian safety [~~at railway crossings~~] in Gallup in McKinley county; *LINE-ITEM VETOED.*

46. one hundred seventy-five thousand dollars (\$175,000) to plan, purchase rights of way for, design and reconstruct Hospital drive and College drive in Gallup in McKinley county;

47. twenty-five thousand dollars (\$25,000) to design and construct Sky City road in the Manuelito chapter of the Navajo Nation in McKinley county;

48. one hundred thousand dollars (\$100,000) to plan, design and construct improvements, including right-of-way acquisition and clearances, to Deersprings road in the Mexican Springs chapter of the Navajo Nation in McKinley county;

49. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements to Navajo route 7054 in the Pinedale chapter of the Navajo Nation in McKinley county;

50. twenty thousand dollars (\$20,000) to plan, design and construct improvements to roads in the Red Lake chapter of the Navajo Nation in McKinley county;

51. fifty thousand dollars (\$50,000) to plan, design and construct improvements to Hunter Point road in the Tsa-Ya-Toh chapter of the Navajo Nation in McKinley county;

52. fifty thousand dollars (\$50,000) to plan, design and construct improvements, including chip sealing, to the road leading to the administration complex in the

Tsa-Ya-Toh chapter of the Navajo Nation in McKinley county;

53. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to Johnson road in the Twin Lakes chapter of the Navajo Nation in McKinley county;

54. five hundred ten thousand dollars (\$510,000) to acquire rights of way for and to plan, design and construct Paseo del Volcan loop bypass road from Unser boulevard to New Mexico highway 550 in Bernalillo and Sandoval counties;

55. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to Maple and Pine avenues in Chama in Rio Arriba county;

56. seventy-seven thousand dollars (\$77,000) to plan, design and construct improvements, including shoulder rehabilitation, drainage and chip sealing, and to reconstruct north Roosevelt road A in Roosevelt county;

57. fifty thousand dollars (\$50,000) to plan, design and construct a safety easement off of United States highway 491 to the Sanostee chapter of the Navajo Nation in San Juan county;

58. two hundred eighty-seven thousand dollars (\$287,000) to plan, design and construct improvements, including blading, shaping, drainage and surfacing, to county roads in San Miguel county;

~~[59. fifty thousand dollars (\$50,000) to plan, design and construct improvements to roads and drainage in the Los Rios neighborhood in Rio Rancho in Sandoval county;]~~ *LINE-ITEM VETOED.*

~~[60. twenty thousand dollars (\$20,000) to plan, design and construct speed control devices and components for Arroyo Seco circle in Santa Fe county;]~~ *LINE-ITEM VETOED.*

61. two hundred seventy-five thousand dollars (\$275,000) to plan, design and construct phase 1 road and drainage improvements on [east] Venus road in Edgewood in

Santa Fe county; *LINE-ITEM VETOED.*

62. one hundred fifty-one thousand dollars (\$151,000) to plan, design and construct improvements to roads in Eldorado in Santa Fe county;

63. thirty-five thousand dollars (\$35,000) to plan, design and construct improvements to medians and sidewalks in Santa Fe in Santa Fe county;

~~[64. fifty-four thousand five hundred dollars (\$54,500) to plan, design and construct improvements to Siringo road and other roads leading to the proposed higher learning center in Santa Fe in Santa Fe county;]~~ *LINE-ITEM VETOED.*

65. one hundred eight thousand six hundred seventy dollars (\$108,670) to plan and design Scholle bridge number 2628 in the Scholle Abo area of Socorro county;

66. one hundred sixty thousand dollars (\$160,000) to plan, design and construct phase 3 improvements to Este Es road, including water and sewer infrastructure, in Taos in Taos county;

67. eighty-three thousand dollars (\$83,000) to plan, design and construct improvements to Alan Ayers road in Estancia in Torrance county;

68. one hundred sixty-five thousand dollars (\$165,000) to plan, design and construct improvements, including asphalt overlay, to Amy road in Valencia county;

69. two hundred ten thousand dollars (\$210,000) to plan, design and construct improvements to Winston drive in Valencia county; and

70. one hundred thousand dollars (\$100,000) to design and construct improvements to the north Belen interchange in Valencia county.

## **Chapter 226 Section 37 Laws 2013**

SECTION 37. HIGHER EDUCATION DEPARTMENT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico 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. one million dollars (\$1,000,000) to plan, design and construct the fiber optic loop, including site improvements, to connect technology services throughout the campus of central New Mexico community college in Albuquerque in Bernalillo county;

2. three hundred thousand dollars (\$300,000) to plan and design renovations of classrooms and laboratories at the Springer branch of Luna community college in Colfax county;

3. one million dollars (\$1,000,000) for infrastructure improvements at New Mexico junior college in Hobbs in Lea county;

4. five million eighty-three thousand two hundred dollars (\$5,083,200) to design, construct, furnish and equip, including erosion control improvements, the school of energy at San Juan college in Farmington in San Juan county;

5. fifty-six thousand dollars (\$56,000) to purchase equipment for health sciences programs for work force development at Santa Fe community college in Santa Fe county;

6. forty-eight thousand seven hundred fifty dollars (\$48,750) to purchase equipment and information technology, including related furniture and infrastructure, for sign language and interpreting at Santa Fe community college in Santa Fe county; and

7. one hundred seventeen thousand seven hundred seventy-eight dollars (\$117,778) to plan, design, construct, renovate and equip the trades and advanced technology center for training in biofuels, welding, plumbing, water treatment and microgrids at Santa Fe community college in Santa Fe county.

## **Chapter 226 Section 38 Laws 2013**

SECTION 38. EASTERN NEW MEXICO UNIVERSITY PROJECTS-- SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico 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. ninety-one thousand dollars (\$91,000) to plan, design, renovate, furnish and equip infrastructure, including mechanical projects and roofing, at the Roswell branch campus of eastern New Mexico university in Chaves county;

2. one hundred thousand dollars (\$100,000) to plan, design, renovate, expand, furnish and equip a special services program kitchen at the Roswell branch campus of eastern New Mexico university in Chaves county;

3. one hundred thousand dollars (\$100,000) to plan, design, renovate, expand, furnish and equip the welding and auto mechanics instructional areas at the Roswell branch campus of eastern New Mexico university in Chaves county;



4. four million dollars (\$4,000,000) to plan, design, construct, renovate, expand and equip the Jack Williamson liberal arts building at eastern New Mexico university in Portales in Roosevelt county; and

5. three hundred thirty-seven thousand dollars (\$337,000) to purchase and install equipment for KENW-TV on the campus of eastern New Mexico university in Portales in Roosevelt county.

## **Chapter 226 Section 39 Laws 2013**

SECTION 39. NEW MEXICO HIGHLANDS UNIVERSITY PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico 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 sixty-five thousand dollars (\$165,000) to plan, design, construct, renovate, furnish and equip the athletic facilities, including landscaping and site improvements, at New Mexico highlands university in Las Vegas in San Miguel county; and

2. two million three hundred thousand dollars (\$2,300,000) to plan, design, construct, renovate and equip infrastructure improvements to the Trolley building [~~and other facilities~~] at New Mexico highlands university in Las Vegas in San Miguel county.  
*LINE-ITEM VETOED.*

## **Chapter 226 Section 40 Laws 2013**

SECTION 40. NEW MEXICO MILITARY INSTITUTE PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico Act, upon certification by the board of regents of New Mexico military institute that the need exists for the issuance of the bonds, one million dollars (\$1,000,000) is appropriated to the board of regents of New Mexico military institute to design, develop, demolish, purchase, install and equip boilers and chillers throughout the campus of New Mexico military institute in Roswell in Chaves county.

## **Chapter 226 Section 41 Laws 2013**

SECTION 41. NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico 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. six million dollars (\$6,000,000) to plan, design, construct, equip and furnish a geology facility at New Mexico institute of mining and technology in Socorro in Socorro county;

2. two hundred thirty-five thousand dollars (\$235,000) to design and construct a maintenance room for the Magdalena Ridge observatory at New Mexico institute of mining and technology in Socorro county; and

3. one hundred thousand dollars (\$100,000) to design and construct a parking lot at New Mexico institute of mining and technology in Socorro in Socorro county.

## **Chapter 226 Section 42 Laws 2013**

SECTION 42. NEW MEXICO STATE UNIVERSITY PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico 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. fifty thousand dollars (\$50,000) to plan and design the child development education center at the Grants campus of New Mexico state university in Cibola county;

2. five hundred thousand dollars (\$500,000) to plan, design, renovate, construct, expand, equip, install and make infrastructure improvements at the Grants campus of

New Mexico state university in Cibola county;

3. one hundred seventy-five thousand dollars (\$175,000) to construct the rehabilitation of the Garfield watershed structure for the Caballo soil and water conservation district in Dona Ana county;

4. one hundred sixty thousand dollars (\$160,000) to plan, design, construct, renovate and equip improvements to athletic facilities, including installing artificial turf at Aggie memorial stadium, at New Mexico state university in Las Cruces in Dona Ana county;

5. fifty thousand dollars (\$50,000) to plan, design, construct, renovate and equip information technology infrastructure improvements at the Dona Ana community college branch of New Mexico state university in Las Cruces in Dona Ana county;

6. fifty thousand dollars (\$50,000) to plan, design, construct, renovate, furnish and equip a speech and hearing clinic and to purchase and install information

technology, including related equipment, furniture and infrastructure, at New Mexico state university in Las Cruces in Dona Ana county;

7. one hundred ninety-five thousand dollars (\$195,000) to plan and design a child development education center at the Carlsbad campus of New Mexico state university in Eddy county;

8. two hundred thousand dollars (\$200,000) to plan, design, renovate, construct, furnish and equip infrastructure improvements, including courtyard renovations, an elevator enclosure and a shade structure, at the Carlsbad campus of New Mexico state university in Eddy county;

9. three million five hundred thousand dollars (\$3,500,000) to plan, design, construct, expand, renovate, furnish and equip and to make other infrastructure improvements at Hardman and Jacob halls at New Mexico state university in Las Cruces in Dona Ana county, of which two hundred fifty thousand dollars (\$250,000) shall be expended to plan, design, prepare the site for and make improvements to utility infrastructure and to construct or purchase and install modular units for dormitory facilities at the Corona range and livestock research center in Torrance and Lincoln counties;

10. one hundred eleven thousand dollars (\$111,000) to plan and design phase 2 of the southern New Mexico advanced technology education center at the Alamogordo branch campus of New Mexico state university in Otero county;

11. one hundred thirty-one thousand seven hundred ninety dollars (\$131,790) to plan, design, construct, renovate and equip information technology infrastructure at the Alamogordo branch campus of New Mexico state university in Otero county;

12. fifty thousand dollars (\$50,000) to purchase weed-spraying equipment for the east Rio Arriba soil and water conservation district in Rio Arriba county;

13. seventy-five thousand dollars (\$75,000) to plan, design, renovate and construct improvements to the Coronado soil and water conservation district reservoirs serving la acequia de la Rosa Castilla, las acequias de Placitas and las Huertas community ditch in Sandoval county;

14. one hundred sixty thousand dollars (\$160,000) to plan, design, construct, equip and furnish cabins and infrastructure improvements at the southwest center for rangeland sustainability of New Mexico state university in Torrance county;

15. forty thousand dollars (\$40,000) to purchase educational information technology, including related equipment, for the east Torrance soil and water conservation district in Torrance county]; and

~~16. twenty-five thousand dollars (\$25,000) to construct a building and infrastructure for the Claunch-Pinto soil and water conservation district in Mountainair in Terrance county].~~ *LINE-ITEM VETOED.*

## **Chapter 226 Section 43 Laws 2013**

SECTION 43. NORTHERN NEW MEXICO STATE SCHOOL PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico Act, upon certification by the board of regents of northern New Mexico state school that the need exists for the issuance of the bonds, nine hundred thousand dollars (\$900,000) is appropriated to the board of regents of northern New Mexico state school to plan, design, construct, renovate, expand, furnish and equip the Joseph M. Montoya building at the Espanola branch campus of northern New Mexico state school in Espanola in Rio Arriba county.

## **Chapter 226 Section 44 Laws 2013**

SECTION 44. UNIVERSITY OF NEW MEXICO PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico 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 purchase, install and equip lighting at the baseball stadium at the university of New Mexico in Albuquerque in Bernalillo county;

2. eight hundred fifty thousand dollars (\$850,000) to plan, design, construct, furnish and equip Casterter hall biology building at the university of New Mexico in Albuquerque in Bernalillo county;

3. one hundred sixty thousand dollars (\$160,000) to purchase and equip commuter buses for the university of New Mexico in Albuquerque in Bernalillo county;

4. eight hundred one thousand five hundred dollars (\$801,500) to plan and design the renovation of Farris engineering center at the university of New Mexico in Albuquerque in Bernalillo county;

~~[5. seventy-five thousand dollars (\$75,000) to improve and expand the practice facility at the championship south golf course at the university of New Mexico in Albuquerque in Bernalillo county;]~~ *LINE-ITEM VETOED.*

6. thirty thousand dollars (\$30,000) to purchase and install equipment at the young children's health center at the university of New Mexico hospital in Albuquerque in Bernalillo county;

~~[7. fifty thousand dollars (\$50,000) to purchase and install information technology, including related equipment, furniture and infrastructure, for the~~

~~Julian Samora legacy project of the southwest Hispanic research institute at the university of New Mexico in Albuquerque in Bernalillo county;] *LINE-ITEM VETOED.*~~

8. eighty thousand dollars (\$80,000) to plan, design, construct, install and equip a cleanroom for the manufacturing engineering program at the university of New Mexico in Albuquerque in Bernalillo county;

9. fifty thousand dollars (\$50,000) to design, construct and equip improvements to the astrogeology laboratory and meteorological institute in Northrup hall at the university of New Mexico in Albuquerque in Bernalillo county;

10. one hundred twenty-five thousand dollars (\$125,000) to purchase and install safety lighting at the university of New Mexico in Albuquerque in Bernalillo county;

11. five million dollars (\$5,000,000) to plan, design, construct, renovate and equip phase 2 improvements to the science and math learning center at the university of

New Mexico in Albuquerque in Bernalillo county;

12. one million six hundred sixty-eight thousand seven hundred thirty-four dollars (\$1,668,734) to plan, design, purchase and install a scoreboard and video board and for replacement or repair of athletic flooring at university stadium at the university of New Mexico in Albuquerque in Bernalillo county;

13. one million dollars (\$1,000,000) to design, construct, equip, install and furnish the core student success center at the Taos branch of the university of

New Mexico in Taos county; and

14. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct improvements to the Harwood museum of art facility, including site improvements, in Taos in Taos county.

## **Chapter 226 Section 45 Laws 2013**

SECTION 45. WESTERN NEW MEXICO UNIVERSITY PROJECTS-- SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 2 of the 2013 Work New Mexico 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 sixty-nine thousand five hundred dollars (\$169,500) to plan, design, construct, renovate, equip, demolish and landscape Fleming hall at western

New Mexico university in Silver City in Grant county;

2. two hundred thousand dollars (\$200,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at western New Mexico university in Silver City in Grant county; and

3. two million five hundred thousand dollars (\$2,500,000) to plan, design, construct, renovate, equip and landscape Light hall, to acquire land and existing structures and to make infrastructure improvements at western New Mexico university in Silver City in Grant county.

### **Chapter 226 Section 46 Laws 2013**

SECTION 46. DEPARTMENT OF GAME AND FISH PROJECT--  
APPROPRIATION FROM THE GAME AND FISH BOND RETIREMENT FUND.--One million four hundred seventy-five thousand dollars (\$1,475,000) is appropriated from the game and fish bond retirement fund to the department of game and fish for expenditure in fiscal years 2013 through 2017, unless otherwise provided for in Section 3 of the 2013 Work

New Mexico Act, for designing and constructing Bear Canyon dam, for replacing pipeline at Seven Springs hatchery, for constructing Rock Lake hatchery and for facility renovations and wildlife management area improvements statewide.

### **Chapter 226 Section 47 Laws 2013**

SECTION 47. DEPARTMENT OF GAME AND FISH PROJECT--  
APPROPRIATION FROM THE GAME PROTECTION FUND.--Eight million seven hundred twenty-five thousand dollars (\$8,725,000) is appropriated from the game protection fund to the department of game and fish for expenditure in fiscal years 2013 through 2017, unless otherwise provided for in Section 3 of the 2013 Work New Mexico Act, for facility renovations, including replacing pipeline at Seven Springs hatchery, consolidating warehouses and headquarters properties, designing and constructing Bear Canyon dam, constructing Rock Lake hatchery, constructing and renovating Lake Roberts dam and spillway, purchasing the northwest area office in Albuquerque and alternative energy assessments, statewide.

### **Chapter 226 Section 48 Laws 2013**

SECTION 48. DEPARTMENT OF GAME AND FISH PROJECT--  
APPROPRIATION FROM THE HABITAT MANAGEMENT FUND.--Two million one hundred thousand dollars (\$2,100,000) is appropriated from the habitat management fund to the department of game and fish for expenditure in fiscal years 2013 through 2017, unless otherwise provided for in Section 3 of the 2013 Work New Mexico Act, for design and construction of Bear Canyon dam, to replace pipeline at Seven Springs hatchery, to construct and renovate Lake Roberts dam and spillway and to improve wildlife management areas statewide.

### **Chapter 226 Section 49 Laws 2013**

SECTION 49. MINERS' COLFAX MEDICAL CENTER PROJECT--  
APPROPRIATION FROM THE MINERS' TRUST FUND.--Three million two hundred thousand dollars (\$3,200,000) is appropriated from the miners' trust fund to the miners' Colfax medical center for expenditure in fiscal years 2013 through 2017, unless otherwise provided for in Section 3 of the 2013 Work New Mexico Act, to plan, design, construct, equip and furnish an outpatient clinic to serve residents of Colfax county.

### **Chapter 226 Section 50 Laws 2013**

SECTION 50. OFFICE OF THE STATE ENGINEER PROJECT--  
APPROPRIATION FROM THE PUBLIC PROJECT REVOLVING FUND.--One million dollars (\$1,000,000) is appropriated from the public project revolving fund to the office of the state engineer for expenditure in fiscal years 2013 through 2017, unless otherwise provided for in Section 3 of the 2013 Work New Mexico Act, to purchase and install surface and ground water meters to assess water use, water supply, impairment, public welfare, conservation and water accountability statewide.

### **Chapter 226 Section 51 Laws 2013**

SECTION 51. WASTEWATER FACILITY CONSTRUCTION LOAN FUND--  
APPROPRIATION FROM THE PUBLIC PROJECT REVOLVING FUND.--One million four hundred thousand dollars (\$1,400,000) is appropriated from the public project revolving fund to the wastewater facility construction loan fund to implement the provisions of the Wastewater Facility Construction Loan Act or to provide state matching funds required by the terms of any federal grant under the Clean Water Act.

### **Chapter 226 Section 52 Laws 2013**

SECTION 52. NEW MEXICO SCHOOL FOR THE DEAF PROJECTS--  
APPROPRIATIONS FROM THE PUBLIC SCHOOL CAPITAL OUTLAY FUND.--The following amounts are appropriated from the public school capital outlay fund, contingent upon approval of the public school capital outlay council, to the board of regents of the New Mexico school for the deaf for expenditure in fiscal years 2013 through 2017, unless otherwise provided for in Section 3 of the 2013 Work New Mexico Act, for the following purposes:

1. seven million dollars (\$7,000,000) to purchase, install, plan, design, renovate and construct improvements to infrastructure throughout the campus of the New Mexico school for the deaf in Santa Fe in Santa Fe county; and

2. one million dollars (\$1,000,000) to plan, design and construct the consolidation of the museum and library and remodel Dillon hall to accommodate outreach and early intervention programs at the New Mexico school for the deaf in Santa Fe in Santa Fe county.

## **Chapter 226 Section 53 Laws 2013**

SECTION 53. PUBLIC EDUCATION DEPARTMENT PROJECTS-- APPROPRIATIONS FROM THE PUBLIC SCHOOL CAPITAL OUTLAY FUND.--The following amounts are appropriated from the public school capital outlay fund, contingent upon approval of the public school capital outlay council, to the public education department for expenditure in fiscal years 2013 through 2017, unless otherwise provided for in Section 3 of the 2013 Work New Mexico Act, for the following purposes:

1. two million five hundred thousand dollars (\$2,500,000) to renovate and construct public school pre-kindergarten classrooms statewide; and

2. thirteen million dollars (\$13,000,000) to purchase school buses statewide.

## **Chapter 226 Section 54 Laws 2013**

SECTION 54. NEW MEXICO SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED PROJECTS--APPROPRIATIONS FROM THE PUBLIC SCHOOL CAPITAL OUTLAY FUND.--The following amounts are appropriated from the public school capital outlay fund, contingent upon approval of the public school capital outlay council, to the board of regents of the New Mexico school for the blind and visually impaired for expenditure in fiscal years 2013 through 2017, unless otherwise provided for in Section 3 of the 2013 Work New Mexico Act, for the following purposes:

1. eight hundred thirty-eight thousand dollars (\$838,000) for renovations to Jack hall and the health services buildings and to relocate health services to Jack hall and to relocate the library to the current health services building at the New Mexico school for the blind and visually impaired in Alamogordo in Otero county;

2. two million nine hundred thousand dollars (\$2,900,000) to plan, design and construct phase 1 improvements to the site, utilities and critical infrastructure at the New Mexico school for the blind and visually impaired in Alamogordo in Otero county; and



3. five million five hundred thousand dollars (\$5,500,000) to plan, design, renovate and equip the Watkins education center and to demolish the San Andres building at the New Mexico school for the blind and visually impaired in Alamogordo in Otero county.

### **Chapter 226 Section 55 Laws 2013**

SECTION 55. STATE LAND OFFICE PROJECTS--APPROPRIATIONS FROM THE STATE LANDS MAINTENANCE FUND.--The following amounts are appropriated from the state lands maintenance fund to the state land office for expenditure in fiscal years 2013 through 2017, unless otherwise provided for in Section 3 of the 2013 Work New Mexico Act, for the following purposes:

1. three hundred seventy-five thousand dollars (\$375,000) for electrical upgrades, including the purchase and installation of electric panels, at the state land office in Santa Fe in Santa Fe county;

2. one hundred five thousand dollars (\$105,000) for planning, designing and demolishing and for security construction upgrades at the front entryway, including replacement of exterior entry flooring and a front entry enclosure with security doors and cameras, at the state land office in Santa Fe in Santa Fe county; and

3. ninety thousand dollars (\$90,000) to plan and design the renovation of Morgan hall at the state land office in Santa Fe in Santa Fe county.

### **Chapter 226 Section 56 Laws 2013**

SECTION 56. PROJECT SCOPE--EXPENDITURES.--If an appropriation for a project authorized in the 2013 Work New Mexico 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 226 Section 57 Laws 2013**

SECTION 57. ART IN PUBLIC PLACES.--Pursuant to Section 13-4A-4 NMSA 1978 and where applicable, the appropriations authorized in the 2013 Work New Mexico Act include one percent for the art in public places fund.

### **Chapter 226 Section 58 Laws 2013**

SECTION 58. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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SFC/Senate Bill 60 & HTRC/House Bill 337, w/ec, partial veto

Approved April 5, 2013

## **LAWS 2013, CHAPTER 227**

**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 227 Section 1 Laws 2013**

Section 1. **SHORT TITLE.**--This act may be cited as the "General Appropriation Act of 2013".

#### **Chapter 227 Section 2 Laws 2013**

Section 2. **DEFINITIONS.**--As used in the General Appropriation Act of 2013:

A. "agency" means an office, department, agency, institution, board, bureau, commission, court, district attorney, council or committee of state government;

B. "efficiency" means the measure of the degree to which services are efficient and productive and is often expressed in terms of dollars or time per unit of output;

C. "explanatory" means information that can help users to understand reported performance measures and to evaluate the significance of underlying factors that may have affected the reported information;

D. "federal funds" means any payments by the United States government to state government or agencies except those payments made in accordance with the federal Mineral Leasing Act;

E. "full-time equivalent" or "FTE" means one or more authorized positions that alone or together receives or receive compensation for not more than two thousand eighty-eight hours worked in fiscal year 2014. 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 2013;

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 2013;

(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 227 Section 3 Laws 2013**

### **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 2013, or so much as may be necessary, are appropriated from the indicated source for expenditure in fiscal year 2014 for the objects expressed.

D. Unexpended balances in agency accounts remaining at the end of fiscal year 2013 shall revert to the general fund by October 1, 2013, unless otherwise indicated in the General Appropriation Act of 2013 or otherwise provided by law.

E. Unexpended balances in agency accounts remaining at the end of fiscal year 2014 shall revert to the general fund by October 1, 2014, unless otherwise indicated in the General Appropriation Act of 2013 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 2013, appropriations are made in that act for the expenditures of agencies and for other purposes as required by existing law for fiscal year 2014. If any other act of the first session of the fifty-first 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 2013 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 2014 revenue collections~~

~~with the revenue estimate. If the analyses indicate that revenues and transfers to the general fund are not expected to meet appropriations, then the department shall present a plan to the legislative finance committee that outlines the methods by which the administration proposes to address the deficit.] LINE-ITEM VETOED.~~

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. For fiscal year 2014, the number of permanent and term full-time-equivalent positions specified for each agency shows the maximum number of employees intended by the legislature for that agency, unless another provision of the General Appropriation Act of 2013 or another act of the first session of the fifty-first legislature provides for additional employees. For purposes of the General Appropriation Act of 2013 or any other act of the first session of the fifty-first legislature, no employee shall be deemed to have an annual salary greater than twenty thousand dollars (\$20,000) unless the employee's full-time equivalent base annual salary is greater than that amount or unless the employee's base hourly wage is greater than nine dollars fifty seven and nine tenths cents (\$9.579).] LINE-ITEM VETOED.~~

K. 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 2013 may be expended for payment of agency-issued credit card invoices.

L. To prevent unnecessary spending, expenditures from the General Appropriation Act of 2013 for gasoline for state-owned vehicles at public gasoline service stations shall be made only for self-service gasoline provided that a state agency head may provide exceptions from the requirement to accommodate disabled persons or for other reasons the public interest may require.

M. For the purpose of administering the General Appropriation Act of 2013, 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 227 Section 4 Laws 2013

### Section 4. FISCAL YEAR 2014 APPROPRIATIONS.--

Item	General State Fund	Other Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
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**A. LEGISLATIVE**

**LEGISLATIVE COUNCIL SERVICE:**

(1) Legislative building services:

Appropriations:

(a)	Personal services and employee benefits	2,760.4	2,760.4
(b)	Contractual services	97.7	97.7
(c)	Other	1,130.1	1,130.1

Authorized FTE: 50.00 Permanent; 1.00 Temporary

(2) Energy council dues:

Appropriations:	32.0	32.0
Subtotal		4,020.2
TOTAL LEGISLATIVE	4,020.2	4,020.2

**B. JUDICIAL**

**SUPREME COURT LAW LIBRARY:**

The purpose of the supreme court law library is to provide and produce legal information for the judicial, legislative and executive branches of state government, the legal community and the public at large so they may have equal access to the law, effectively address the courts, make laws and write regulations, better understand the legal system and conduct their affairs in accordance with the principles of law.

Appropriations:

(a)	Personal services and employee benefits	670.0	670.0
(b)	Contractual services	380.4 1.8	382.2
(c)	Other	496.3	496.3

Authorized FTE: 8.00 Permanent

Performance measures:

(a) Output: Number of research requests 8,800

Subtotal 1,548.5

**NEW MEXICO COMPILATION COMMISSION:**

The purpose of the New Mexico compilation commission is to publish in print and electronic format, distribute and sell (1) laws enacted by the legislature, (2) opinions of the supreme court and court of appeals, (3) rules approved by the supreme court, (4) attorney general opinions and (5) other state and federal rules and opinions. The commission ensures the accuracy and reliability of its publications.

Appropriations:

(a) Personal services and

employee benefits 506.6 506.6

(b) Contractual services 650.3 400.0 1,050.3

(c) Other 155.0 155.0

Authorized FTE: 5.00 Permanent; 1.00 Term

Subtotal 1,711.9

**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) Personal services and

employee benefits 682.4 682.4

(b) Contractual services 28.3 28.3

(c) Other 120.5 10.0 130.5

Authorized FTE: 8.00 Permanent

Any unexpended balances remaining at the end of fiscal year 2014 in other state funds from funds received from trial cost reimbursements from respondents shall not revert to the general fund.

Subtotal 841.2

**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)	Personal services and		
	employee benefits	5,220.3	5,220.3
(b)	Contractual services	75.8	75.8
(c)	Other	395.0 1.0	396.0

Authorized FTE: 61.50 Permanent

Performance measures:

(a) Explanatory:	Cases disposed as a percent of cases filed	95%
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Subtotal 5,692.1

**SUPREME COURT:**

The purpose of the supreme court program is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a)	Personal services and		
	employee benefits	2,967.6	2,967.6
(b)	Contractual services	14.2	14.2
(c)	Other	88.1	88.1

Authorized FTE: 34.00 Permanent

Notwithstanding the provisions of Sections 35-8-7 and 38-5-15 NMSA 1978, the supreme court has the authority to reduce juror pay as needed to stay within the appropriation for the jury and witness fund.



Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 98%

Subtotal 3,069.9

**ADMINISTRATIVE OFFICE OF THE COURTS:**

(1) Administrative support:

The purpose of the administrative support program is to provide administrative support to the chief justice, all judicial branch units and the administrative office of the courts so that they can effectively administer the New Mexico court system.

Appropriations:

(a) Personal services and

employee benefits 3,230.1 25.0 100.0 3,355.1

(b) Contractual services 255.0 180.0 456.6 647.6 1,539.2

(c) Other 3,993.2 2,025.0 137.8 218.5 6,374.5

Authorized FTE: 38.80 Permanent; 3.00 Term

The administrative support program includes sufficient funding to provide expertise and oversight of the planning, design, construction and furnishing of the county court complex in Mora county.

Performance measures:

(a) Output: Average cost per juror \$50

(2) Statewide judiciary automation:

The purpose of the statewide judicial automation program is to provide development, enhancement, maintenance and support for core court automation and usage skills for appellate, district, magistrate and municipal courts and ancillary judicial agencies.

Appropriations:

(a) Personal services and

employee benefits 2,380.2 2,406.9 4,787.1

(b) Contractual services 1,486.2 1,486.2

(c) Other 506.0 2,290.7 2,796.7

Authorized FTE: 42.50 Permanent; 9.00 Term

Performance measures:

(a) Quality: Percent of accurate driving-while-intoxicated court reports 98%

(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	17,291.0	2,478.1	19,769.1	
(b)	Contractual services	40.2	330.4	150.0	520.6
(c)	Other	7,287.1	1,259.9	250.0	8,797.0

Authorized FTE: 284.50 Permanent; 57.50 Term

Performance measures:

(a) Outcome: Bench warrant revenue collected annually, in millions \$3.1

(b) Explanatory: Percent of cases disposed as a percent of cases filed 95%

(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)	Personal services and employee benefits	311.8	97.7	409.5	
(b)	Contractual services	5,722.1	318.8	6,040.9	
(c)	Other	42.6	3.0	45.6	
(d)	Other financing uses	2,106.2	61.6	689.9	2,857.7

Authorized FTE: 4.50 Permanent

Notwithstanding the provisions of Section 11-6A-3 NMSA 1978 or other substantive law, the internal service funds/interagency transfers appropriation to the special court services program of the administrative office of the courts in the other financing uses category includes five hundred thousand dollars (\$500,000) from the local DWI grant fund for drug courts. Any unexpended balances from appropriations made from the local DWI grant fund remaining at the end of fiscal year 2014 shall revert to the local DWI grant fund.

The general fund appropriation to the administrative office of the courts in the special court services program in the other financing uses category includes one hundred forty thousand dollars (\$140,000) for the court-appointed special advocate program [~~in southeast New Mexico~~]. *LINE-ITEM VETOED.*

Performance measures:

(a) Output: Number of required events attended by attorneys in abuse and neglect cases 7,000

(b) Output: Number of cases to which court-appointed special advocates volunteers are assigned 1,000

(c) Output: Number of monthly supervised child visitations and exchanges conducted 1,000

Subtotal 58,779.2

**SUPREME COURT BUILDING COMMISSION:**

The purpose of the supreme court building commission is to retain custody and control of the supreme court building and its grounds, to provide care, preservation, repair, cleaning, heating and lighting and to hire necessary employees for these purposes.

Appropriations:

(a) Personal services and employee benefits	696.7	696.7
(b) Contractual services	7.1	7.1
(c) Other	157.6	157.6

Authorized FTE: 15.00 Permanent

Subtotal 861.4

**DISTRICT COURTS:**

(1) First judicial district:

The purpose of the first judicial district court program, statutorily created in Santa Fe, Rio Arriba and Los Alamos counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a) Personal services and				
employee benefits	5,957.6	277.8	306.3	6,541.7
(b) Contractual services	96.5	45.0	223.2	364.7
(c) Other	231.4	144.1	34.6	410.1

Authorized FTE: 86.00 Permanent; 8.80 Term

Performance measures:

(a) Explanatory:	Cases disposed as a percent of cases filed	100%
(b) Quality:	Recidivism of adult drug-court graduates	8%
(c) Quality:	Recidivism of juvenile drug-court graduates	10%

(2) Second judicial district:

The purpose of the second judicial district court program, statutorily created in Bernalillo county, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a) Personal services and				
employee benefits	20,093.4	2,588.5	944.9	23,626.8
(b) Contractual services	362.1	100.0		462.1
(c) Other	1,138.5	885.6	41.1	2,065.2

Authorized FTE: 326.50 Permanent; 55.50 Term

Performance measures:

- (a) Explanatory: Cases disposed as a percent of cases filed 95%
- (b) Quality: Recidivism of adult drug-court graduates 8%
- (c) Quality: Recidivism of juvenile drug-court graduates 10%

(3) Third judicial district:

The purpose of the third judicial district court program, statutorily created in Dona Ana county, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

- (a) Personal services and  
employee benefits 5,427.3 84.4 475.3 5,987.0
- (b) Contractual services 577.4 72.0 112.4 761.8
- (c) Other 184.1 69.8 78.6 332.5

Authorized FTE: 85.30 Permanent; 7.30 Term

Performance measures:

- (a) Explanatory: Cases disposed as a percent of cases filed 95%
- (b) Quality: Recidivism of adult drug-court graduates 8%
- (c) Quality: Recidivism of juvenile drug-court graduates 10%

(4) Fourth judicial district:

The purpose of the fourth judicial district court program, statutorily created in Mora, San Miguel and Guadalupe counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

- (a) Personal services and

	employee benefits	1,978.5		1,978.5
(b)	Contractual services	8.2	124.1	132.3
(c)	Other	142.3	27.0	169.3

Authorized FTE: 29.50 Permanent

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 95%

(b) Quality: Recidivism of juvenile drug-court graduates 10%

(5) Fifth judicial district:

The purpose of the fifth judicial district court program, statutorily created in Eddy, Chaves and Lea counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a)	Personal services and			
	employee benefits	5,502.4	48.4	5,550.8
(b)	Contractual services	315.3	75.0	268.4
(c)	Other	241.0	65.0	3.8
				309.8

Authorized FTE: 82.00 Permanent; 1.00 Term

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 95%

(6) Sixth judicial district:

The purpose of the sixth judicial district court program, statutorily created in Grant, Luna and Hidalgo counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a) Personal services and

	employee benefits	2,405.2		39.0	2,444.2
(b)	Contractual services	563.8	12.0	64.8	640.6
(c)	Other	132.3	17.0	149.3	

Authorized FTE: 35.50 Permanent; .50 Term

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 95%

(b) Quality: Recidivism of juvenile drug-court graduates 10%

(7) Seventh judicial district:

The purpose of the seventh judicial district court program, statutorily created in Torrance, Socorro, Catron and Sierra counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a)	Personal services and				
	employee benefits	1,898.7		261.2	2,159.9
(b)	Contractual services	249.4	18.0	98.3	365.7
(c)	Other	114.7	15.0	35.5	165.2

Authorized FTE: 30.00 Permanent; 4.00 Term

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 95%

(8) Eighth judicial district:

The purpose of the eighth judicial district court program, statutorily created in Taos, Colfax and Union counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a) Personal services and

	employee benefits	2,089.2			2,089.2
(b)	Contractual services	623.3	45.0	95.3	763.6
(c)	Other	79.0	26.0	105.0	

Authorized FTE: 31.00 Permanent

Performance measures:

- (a) Explanatory: Cases disposed as a percent of cases filed 95%
- (b) Quality: Recidivism of adult drug-court graduates 8%
- (c) Quality: Recidivism of juvenile drug-court graduates 5%

(9) Ninth judicial district:

The purpose of the ninth judicial district court program, statutorily created in Curry and Roosevelt counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a)	Personal services and				
	employee benefits	3,057.8		466.4	3,524.2
(b)	Contractual services	23.9	16.5	70.6	111.0
(c)	Other	134.6	67.1	75.6	277.3

Authorized FTE: 44.80 Permanent; 5.50 Term

Performance measures:

- (a) Explanatory: Cases disposed as a percent of cases filed 95%

(10) Tenth judicial district:

The purpose of the tenth judicial district court program, statutorily created in Quay, De Baca and Harding counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:



(a)	Personal services and employee benefits	698.8		698.8
(b)	Contractual services	21.8	25.6	47.4
(c)	Other	71.6	6.0	77.6

Authorized FTE: 10.00 Permanent

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 95%

(11) Eleventh judicial district:

The purpose of the eleventh judicial district court program, statutorily created in San Juan and McKinley counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a)	Personal services and employee benefits	5,259.1	379.5	5,638.6
(b)	Contractual services	420.0	125.1	151.8
(c)	Other	249.0	38.9	13.7
				301.6

Authorized FTE: 82.50 Permanent; 6.50 Term

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 95%

(b) Quality: Recidivism of adult drug-court graduates 8%

(c) Quality: Recidivism of juvenile drug-court graduates 10%

(12) Twelfth judicial district:

The purpose of the twelfth judicial district court program, statutorily created in Otero and Lincoln counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a)	Personal services and			
	employee benefits	2,698.3	42.7	2,741.0
(b)	Contractual services	166.0	83.4	249.4
(c)	Other	203.2	74.3	277.5

Authorized FTE: 45.50 Permanent

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 95%

(b) Quality: Recidivism of juvenile drug-court participants 10%

(13) Thirteenth judicial district:

The purpose of the thirteenth judicial district court program, statutorily created in Valencia, Sandoval and Cibola counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a)	Personal services and				
	employee benefits	5,319.9	279.0	5,598.9	
(b)	Contractual services	735.1	141.9	250.8	1,127.8
(c)	Other	403.7	30.0	25.0	458.7

Authorized FTE: 78.50 Permanent; 4.00 Term

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 95%

(b) Quality: Recidivism of juvenile drug-court graduates 10%

Subtotal 80,060.7

**BERNALILLO COUNTY METROPOLITAN COURT:**

The purpose of the Bernalillo county metropolitan court program is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a)	Personal services and				
	employee benefits	17,997.4	1,564.5	120.0	19,681.9
(b)	Contractual services	2,415.2	596.6	253.4	3,265.2
(c)	Other	2,281.6	355.4		2,637.0
(d)	Other financing uses		15.0		15.0

Authorized FTE: 299.00 Permanent; 42.00 Term

Performance measures:

- (a) Explanatory: Cases disposed as a percent of cases filed 95%
- (b) Quality: Recidivism of driving-while-intoxicated drug-court graduates 4%

Subtotal 25,599.1

**DISTRICT ATTORNEYS:**

(1) First judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Santa Fe, Rio Arriba and Los Alamos counties.

Appropriations:

(a)	Personal services and			
	employee benefits	4,492.4		163.5 4,655.9
(b)	Contractual services	18.0		18.0
(c)	Other	324.8	324.8	

Authorized FTE: 70.00 Permanent; 3.00 Term

Performance measures:

- (a) Efficiency: Average time from filing of petition to final disposition,  
in months 6

(2) Second judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Bernalillo county.

Appropriations:

- (a) Personal services and  
employee benefits 16,473.1 471.7 86.7 186.9 17,218.4
- (b) Contractual services 42.0 56.0 98.0
- (c) Other 592.1 257.2 1.3 850.6

Authorized FTE: 283.00 Permanent; 9.00 Term

Performance measures:

- (a) Efficiency: Average time from filing of petition to final disposition,  
in months 12

(3) Third judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Dona Ana county.

Appropriations:

- (a) Personal services and  
employee benefits 4,147.3 506.3 226.4 491.4 5,371.4
- (b) Contractual services 13.3 13.3
- (c) Other 257.2 257.2

Authorized FTE: 62.00 Permanent; 19.00 Term

Performance measures:

(a) Efficiency: Average time from filing of petition to final disposition,  
in months 6

(4) Fourth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Mora, San Miguel and Guadalupe counties.

Appropriations:

(a)	Personal services and employee benefits	2,844.3		2,844.3
(b)	Contractual services	30.0		30.0
(c)	Other	174.1	174.1	

Authorized FTE: 42.00 Permanent

Performance measures:

(a) Efficiency: Average time from filing of petition to final disposition,  
in months 6

(5) Fifth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Eddy, Lea and Chaves counties.

Appropriations:

(a)	Personal services and employee benefits	4,265.4	98.0	4,363.4
(b)	Contractual services	16.5		16.5
(c)	Other	171.3	171.3	

Authorized FTE: 62.00 Permanent; 1.00 Term

Performance measures:

- (a) Efficiency: Average time from filing of petition to final disposition,  
in months 6

(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<br>employee benefits | 2,427.3 | 43.7  | 129.1 | 2,600.1 |
| (b) Contractual services                       | 18.9    |       |       | 18.9    |
| (c) Other                                      | 174.8   | 174.8 |       |         |

Authorized FTE: 35.00 Permanent; 3.00 Term

Performance measures:

- (a) Efficiency: Average time from filing of petition to final disposition,  
in months 5

(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<br>employee benefits | 2,231.8 |       |  | 2,231.8 |
| (b) Contractual services                       | 12.8    |       |  | 12.8    |
| (c) Other                                      | 139.2   | 139.2 |  |         |

Authorized FTE: 36.00 Permanent

Performance measures:

(a) Efficiency: Average time from filing of petition to final disposition,  
in months 5

(8) Eighth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Taos, Colfax and Union counties.

Appropriations:

(a)	Personal services and employee benefits	2,321.5	2,321.5
(b)	Contractual services	12.6	12.6
(c)	Other	148.6	148.6

Authorized FTE: 34.00 Permanent

Performance measures:

(a) Efficiency: Average time from filing of petition to final disposition,  
in months 6

(9) Ninth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Curry and Roosevelt counties.

Appropriations:

(a)	Personal services and employee benefits	2,558.3	2,558.3
(b)	Contractual services	12.1	12.1
(c)	Other	106.3	106.3

Authorized FTE: 39.00 Permanent

Performance measures:

- (a) Efficiency: Average time from filing of petition to final disposition,  
in months 6

(10) Tenth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Quay, Harding and De Baca counties.

Appropriations:

- |     |  |       |      |       |
|-----|--|-------|------|-------|
| (a) | Personal services and<br>employee benefits | 908.4 |      | 908.4 |
| (b) | Contractual services                       |       | 11.2 | 11.2  |
| (c) | Other                                      | 78.4  | 78.4 |       |

Authorized FTE: 13.00 Permanent

Performance measures:

- (a) Efficiency: Average time from filing of petition to final disposition,  
in months 5

(11) Eleventh judicial district-division I:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within San Juan county.

Appropriations:

- |     |  |         |       |      |      |         |
|-----|--|---------|-------|------|------|---------|
| (a) | Personal services and<br>employee benefits | 3,134.8 | 506.5 | 68.6 | 86.5 | 3,796.4 |
| (b) | Contractual services                       |         | 18.0  |      |      | 18.0    |
| (c) | Other                                      | 186.6   | 186.6 |      |      |         |

Authorized FTE: 55.00 Permanent; 11.00 Term



Performance measures:

- (a) Efficiency: Average time from filing of petition to final disposition,  
in months 6

(12) Eleventh judicial district-division II:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within McKinley county.

Appropriations:

- |  |         |       |         |
|--|---------|-------|---------|
| (a) Personal services and<br>employee benefits | 1,981.9 | 167.4 | 2,149.3 |
| (b) Contractual services                       | 13.5    |       | 13.5    |
| (c) Other                                      | 91.0    | 91.0  |         |

Authorized FTE: 33.00 Permanent; 3.00 Term

Performance measures:

- (a) Output: Average time from filing of petition to final disposition,  
in months 5

(13) Twelfth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Lincoln and Otero counties.

Appropriations:

- |  |         |       |       |         |
|--|---------|-------|-------|---------|
| (a) Personal services and<br>employee benefits | 2,432.3 | 123.6 | 247.9 | 2,803.8 |
| (b) Contractual services                       | 22.2    | 10.0  |       | 32.2    |
| (c) Other                                      | 149.1   | 10.7  |       | 159.8   |

Authorized FTE: 39.00 Permanent; 8.50 Term

Performance measures:

- (a) Efficiency: Average time from filing of petition to final disposition,  
in months 6

(14) Thirteenth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Cibola, Sandoval and Valencia counties.

Appropriations:

- |  |         |       |         |
|--|---------|-------|---------|
| (a) Personal services and<br>employee benefits | 4,491.5 | 137.5 | 4,629.0 |
| (b) Contractual services                       | 22.4    |       | 22.4    |
| (c) Other                                      | 294.7   | 10.2  | 304.9   |

Authorized FTE: 80.00 Permanent; 2.00 Term

Performance measures:

- (a) Efficiency: Average time from filing of petition to final disposition,  
in months 6

Subtotal 61,949.1

**ADMINISTRATIVE OFFICE OF THE DISTRICT ATTORNEYS:**

(1) Administrative support:

The purpose of the administrative support program is to provide fiscal, human resource, staff development, automation, victim program services and support to all district attorneys' offices in New Mexico and to members of the New Mexico children's safehouse network so that they may obtain and access the necessary resources to effectively and efficiently carry out their prosecutorial, investigative and programmatic functions.

Appropriations:

- |  |         |      |         |
|--|---------|------|---------|
| (a) Personal services and<br>employee benefits | 1,119.8 | 52.9 | 1,172.7 |
|--|---------|------|---------|

(b)	Contractual services	227.2	227.2
(c)	Other	699.2 200.0	899.2

Authorized FTE: 14.00 Permanent; 1.00 Term

The general fund appropriation to the administrative office of the district attorneys in the contractual services category includes one hundred eighty thousand dollars (\$180,000) for statewide children's advocacy programs.

Subtotal			2,299.1		
TOTAL JUDICIAL	207,642.6	23,708.6	8,691.6	2,369.4	242,412.2

### 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	7,315.2	6,374.3	13,689.5
(b)	Contractual services	452.1	301.4	753.5
(c)	Other	1,159.6	773.2	1,932.8
(d)	Other financing uses		2,000.0	2,000.0

Authorized FTE: 160.00 Permanent; 1.00 Term

The other state funds appropriations to the legal services program of the attorney general include seven million four hundred forty-eight thousand nine hundred dollars (\$7,448,900) from the consumer settlement fund.

Performance measures:

- (a) Outcome: Percent of initial responses to requests for attorney  
general opinions made within three days of request 95%

(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	438.7		1,344.0	1,782.7
(b)	Contractual services		2.1	6.1	8.2
(c)	Other	70.8	28.0	184.5	283.3
(d)	Other financing uses			28.0	28.0

Authorized FTE: 21.00 Permanent

Performance measures:

(a) Explanatory: Total medicaid fraud recoveries identified, in thousands  
\$3,000

Subtotal 20,478.0

**STATE AUDITOR:**

The purpose of the state auditor program is to audit the financial affairs of every agency annually so they can improve accountability and performance and to assure New Mexico citizens that funds are expended properly.

Appropriations:

(a)	Personal services and				
	employee benefits	2,404.4	190.0	386.0	2,980.4
(b)	Contractual services		75.7		75.7
(c)	Other	402.3	10.0	44.0	456.3

Authorized FTE: 33.00 Permanent

Performance measures:

(a) Explanatory: Percent of audits completed by regulatory due date 80%

Subtotal 3,512.4

**TAXATION AND REVENUE DEPARTMENT:**

(1) Tax administration:

The purpose of the tax administration program is to provide registration and licensure requirements for tax programs and to ensure the administration, collection and compliance of state taxes and fees that provide funding for support services for the general public through appropriations.

Appropriations:

(a) Personal services and

employee benefits	16,283.0	7,156.5	1,260.3
	24,699.8		

(b) Contractual services	127.0	48.3	13.0	188.3
--------------------------	-------	------	------	-------

(c) Other	5,595.5	511.1	194.2	6,300.8
-----------	---------	-------	-------	---------

Authorized FTE: 462.50 Permanent; 26.00 Term; 18.50 Temporary

Performance measures:

(a) Output: Percent of electronically filed returns for personal income

tax and combined reporting system	85%
-----------------------------------	-----

(b) Outcome: Collections as a percent of collectable audit assessments

generated in the current fiscal year	55%
--------------------------------------	-----

(c) Outcome: Collections as a percent of collectable outstanding

balances from the end of the prior fiscal year	18%
--	-----

(2) Motor vehicle:

The purpose of the motor vehicle program is to register, title and license vehicles, boats and motor vehicle dealers and to enforce operator compliance with the Motor Vehicle Code and federal regulations by conducting tests, investigations and audits.

Appropriations:

(a) Personal services and

	employee benefits	7,014.6	8,891.5	15,906.1
(b)	Contractual services	1,304.6	2,648.1	
		3,952.7		
(c)	Other	3,111.0	2,495.0	5,606.0
(d)	Other financing uses		1,265.9	1,265.9

Authorized FTE: 342.00 Permanent; 3.00 Term; 3.00 Temporary

Performance measures:

- (a) Efficiency: Average call center wait-time to reach an agent, in minutes  
6
- (b) Outcome: Percent of registered vehicles with liability insurance 92%
- (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	2,551.1		2,551.1
(b)	Contractual services		127.6	127.6
(c)	Other	641.6	641.6	

Authorized FTE: 39.00 Permanent

Performance measures:

- (a) Outcome: Percent of counties in compliance with sales ratio standard  
of eighty-five percent assessed-value-to-market value 92%

(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	1,621.7	251.2	1,872.9
(b)	Contractual services	18.6		18.6
(c)	Other	300.9	300.9	

Authorized FTE: 28.00 Permanent

Performance measures:

- (a) Outcome: Number of tax investigations referred to prosecutors as a percent of total investigations assigned during the year 40%

(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	13,283.8	801.2	389.7	14,474.7
(b)	Contractual services	2,397.4	103.5	39.5	2,540.4
(c)	Other	3,601.8	21.5	76.6	3,699.9

Authorized FTE: 187.00 Permanent

Notwithstanding any contrary provision in the Tax Administration Act, the department shall withhold an administrative fee in the amount of three and twenty-five hundredths percent of the distributions specified in Section 7-1-6.46, 7-1-6.47, and Subsection E of Section 7-1-6.41 NMSA 1978.

Notwithstanding any contrary provision in the Tax Administration Act, of the amounts withheld, an amount equal to three percent of the distributions specified in Subsection E of Section 7-1-6.41 NMSA

1978 shall be deposited into the general fund and the remainder of the amounts withheld shall be retained by the department and is included in the other state fund appropriations to the department.

Performance measures:

(a) Outcome: Percent of driving-while-intoxicated drivers' license

revocations rescinded due to failure to hold hearings

within ninety days <1%

Subtotal 84,147.3

**STATE INVESTMENT COUNCIL:**

(1) State investment:

The purpose of the state investment program is to provide investment management of the state's permanent funds for the citizens of New Mexico to maximize distributions to the state's operating budget while preserving the real value of the funds for future generations of New Mexicans.

Appropriations:

(a) Personal services and

employee benefits 3,658.5 3,658.5

(b) Contractual services 47,412.0 47,412.0

(c) Other 862.8 862.8

Authorized FTE: 32.00 Permanent

~~[The state investment council office may convert three vacant classified full time equivalent positions to three positions exempt from the Personnel Act.] LINE-ITEM VETOED.~~

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 51,933.3



## 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	3,107.5		3,107.5
(b)	Contractual services	91.3		91.3
(c)	Other	176.0	176.0	

Authorized FTE: 35.00 Permanent

### Performance measures:

(a)	Outcome: General fund reserves as a percent of recurring			
	appropriations	10%		

(2) Community development, local government assistance and fiscal oversight:

The purpose of the community development, local government assistance and fiscal oversight program is to help counties, municipalities and special districts maintain strong communities through sound fiscal advice and oversight, technical assistance, monitoring of project and program progress and timely processing of payments, grant agreements and contracts.

### Appropriations:

(a)	Personal services and				
	employee benefits	1,773.4	1,085.4	399.2	3,258.0
(b)	Contractual services	1,958.2	1,597.4		13.6
		3,569.2			
(c)	Other	67.7	31,926.0	10,527.2	42,520.9
(d)	Other financing uses		800.0		800.0

Authorized FTE: 26.00 Permanent; 21.00 Term

Notwithstanding the provisions of Section 11-6A-3 NMSA 1978 or other substantive law, the other state funds appropriation in the other financing uses category includes five hundred thousand dollars (\$500,000) from the local DWI grant fund, including local DWI grant program distributions, to be transferred to the administrative office of the courts for drug courts.

The other state funds appropriations to the community development, local government assistance and fiscal oversight program of the department of finance and administration include fifteen million dollars (\$15,000,000) from the 911 enhancement fund, eighteen million eight hundred twelve thousand dollars (\$18,812,000) from the local DWI grant fund and one million five hundred ninety-six thousand eight hundred dollars (\$1,596,800) from the civil legal services fund.

The general fund appropriations to the community development, local government assistance and fiscal oversight program of the department of finance and administration include two hundred five thousand dollars (\$205,000) for civil legal services.

Performance measures:

- (a) Output: Percent of county and municipality budgets approved by the  
local government division (of budgets submitted timely) 90%

(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<br>employee benefits | 4,120.5 | 4,120.5 |
| (b) | Contractual services                       | 275.0   | 275.0   |
| (c) | Other                                      | 476.6   | 476.6   |

Authorized FTE: 57.00 Permanent

Performance measures:

- (a) Efficiency: Percent of vendor and employee payment vouchers processed  
within five working days 90%

(4) Program support:

The purpose of program support is to provide other department of finance and administration programs with central direction to agency management processes to ensure consistency, legal compliance and financial integrity, to administer the executive's exempt salary plan and to review and approve all state professional service contracts.

Appropriations:

(a)	Personal services and employee benefits	1,473.3	1,473.3
(b)	Contractual services	76.0	76.0
(c)	Other	60.2	60.2

Authorized FTE: 19.00 Permanent

(5) Dues and membership fees/special appropriations:

Appropriations:

(a)	Council of state governments	107.5	107.5
(b)	Western interstate commission for higher education	131.0	131.0
(c)	Education commission of the states	60.5	60.5
(d)	National association of state budget officers	17.6	17.6
(e)	National conference of state legislatures	139.0	139.0
(f)	Western governors' association	36.0	36.0
(g)	National center for state courts	106.4	106.4

(h)	National conference of insurance legislators	10.0	10.0
(i)	National council of legislators from gaming states	3.0	3.0
(j)	National governors' association	85.0	85.0
(k)	Citizen substitute care review	405.7	174.3
		580.0	
(l)	Emergency water supply fund	118.4	118.4
(m)	Fiscal agent contract	1,110.8	1,110.8
(n)	State planning districts	670.2	670.2
(o)	One-on-one and group youth mentoring	2,417.7	2,417.7
(p)	Statewide teen court	190.0	190.0
(q)	Law enforcement protection fund	7,809.4	7,809.4
(r)	Leasehold community assistance	128.9	128.9
(s)	County detention of prisoners	3,300.0	3,300.0
(t)	Acequia and community ditch education program	200.0	200.0
(u)	New Mexico acequia		

	commission	35.4		35.4
(v)	Food banks	439.4		439.4
(w)	Land grant council	50.0		50.0
	<del>[(x) City of Santa Fe Indian arts]</del>			<del>LINE-ITEM VETOED.</del>
	<del>[ promotion</del>	<del>10.0</del>		<del>10.0]</del>
(y)	Youth development programs			
	<del>[ in northwest New Mexico]</del>			<del>LINE-ITEM VETOED.</del>
		69.0		69.0
(z)	Boys and girls clubs [in Rio			
	<del>Arriba county]</del>			<del>LINE-ITEM VETOED.</del>
		75.0		75.0
	<del>[(aa) Mora county ambulances</del>	<del>75.0</del>		<del>75.0]</del>
	<del>[(bb) Rural agriculture to markets</del>			<del>LINE-ITEM VETOED.</del>
	<del>infrastructure</del>	<del>300.0</del>		<del>300.0]</del>
	<del>[(cc) City of Gallup recruitment</del>			<del>LINE-ITEM VETOED.</del>
	<del>of target industries</del>	<del>50.0</del>		<del>50.0]</del>
(dd)	One-on-one youth mentoring			
	<del>[ in southeast New Mexico]</del>			<del>LINE-ITEM VETOED.</del>
		140.0		140.0
	<del>[(ee) Northwest New Mexico</del>			<del>LINE-ITEM VETOED.</del>
	<del>council of state governments</del>	<del>50.0</del>		<del>50.0]</del>

On certification by the state board of finance pursuant to Section 6-1-2 NMSA 1978 that a critical emergency exists that cannot be addressed by disaster declaration or other emergency or contingency funds, the secretary of the department of finance and administration is authorized to transfer from the general fund operating reserve to the state board of finance emergency fund the amount necessary to meet the emergency. Such transfers shall not exceed an aggregate amount of two million dollars (\$2,000,000) in fiscal year 2014. Repayments of emergency loans made pursuant to this paragraph shall be deposited in the board of finance emergency fund pursuant to the provisions of Section 6-1-5 NMSA 1978.

~~[The general fund appropriation to the northwest New Mexico council of state governments shall be used for a broadband feasibility pilot program for Cibola county and the Navajo nation.] LINE-ITEM VETOED.~~

The department of finance and administration shall not distribute a general fund appropriation made in items (k) through (ee) to a New Mexico agency or local public body that is not current on its audit or financial reporting or otherwise in compliance with the Audit Act.

Subtotal 78,519.7

**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	302,016.5	302,016.5
(b)	Other financing uses	636.3	636.3

Performance measures:

(a) Efficiency: Percent variance of medical premium change between the public school insurance authority and industry average 3%

(2) Risk:

The purpose of the risk program is to provide economical and comprehensive property, liability and workers' compensation programs to educational entities so they are protected against injury and loss.

Appropriations:

(a)	Contractual services	65,745.2	65,745.2
(b)	Other financing uses	636.3	636.3

Performance measures:

(a) Outcome: Average cost per claim for current fiscal year as compared with prior fiscal year \$4,500

(b) Outcome: Total claims count for current fiscal year as compared with

prior fiscal year 1,600

(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	875.0	875.0
(b)	Contractual services	190.6	190.6
(c)	Other	216.9	216.9
Authorized FTE: 11.00 Permanent			
	Subtotal	370,316.8	

**RETIREE HEALTH CARE AUTHORITY:**

(1) Health care 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	255,653.6	255,653.6
(b)	Other financing uses	2,651.5	2,651.5

Performance measures:

(a) Output:	Minimum number of years of positive fund balance	20
(b) Efficiency:	Total revenue increase to the reserve fund, in millions	\$25
(c) Efficiency:	Average monthly per-participant claim cost, non-medicare eligible	\$621

(2) Program support:

The purpose of program support is to provide administrative support for the healthcare benefits administration program to assist the agency in delivering its services to its constituents.

Appropriations:

(a)	Personal services and employee benefits	1,698.2	1,698.2
(b)	Contractual services	445.2	445.2
(c)	Other	508.1	508.1

Authorized FTE: 25.00 Permanent

Any unexpended balances in program support of the retiree health care authority remaining at the end of fiscal year 2014 shall revert to the healthcare benefits administration program.

Subtotal	260,956.6
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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	18,116.0	18,116.0
(b)	Other	328,520.8	328,520.8

Performance measures:

(a) Efficiency: Percent change in state employee medical premium compared

with the industry average 7%

(b) Outcome: Percent of state group prescriptions filled with generic drugs 80%

(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	3,921.0	3,921.0
(b)	Contractual services	277.3	277.3
(c)	Other	566.3	566.3
(d)	Other financing uses	2,938.0	2,938.0

Authorized FTE: 59.00 Permanent; 2.00 Term

Performance measures:

- (a) Explanatory: Projected financial position of the public property fund 50%
- (b) Explanatory: Projected financial position of the workers' compensation fund 30%
- (c) Explanatory: Projected financial position of the public liability fund 50%

(3) Risk management funds:

Appropriations:

(a)	Public liability	41,156.6	41,156.6
(b)	Surety bond	145.3	145.3
(c)	Public property reserve	10,880.9	10,880.9
(d)	Local public body unemployment compensation reserve	3,559.0	3,559.0
(e)	Workers' compensation retention	18,490.5	18,490.5
(f)	State unemployment		

compensation	16,046.5	16,046.5
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(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	934.0	934.0
(b) Contractual services	18.0	18.0
(c) Other 652.5	652.5	
(d) Other financing uses	107.1	107.1

Authorized FTE: 17.00 Permanent

Performance measures:

(a) Output: Revenue generated per employee compared with previous  
fiscal year \$90,000

(5) Business office space management and maintenance services:

The purpose of the business office space management and maintenance services program is to provide employees and the public with effective property management so agencies can perform their missions in an efficient and responsive manner.

Appropriations:

(a) Personal services and employee benefits 6,636.0		6,636.0
(b) Contractual services 279.3		279.3
(c) Other 4,838.8	[822.2] LINE-ITEM VETOED.	5,661.0
(d) Other financing uses 114.4		114.4

Authorized FTE: 156.50 Permanent

~~[Notwithstanding any contrary provision in Section 15-3B-19 NMSA 1978, the internal services funds/interagency transfers appropriation to the property control division of the general services department includes eight hundred twenty-two thousand two hundred dollars (\$822,200) from building use fees in accordance with the provisions in Section 15-3B-19 NMSA 1978 and Section 15-3B-18 NMSA 1978.] LINE-ITEM VETOED.~~

Performance measures:

- (a) Efficiency:       Percent of property control capital projects on schedule  
                          within approved budget    92%
- (b) Explanatory:     Percent of state-owned office space occupied   95%
- (c) Outcome: Percent decrease in lease costs from previous year   5%

(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	260.1	2,001.6	2,261.7
(b)	Contractual services	3.0	111.7	114.7
(c)	Other	200.8	7,671.0	7,871.8
(d)	Other financing uses	36.1	429.3	465.4

Authorized FTE: 34.00 Permanent

Performance measures:

- (a) Explanatory:     Percent increase in short-term vehicle use    5%
- (b) Explanatory:     Percent of state vehicle fleet beyond five-year or one  
                          hundred thousand miles standard 20%

(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	1,199.6	658.4	1,858.0
(b)	Other	125.9	169.8	295.7
(c)	Other financing uses	92.0	29.1	121.1

Authorized FTE: 28.00 Permanent

Performance measures:

- (a) Output: Number of government employees trained on Procurement Code compliance and methods 600
- (b) Output: Percent reduction in Procurement Code violations compared with the previous fiscal year 5%
- (c) Outcome: Percent decrease in sole source procurements 10%

(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		2,876.7	2,876.7
(b)	Contractual services		408.9	408.9
(c)	Other	460.4	460.4	

Authorized FTE: 37.00 Permanent

Any unexpended balances in program support of the general services department remaining at the end of fiscal year 2014 shall revert to the procurement services, printing services, risk management, employee

group benefits, business office space management and maintenance, and transportation services programs based on the proportion of each individual programs' assessment for program support.

Subtotal 475,754.9

**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	5,721.3	5,721.3
(b)	Contractual services	25,387.4	25,387.4
(c)	Other 825.5	825.5	

Authorized FTE: 63.00 Permanent; 2.00 Term

Performance measures:

(a)	Outcome: Average rate of return over a cumulative five-year period	7.75%
(b)	Outcome: Funding period of unfunded actuarial accrued liability, in years 30	

Subtotal 31,934.2

**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	525.2	30.0	555.2
(b)	Other 4.6	4.6		

Subtotal 559.8

**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	26,454.5		26,454.5
(b)	Contractual services	10,328.6	75.0	10,403.6
(c)	Other	5,016.6	175.0	5,191.6

Authorized FTE: 394.00 Permanent

~~[The appropriations to the public defender department do not include funding for leased office space for the Gallup field office.] LINE-ITEM VETOED.~~

Performance measures:

(a) Output:	Number of alternative sentencing treatment placements for	
	felony and juvenile clients	10,000
(b) Efficiency:	Percent of cases in which application fees were collected	
	45%	
(c) Quality:	Percent of felony cases resulting in a reduction of	
	original formally filed charges	65%
	Subtotal	42,049.7

**GOVERNOR:**

(1) Executive management and leadership:

The purpose of the executive management and leadership program is to provide appropriate management and leadership to the executive branch of government to allow for a more efficient and effective operation of the agencies within that branch of government on behalf of the citizens of the state.

Appropriations:

(a)	Personal services and employee benefits	2,969.9	2,969.9
(b)	Contractual services	100.8	100.8
(c)	Other	516.4	516.4
Authorized FTE: 27.00 Permanent			
	Subtotal		3,587.1

**LIEUTENANT GOVERNOR:**

(1) State ombudsman:

The purpose of the state ombudsman program is to facilitate and promote cooperation and understanding between the citizens of New Mexico and the agencies of state government, refer any complaints or special problems citizens may have to the proper entities, keep records of activities and submit an annual report to the governor.

Appropriations:

(a)	Personal services and employee benefits	497.1	497.1
(b)	Contractual services	44.8	44.8
(c)	Other	43.9	43.9
Authorized FTE: 5.00 Permanent			
	Subtotal		585.8

**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	686.4	686.4
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(b)	Other	43.4	43.4
(c)	Other financing uses	126.0	126.0

Authorized FTE: 7.00 Permanent

(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		15,381.9	15,381.9
(b)	Contractual services		6,980.7	6,980.7
(c)	Other	20,585.5	20,585.5	
(d)	Other financing uses		8,992.6	8,992.6

Authorized FTE: 168.00 Permanent

Performance measures:

- (a) Output: Queue time to reach a customer service representative at the help desk, in seconds <0:20
- (b) Output: Percent of service desk incidents resolved within the timeframe specified for their priority level 90%

(3) Equipment replacement revolving funds:

Appropriations:

(a)	Contractual services		2,501.0	2,501.0
(b)	Other	3,323.9	3,323.9	

(4) Program support:



The purpose of program support is to provide management and ensure cost recovery and allocation services through leadership, policies, procedures and administrative support for the department.

Appropriations:

(a)	Personal services and employee benefits	2,982.2	2,982.2
(b)	Contractual services	39.0	39.0
(c)	Other	272.4	272.4

Authorized FTE: 35.00 Permanent

Performance measures:

(a) Outcome: Dollar amount of accounts receivable over sixty days \$7,500,000

Subtotal 61,915.0

**PUBLIC EMPLOYEES RETIREMENT ASSOCIATION:**

(1) Pension administration:

The purpose of the pension administration program is to provide information, retirement benefits and an actuarially sound fund to association members so they can receive the defined benefit they are entitled to when they retire from public service.

Appropriations:

(a)	Personal services and employee benefits	5,780.4	5,780.4
(b)	Contractual services	28,387.0	28,387.0
(c)	Other	1,198.3	1,198.3

Authorized FTE: 77.00 Permanent

Performance measures:

(a) Explanatory: Number of years needed to finance the unfunded actuarial accrued liability for the public employees retirement fund

with current statutory contribution rates 30

(b) Outcome: Ten-year average annualized investment returns to exceed  
internal benchmark, in basis points. 30

(c) Outcome: Ten-year average annualized performance ranking in national  
survey of at least fifty similar large public pension plans 50th

Subtotal 35,365.7

**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	2,335.0	54.8	2,389.8
(b) Contractual services	45.7	8.3	54.0
(c) Other	239.2	155.3	394.5

Authorized FTE: 40.00 Permanent; 2.00 Term

Performance measures:

(a) Outcome: Percent of total records items scheduled, reviewed, amended  
or replaced within a five-year period 40%

Subtotal 2,838.3

**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	2,655.1	816.5	3,471.6
(b)	Contractual services	151.2		151.2
(c)	Other	466.3	43.4	509.7

Authorized FTE: 38.00 Permanent; 1.00 Term

The general fund appropriation to the administration and operations program of the secretary of state in the other category includes two hundred thousand dollars (\$200,000) to cover expenses related to the transfer of responsibility for chartering and regulating corporations to the secretary of state contingent on enactment of House Bill 46 or similar legislation of the first session of the fifty-first legislature.

The internal service funds/interagency transfers appropriation to the administration and operations program of the secretary of state in the other category includes forty-three thousand four hundred dollars (\$43,400) to cover expenses related to the transfer of responsibility for chartering and regulating corporations to the secretary of state contingent on enactment of House Bill 46 or similar legislation of the first session of the fifty-first legislature.

The internal service funds/interagency transfers appropriation to the administration and operations program of the secretary of state in the personal services and employee benefits category includes eight hundred sixteen thousand five hundred dollars (\$816,500) to cover expenses related to the transfer of responsibility for chartering and regulating corporations to the secretary of state contingent on enactment of House Bill 46 or similar legislation of the first session of the fifty-first legislature.

(2) Elections:

The purpose of the elections program is to provide voter education and information on election law and government ethics to citizens, public officials and candidates so they can comply with state law.

Appropriations:

(a)	Contractual services	714.8		714.8
(b)	Other	1,580.4	1,250.0	2,830.4

Notwithstanding the provisions of Section 1-19A-10 NMSA 1978, the other state funds appropriation to the elections program of the secretary of state includes one million two hundred fifty thousand dollars (\$1,250,000) from the public elections fund.

Any unexpended balances in the elections program of the secretary of state remaining at the end of fiscal year 2014 from appropriations made from the public elections fund shall revert to the public elections fund.

Performance measures:

(a) Outcome: Percent of eligible voters registered to vote 80%

(b) Outcome: Percent of campaign reports filed electronically by the due date 90%

Subtotal 7,677.7

**PERSONNEL BOARD:**

(1) Human resource management:

The purpose of the human resource management program is to provide a flexible system of merit-based opportunity, appropriate compensation, human resource accountability and employee development that meets the evolving needs of the agencies, employees, applicants and the public so economy and efficiency in the management of state affairs may be provided while protecting the interest of the public.

Appropriations:

(a)	Personal services and			
	employee benefits	3,832.3	325.7	4,158.0
(b)	Contractual services	54.5		54.5
(c)	Other	273.0	34.0	307.0

Authorized FTE: 53.00 Permanent

Performance measures:

(a) Outcome: Average number of days to fill a vacant position 40

(b) Explanatory: Percent of new employees who successfully complete their probationary period 85%

(c) Efficiency: Average employee compa-ratio 95%

(d) Explanatory: Percent turnover for employees leaving state service 18%

(e) Explanatory: Ratio of disciplinary actions to number appealed to state personnel board 5:1

Subtotal 4,519.5

**PUBLIC EMPLOYEES LABOR RELATIONS BOARD:**

The purpose of the public employee labor relations board is to assure all state and local public body employees have the right to organize and bargain collectively with their employers or to refrain from such.

Appropriations:

(a) Personal services and  
employee benefits 161.5 161.5

(b) Contractual services 6.4 6.4

(c) Other 46.1 46.1

Authorized FTE: 2.00 Permanent

Subtotal 214.0

**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 3,104.9 3,104.9

(b) Contractual services 180.0 180.0

(c) Other 399.6 122.3 4.0 525.9

Authorized FTE: 40.00 Permanent

Performance measures:

(a) Outcome: One-year annualized investment return on general fund core  
portfolio to exceed internal benchmarks, in basis points 5

Subtotal 3,810.8

TOTAL GENERAL CONTROL	168,368.2	827,747.5	530,614.8	13,946.1
	1,540,676.6			

**D. COMMERCE AND INDUSTRY**

**BOARD OF EXAMINERS FOR ARCHITECTS:**

(1) Architectural registration:

The purpose of the architectural registration program is to provide architectural registration to approved applicants so they can practice architecture.

Appropriations:

(a)	Personal services and		
	employee benefits	268.7	268.7
(b)	Contractual services	18.2	18.2
(c)	Other	83.5	83.5

Authorized FTE: 4.00 Permanent

Subtotal	370.4
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**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	318.5	318.5
(b)	Contractual services	52.5	52.5
(c)	Other	16.3 85.6	101.9

Authorized FTE: 4.00 Permanent

Performance measures:

(a) Outcome: Annual trade share of New Mexico ports within the west

Texas and New Mexico region 6.5%

(b) Outcome: Commercial and noncommercial vehicular port traffic at New

Mexico ports 830,000

Subtotal 472.9

**TOURISM DEPARTMENT:**

(1) Marketing and promotion:

The purpose of the marketing and promotion program is to produce and provide collateral, editorial and special events for the consumer and trade industry so they may increase their awareness of New Mexico as a premier tourist destination.

Appropriations:

(a) Personal services and

employee benefits 1,555.6 1,555.6

(b) Contractual services 395.5 395.5

(c) Other 5,816.3 30.0 5,846.3

Authorized FTE: 36.50 Permanent

~~[The tourism department shall engage in outreach, training and education of in-state businesses to promote increased competitiveness of New Mexico businesses in seeking tourism department contracts.]~~  
LINE-ITEM VETOED.

The general fund appropriation to the marketing and promotion program of the tourism department in the other category includes thirty thousand dollars (\$30,000) for advertising the Santa Fe fiesta council, twenty-five thousand dollars (\$25,000) for advertising the Santa Fe Indian market and twenty-five thousand dollars (\$25,000) for advertising the Santa Fe Spanish market.

Performance measures:

(a) Outcome: New Mexico's domestic overnight visitor market share 1.1%

(b) Outcome: Percent increase in lodgers' tax revenue 3%

(2) Tourism development:

The purpose of the tourism development program is to provide constituent services for communities, regions and other entities so they may identify their needs and assistance can be provided to locate resources to fill those needs, whether internal or external to the organization.

Appropriations:

(a)	Personal services and employee benefits	262.9	149.2	412.1
(b)	Contractual services	52.2	151.5	203.7
(c)	Other	776.5	728.9	1,505.4

Authorized FTE: 5.00 Permanent

Performance measures:

(a)	Outcome: Number of entities participating in collaborative applications for the cooperative advertising program	150
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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	883.6	883.6
(b)	Contractual services	949.9	949.9
(c)	Other	1,571.6	1,571.6

Authorized FTE: 10.00 Permanent; 4.00 Term

Performance measures:

(a)	Outcome: Annual circulation rate	95,000
(b)	Output: Advertising revenue per issue, in thousands	\$80

(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	991.3	991.3
(b)	Contractual services	41.5	41.5
(c)	Other	417.1	417.1
Authorized FTE: 13.00 Permanent			
Subtotal			14,773.6

**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	1,636.4	1,636.4
(b)	Contractual services	1,993.0	1,993.0
(c)	Other	232.8	232.8

Authorized FTE: 23.00 Permanent

The general fund appropriation to the economic development program of the economic development department in the contractual services category includes nine hundred thirty thousand dollars (\$930,000) for the New Mexico economic development corporation.

Performance measures:

(a)	Outcome: Number of workers trained by the job training incentive program	1,000
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(b) Outcome: Total number of jobs created due to economic development  
department efforts 2,500

(c) Outcome: Number of rural jobs created 1,250

(d) Outcome: Number of jobs created through business relocations  
facilitated by the economic development partnership 1,700

(e) Outcome: Number of jobs created by mainstreet 600

(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	537.1	537.1
(b) Contractual services	97.8	97.8
(c) Other	118.9	118.9

Authorized FTE: 8.00 Permanent

Performance measures:

(a) Output: Number of media industry worker days	150,000	
(b) Outcome: Direct spending by film industry productions in millions		\$225

(3) Program support:

The purpose of program support is to provide central direction to agency management processes and fiscal support to agency programs to ensure consistency, continuity and legal compliance.

Appropriations:

(a) Personal services and employee benefits	1,560.7	1,560.7
(b) Contractual services	214.9	214.9

(c) Other 201.2 201.2

Authorized FTE: 21.00 Permanent

Subtotal 6,592.8

## REGULATION AND LICENSING DEPARTMENT:

(1) Construction industries and manufactured housing:

The purpose of the construction industries and manufactured housing program is to provide code compliance oversight; issue licenses, permits and citations; perform inspections; administer exams; process complaints; and enforce laws, rules and regulations relating to general construction and manufactured housing standards to industry professionals.

Appropriations:

(a) Personal services and

employee benefits	6,996.4	56.4	4.1	7,056.9
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(b) Contractual services 73.0 73.0

(c) Other 905.4 51.3 250.0 5.9 1,212.6

(d) Other financing uses 12.8 12.8

Authorized FTE: 110.00 Permanent; 3.00 Term

Performance measures:

(a) Output: Percent of consumer complaints against licensed contractors

and investigations involving unlicensed contracting

resolved out of the total number filed 90%

(b) Efficiency: Percent of all construction inspections performed within

three days of inspection request 90%

(2) Financial institutions and securities:

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 that capital formation is maximized and a secure financial infrastructure is available to support economic development.

Appropriations:

(a)	Personal services and employee benefits	2,293.0	1,274.5	3,567.5
(b)	Contractual services	18.5	174.5	193.0
(c)	Other	214.6	307.0	521.6
(d)	Other financing uses		98.9	98.9

Authorized FTE: 55.00 Permanent

The other state funds appropriation to the financial institutions and securities program of the regulation and licensing department in the personal services and employee benefits category includes three hundred fifty thousand dollars (\$350,000) from the financial institutions division settlement proceeds fund to hire up to seven more financial examiners in the financial institutions division.

Performance measures:

- (a) Outcome: Percent of statutorily complete applications processed  
within a standard number of days by type of application 95%
- (b) Outcome: Percent of examination reports mailed to a depository  
institution within thirty days of exit from the institution  
or the exit conference meeting 95%

(3) Alcohol and gaming:

The purpose of the alcohol and gaming program is to regulate the sale, service and public consumption of alcoholic beverages and, in cooperation with the department of public safety, enforce the Liquor Control Act to protect the health, safety and welfare of the citizens of and visitors to New Mexico.

Appropriations:

(a)	Personal services and employee benefits	816.5	816.5
(b)	Contractual services	22.7	22.7
(c)	Other	44.9	44.9

Authorized FTE: 15.00 Permanent

Performance measures:

(a) Output: Number of days to resolve an administrative citation that does not require a hearing 70

(b) Outcome: Number of days to issue a restaurant (beer and wine) liquor license 110

(4) Program support:

The purpose of program support is to provide leadership and centralized direction, financial management, information systems support and human resources support for all agency organizations in compliance with governing regulations, statutes and procedures so they can license qualified applicants, verify compliance with statutes and resolve or mediate consumer complaints.

Appropriations:

(a)	Personal services and			
	employee benefits	1,440.7	1,437.1	2,877.8
(b)	Contractual services	90.2	310.1	400.3
(c)	Other	200.5	256.2	456.7

Authorized FTE: 32.00 Permanent; 1.00 Term

(5) New Mexico public accountancy board:

The purpose of the public accountancy board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and			
	employee benefits	310.2	310.2	
(b)	Contractual services		16.6	16.6
(c)	Other	117.6	117.6	
(d)	Other financing uses		79.2	79.2

Authorized FTE: 5.00 Permanent

(6) Board of acupuncture and oriental medicine:

The purpose of the acupuncture and oriental medicine board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	134.3	134.3
(b)	Contractual services	22.1	22.1
(c)	Other            21.6	21.6	
(d)	Other financing uses	46.6	46.6

Authorized FTE: 2.70 Permanent

(7) New Mexico athletic commission:

The purpose of the New Mexico athletic commission program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	65.6	65.6
(b)	Contractual services	11.0	11.0
(c)	Other            28.3	28.3	
(d)	Other financing uses	20.6	20.6

Authorized FTE: 1.30 Permanent

(8) Athletic trainer practice board:

The purpose of the athletic trainer practice board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	14.7	14.7
(b)	Contractual services	0.5	0.5
(c)	Other            5.8	5.8	
(d)	Other financing uses	4.7	4.7

Authorized FTE: .20 Permanent

(9) Board of barbers and cosmetologists:

The purpose of the board of barbers and cosmetologists program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	534.3	534.3
(b)	Contractual services	45.0	45.0
(c)	Other            83.7	83.7	
(d)	Other financing uses	280.2	280.2

Authorized FTE: 10.50 Permanent

(10) Chiropractic board:

The purpose of the chiropractic board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	95.5	95.5
(b)	Contractual services	4.1	4.1
(c)	Other            17.8	17.8	

(d)	Other financing uses	32.4	32.4
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Authorized FTE: 1.90 Permanent

(11) Counseling and therapy practice board:

The purpose of the counseling and therapy practice board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	296.8	296.8
(b)	Contractual services	10.5	10.5
(c)	Other        57.8	57.8	
(d)	Other financing uses	110.0	110.0

Authorized FTE: 5.40 Permanent

(12) New Mexico board of dental health care:

The purpose of the dental health care board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	226.2	226.2
(b)	Contractual services	25.0	25.0
(c)	Other        64.7	64.7	
(d)	Other financing uses	103.5	103.5

Authorized FTE: 4.20 Permanent

(13) Interior design board:

The purpose of the interior design board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.



Appropriations:

(a)	Personal services and employee benefits	6.5	6.5
(b)	Other	6.6	6.6
(c)	Other financing uses	4.4	4.4

Authorized FTE: .10 Permanent

(14) Board of landscape architects:

The purpose of the landscape architects board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	5.8	5.8
(b)	Contractual services	0.5	0.5
(c)	Other	13.6	13.6
(d)	Other financing uses	6.5	6.5

Authorized FTE: .10 Permanent

(15) Massage therapy board:

The purpose of the massage therapy board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	166.0	166.0
(b)	Contractual services	2.0	2.0
(c)	Other	18.0	18.0
(d)	Other financing uses	70.1	70.1

Authorized FTE: 3.20 Permanent

(16) Board of nursing home administrators:

The purpose of the nursing home administrators board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	14.7	14.7
(b)	Contractual services	1.0	1.0
(c)	Other 7.0	7.0	
(d)	Other financing uses	9.5	9.5

Authorized FTE: .30 Permanent

(17) Nutrition and dietetics practice board:

The purpose of the nutrition and dietetics practice board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	9.7	9.7
(b)	Other 14.1	14.1	
(c)	Other financing uses	9.1	9.1

Authorized FTE: .20 Permanent

(18) Board of examiners for occupational therapy:

The purpose of the examiners for occupational therapy board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	51.3	51.3
(b)	Contractual services	3.0	3.0
(c)	Other        20.2	20.2	
(d)	Other financing uses	21.5	21.5

Authorized FTE: 1.00 Permanent

(19) Board of optometry:

The purpose of the optometry board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	50.9	50.9
(b)	Contractual services	10.6	10.6
(c)	Other        12.2	12.2	
(d)	Other financing uses	14.9	14.9

Authorized FTE: .90 Permanent

(20) Board of osteopathic medical examiners:

The purpose of the osteopathic medical examiners board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	92.1	92.1
(b)	Contractual services	2.0	2.0
(c)	Other        20.9	20.9	

(d)	Other financing uses	19.6	19.6
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Authorized FTE: 1.60 Permanent

(21) Board of pharmacy:

The purpose of the pharmacy board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	1,299.3	1,299.3
(b)	Contractual services	61.3	61.3
(c)	Other           230.1	230.1	
(d)	Other financing uses	248.0	248.0

Authorized FTE: 14.00 Permanent

(22) Physical therapy board:

The purpose of the physical therapy board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	73.0	73.0
(b)	Contractual services	10.0	10.0
(c)	Other           50.1	50.1	
(d)	Other financing uses	39.1	39.1

Authorized FTE: 1.30 Permanent

(23) Board of podiatry:

The purpose of the podiatry board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	22.8	22.8
(b)	Contractual services	1.0	1.0
(c)	Other	10.9	10.9
(d)	Other financing uses	6.1	6.1

Authorized FTE: .40 Permanent

(24) Private investigations advisory board:

The purpose of the private investigations advisory board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	197.1	197.1
(b)	Contractual services	5.0	5.0
(c)	Other	39.3	39.3
(d)	Other financing uses	87.5	87.5

Authorized FTE: 4.20 Permanent

(25) New Mexico state board of psychologist examiners:

The purpose of the psychologist examiners board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	135.8	135.8
(b)	Contractual services	13.4	13.4
(c)	Other	29.3	29.3

(d)	Other financing uses	39.2	39.2
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Authorized FTE: 2.40 Permanent

(26) Real estate appraisers board:

The purpose of the real estate appraisers board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	202.7	202.7
(b)	Contractual services	22.5	22.5
(c)	Other	23.8	23.8
(d)	Other financing uses	51.8	51.8

Authorized FTE: 3.60 Permanent

(27) New Mexico real estate commission:

The purpose of the real estate commission program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	578.6	578.6
(b)	Contractual services	8.0	8.0
(c)	Other	195.3	195.3
(d)	Other financing uses	159.9	159.9

Authorized FTE: 9.00 Permanent

(28) Advisory board of respiratory care practitioners:

The purpose of the respiratory care practitioners advisory board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	52.8	52.8
(b)	Other	6.9	6.9
(c)	Other financing uses	18.2	18.2

Authorized FTE: 1.10 Permanent

(29) Board of social work examiners:

The purpose of the social work examiners board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	196.5	196.5
(b)	Contractual services	4.0	4.0
(c)	Other	38.7	38.7
(d)	Other financing uses	89.8	89.8

Authorized FTE: 3.60 Permanent

(30) Speech language pathology, audiology and hearing aid dispensing practices board:

The purpose of the speech language pathology, audiology and hearing aid dispensing practices board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	93.7	93.7
(b)	Contractual services	7.7	7.7
(c)	Other	19.3	19.3

(d)	Other financing uses	40.0	40.0
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Authorized FTE: 1.70 Permanent

(31) Board of funeral services:

The purpose of the funeral services board is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	76.3	76.3
(b)	Contractual services	5.7	5.7
(c)	Other 23.2	23.2	
(d)	Other financing uses	28.9	28.9

Authorized FTE: 1.60 Permanent

(32) Animal sheltering services board:

The purpose of the animal sheltering services board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	48.1	48.1
(b)	Contractual services	22.9	0.3
(c)	Other 5.9	5.9	23.2
(d)	Other financing uses	17.3	17.3

Authorized FTE: 1.00 Permanent

(33) Signed language interpreting practices board:

The purpose of the signed language interpreting practices board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.



Appropriations:

(a)	Personal services and employee benefits	40.2	25.0	65.2
(b)	Contractual services		11.0	11.0
(c)	Other	33.5	33.5	
(d)	Other financing uses		25.1	25.1

Authorized FTE: 1.00 Permanent

Subtotal 25,698.3

**PUBLIC REGULATION COMMISSION:**

(1) Policy and regulation:

The purpose of the policy and regulation program is to fulfill the constitutional and legislative mandates regarding regulated industries through rulemaking, adjudications and policy initiatives to ensure the provisions of adequate and reliable services at fair, just and reasonable rates so the interests of the consumers and regulated industries are balanced to promote and protect the public interest.

Appropriations:

(a)	Personal services and employee benefits	5,004.6	1,450.2	6,454.8
(b)	Contractual services	168.6		168.6
(c)	Other	610.3	610.3	

Authorized FTE: 78.70 Permanent

The internal service funds/interagency transfers appropriation to the policy and regulation program of the public regulation commission in the personal services and employee benefits category includes two hundred twenty-three thousand four hundred dollars (\$223,400) from the patient's compensation fund, three hundred thirty-six thousand dollars (\$336,000) from the pipeline safety fund, forty thousand dollars (\$40,000) from the public regulation commission reproduction fund, two hundred thirteen thousand five hundred dollars (\$213,500) from the fire protection fund, four hundred fifty-two thousand two hundred dollars (\$452,200) from the insurance operations fund, ninety-seven thousand five hundred dollars (\$97,500) from the title insurance maintenance fund and eighty-seven thousand six hundred dollars (\$87,600) from the insurance fraud fund.

Contingent on enactment of legislation during the fifty-first legislature establishing the office of superintendent of insurance, the public regulation commission shall transfer from the internal service

funds/interagency transfer appropriation of the policy and regulation program to the office of superintendent of insurance the following amounts: 1) two hundred twenty-three thousand four hundred dollars (\$223,400) from the patient's compensation fund; 2) four hundred fifty-two thousand two hundred dollars (\$452,200) from the insurance operations fund; 3) ninety-seven thousand five hundred dollars (\$97,500) from the title insurance maintenance fund; and 4) eighty-seven thousand six hundred dollars (\$87,600) from the insurance fraud fund.

The policy and regulation program of the public regulation commission shall transfer eight hundred fifty-nine thousand nine hundred dollars (\$859,900) of the general fund appropriations to the administration and operations program of the secretary of state contingent on enactment of House Bill 46 or similar legislation of the first session of the fifty-first legislature.

Performance measures:

(a) Efficiency: Average number of days for a rate case to reach final order <300

(b) Outcome: Comparison of average commercial electric rates between major New Mexico utilities and selected utilities in regional western states +/-4%

(c) Explanatory: The amount of kilowatt hours of renewable energy provided annually by New Mexico's electric utilities, measured as a percent of total retail kilowatt hours sold by New Mexico's electric utilities to New Mexico's retail electric utility customers 10%

(d) Explanatory: Comparison of average residential electric rates between major New Mexico utilities and selected utilities in regional western states +/-5%

(2) 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	5,285.9	5,285.9
(b)	Contractual services	445.9	445.9
(c)	Other	617.5	617.5

Authorized FTE: 83.00 Permanent

The internal service funds/interagency transfers appropriations to the insurance policy program of the public regulation commission include two hundred twenty thousand three hundred dollars (\$220,300) from the patient's compensation fund, fifty-eight thousand five hundred dollars (\$58,500) from the title insurance maintenance fund, one hundred sixteen thousand four hundred dollars (\$116,400) from the insurance fraud fund and four million five hundred twenty-one thousand four hundred dollars (\$4,521,400) from the insurance operations fund.

The internal service funds/interagency transfers appropriations to the insurance policy program of the public regulation commission include nine hundred sixty-three thousand nine hundred dollars (\$963,900) for the insurance fraud bureau from the insurance fraud fund.

The internal service funds/interagency transfers appropriations to the insurance policy program of the public regulation commission include four hundred eighteen thousand eight hundred dollars (\$418,800) for the title insurance bureau from the title insurance maintenance assessment fund.

~~[The internal service funds/interagency transfers appropriation to the insurance policy program of the public regulation commission in the contractual services category include fifty thousand dollars (\$50,000) from the insurance operations fund for an actuarial analysis related to the affordability health program.] LINE-ITEM VETOED.~~

Contingent on enactment of legislation during the fifty-first legislature establishing the office of superintendent of insurance, the appropriations to and all authorized full time equivalent of the insurance division of the public regulation commission shall transfer to the office of superintendent of insurance and the office of superintendent of insurance shall include an additional seven full time equivalent.

Performance measures:

(a) Efficiency: Percent of insurance fraud bureau complaints processed  
and

recommended for either further administrative action or

closure within sixty days 88%

(3) Public safety:

The purpose of the public safety program is to provide services and resources to the appropriate entities to enhance their ability to protect the public from fire and pipeline hazards and other risk as assigned to the public regulation commission.

Appropriations:

(a)	Personal services and employee benefits	3,020.9	498.2	3,519.1
(b)	Contractual services	440.1	157.5	597.6
(c)	Other	1,342.7	254.3	1,597.0

Authorized FTE: 52.30 Permanent; 1.00 Term

The internal service funds/interagency transfers appropriations to the public safety program of the public regulation commission include two million two hundred eleven thousand eight hundred dollars (\$2,211,800) for the office of the state fire marshal from the fire protection fund.

The internal service funds/interagency transfers appropriations to the public safety program of the public regulation commission include one million five hundred seventy-six thousand nine hundred dollars (\$1,576,900) for the firefighter training academy from the fire protection fund.

The internal service funds/interagency transfers appropriations to the public safety program of the public regulation commission include seven hundred eighty thousand dollars (\$780,000) for the pipeline safety bureau from the pipeline safety fund.

Performance measures:

(a) Output: Number of personnel completing training through the state

firefighter training academy 3,500

(b) Outcome: Percent of statewide fire districts with insurance office

ratings of eight or better 66%

(4) Program support:

The purpose of program support is to provide administrative support and direction to ensure consistency, compliance, financial integrity and fulfillment of the agency mission.

Appropriations:

(a)	Personal services and employee benefits	1,637.7	989.0	2,626.7
(b)	Contractual services	121.8		121.8
(c)	Other	352.5	352.5	

Authorized FTE: 47.00 Permanent

The internal service funds/interagency transfers appropriations to program support of the public regulation commission include two hundred twenty-eight thousand three hundred dollars (\$228,300) from the insurance fraud fund, three hundred thirty-nine thousand eight hundred dollars (\$339,800) from the fire protection fund, seventy-three thousand dollars (\$73,000) from the title insurance maintenance fund, forty-eight thousand dollars (\$48,000) from the public regulation commission reproduction fund, one hundred twenty-one thousand four hundred dollars (\$121,400) from the patient's compensation fund, sixty-two thousand seven hundred dollars (\$62,700) from the pipeline safety fund and one hundred fifteen thousand eight hundred dollars (\$115,800) from the insurance operations fund.

Contingent on enactment of legislation during the fifty-first legislature establishing the office of superintendent of insurance, the public regulation commission shall transfer from the internal service funds/interagency transfer appropriation of program support to the office of superintendent of insurance the following amounts: 1)two hundred twenty-eight thousand three hundred dollars (\$228,300) from the insurance fraud fund; 2) seventy-three thousand dollars (\$73,000) from the title insurance maintenance fund; 3) one hundred twenty-one thousand four hundred dollars (\$121,400) from the patient's compensation fund; and 4) one hundred fifteen thousand eight hundred dollars (\$115,800) from the insurance operations fund.

Contingent on enactment of legislation during the fifty-first legislature establishing the office of superintendent of insurance, five permanent full time equivalent shall transfer from program support of the public regulation commission to the office of superintendent of insurance.

(5) Special revenues:

Appropriations:

(a)	Other financing uses	12,792.1	12,792.1
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~~[Contingent on enactment of legislation during the fifty-first legislature establishing the office of superintendent of insurance, the internal service funds/interagency transfers appropriations to the special revenues program of the public regulation commission shall decrease by forty-one thousand six hundred dollars (\$41,600).] LINE-ITEM VETOED.~~

(6) Patient's compensation fund:

Appropriations:

(a)	Personal services and employee benefits	57.1	57.1	
(b)	Contractual services	489.3	489.3	
(c)	Other	15,012.7	15,012.7	
(d)	Other financing uses	565.1	565.1	

Authorized FTE: 1.00 Term

Subtotal	51,314.0
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**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	1,139.9	1,139.9
(b)	Contractual services	293.9	293.9
(c)	Other	301.0	301.0

Authorized FTE: 15.00 Permanent

Performance measures:

(a) Output:	Number of triennial physician licenses issued or renewed	3,600
(b) Output:	Number of biennial physician assistant licenses issued or renewed	300

Subtotal 1,734.8

**BOARD OF NURSING:**

(1) Licensing and certification:

The purpose of the licensing and certification program is to provide regulations to nurses, hemodialysis technicians, medication aides and their education and training programs so they provide competent and professional healthcare services to consumers.

Appropriations:

(a)	Personal services and		
	employee benefits	1,429.9	1,429.9
(b)	Contractual services	209.2	209.2
(c)	Other	486.8	486.8

(d) Other financing uses	230.0	230.0
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Authorized FTE: 19.00 Permanent

Performance measures:

(a) Output: Number of licensed practical nurse, registered nurse, advanced practice nurse licenses and unlicensed assistive personnel certificates issued 13,000

Subtotal	2,355.9	
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### NEW MEXICO STATE FAIR:

The purpose of the state fair program is to promote the New Mexico state fair as a year-round operation with venues, events and facilities that provide for greater use of the assets of the agency.

Appropriations:

(a) Personal services and employee benefits	5,251.0	5,251.0
(b) Contractual services	3,185.4	3,185.4
(c) Other [ <del>50.0</del> ] 3,249.9	690.2	3,990.1

Authorized FTE: 35.00 Permanent; 24.80 Temporary

The internal service funds/interagency transfers appropriation to the New Mexico state fair in the other category includes six hundred ninety thousand two hundred dollars (\$690,200) from parimutuel revenues for debt service on negotiable bonds issued for capital improvements.

~~[The general fund appropriation to the New Mexico state fair in the other category includes fifty thousand dollars (\$50,000) to fund the expenses for students from throughout the state to attend youth development programs related to agriculture, farming and livestock at the state fair grounds.] LINE-ITEM VETOED.~~

Performance measures:

(a) Output: Number of paid attendees at annual state fair event 450,000

Subtotal	12,426.5	
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### 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	422.4	422.4
(b)	Contractual services	86.1	86.1
(c)	Other	135.1	135.1
(d)	Other financing uses	135.0	135.0

Authorized FTE: 8.00 Permanent

Performance measures:

(a) Output:	Number of licenses or certifications issued	675
Subtotal		778.6

**GAMING CONTROL BOARD:**

(1) Gaming control:

The purpose of the gaming control board is to provide strictly regulated gaming activities and to promote responsible gaming to the citizens of New Mexico so they can attain a strong level of confidence in the board's administration of gambling laws and assurance the state has competitive gaming free from criminal and corruptive elements and influences.

Appropriations:

(a)	Personal services and		
	employee benefits	3,808.3	3,808.3
(b)	Contractual services	775.1	775.1
(c)	Other	964.2	964.2

Authorized FTE: 57.00 Permanent

Subtotal		5,547.6
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## 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	1,274.7	1,274.7
(b)	Contractual services	923.9	923.9
(c)	Other	146.8	146.8

Authorized FTE: 17.30 Permanent; .60 Term; 1.80 Temporary

### Performance measures:

- (a) Outcome: Percent of equine samples testing positive for illegal substances 0.03%
- (b) Output: Total amount collected from parimutuel revenues, in millions \$0.9

Subtotal 2,345.4

## 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	152.6	152.6
(b)	Contractual services	121.4	121.4
(c)	Other	54.2	54.2

Authorized FTE: 3.00 Permanent

Performance measures:

(a) Output: Number of veterinarian licenses issued annually 1,050

Subtotal 328.2

**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	56.0	68.6	124.6
(b)	Contractual services		3,597.9	3,597.9
(c)	Other	42.7	26.9	69.6

Authorized FTE: 2.10 Permanent

Performance measures:

(a) Output: Revenue generated from ticket sales, in millions \$3.5

Subtotal 3,792.1

**OFFICE OF MILITARY BASE PLANNING AND SUPPORT:**

The purpose of the office of military base planning and support is to provide advice to the governor and lieutenant governor on New Mexico's four military installations, to work with community support groups, to ensure that state initiatives are complementary of community actions and to identify and address appropriate state-level issues that will contribute to the long-term viability of New Mexico military installations.

Appropriations:

(a)	Personal services and			
	employee benefits	110.7		110.7
(b)	Contractual services		20.0	20.0

(c) Other 13.7 13.7

Authorized FTE: 1.00 Permanent

Performance measures:

(a) Outcome: Number of military units impacted by the activities of the  
commission and the office 10

Subtotal 144.4

### **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 456.2 340.0 796.2

(b) Contractual services 2,252.5 2,252.5

(c) Other 1,341.0 1,341.0

Authorized FTE: 9.00 Permanent

Performance measures:

(a) Outcome: Annual number of jobs created due to spaceport authority  
efforts 200

Subtotal 4,389.7

TOTAL COMMERCE AND INDUSTRY 46,919.5 54,843.2 30,382.5 920.0  
133,065.2

### **E. AGRICULTURE, ENERGY AND NATURAL RESOURCES**

#### **CULTURAL AFFAIRS DEPARTMENT:**

(1) Museums and monuments:

The purpose of the museums and monuments 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	14,558.5	2,826.5	178.8	113.0	17,676.8
(b)	Contractual services	594.3	348.8	0.2		943.3
(c)	Other	3,958.4	1,636.7	2.0		5,597.1

Authorized FTE: 300.80 Permanent; 35.00 Term

The general fund appropriation to the museums and monuments program of the cultural affairs department in the contractual services category includes one hundred thousand dollars (\$100,000) for an outreach program at a science center and children's museum in Albuquerque and two hundred thousand dollars (\$200,000) for planning and implementing a cultural arts collaborative to promote New Mexico as a destination for arts and culture ~~[utilizing a world-class performing arts venue and the resources of an internationally recognized folk art market to help augment and extend the outreach of the cultural affairs department to engage and broaden audiences of all ages including outreach to youth and school groups].~~  
*LINE-ITEM VETOED.*

Performance measures:

(a) Output:	Attendance to museum and monument exhibitions,	
	performances, films and other presenting programs	810,000
(b) Output:	Number of participants at off-site educational, outreach	
	and special events related to museum missions	80,000

(2) Preservation:

The purpose of the preservation program is to identify, study and protect New Mexico's unique cultural resources, including its archaeological sites, architectural and engineering achievements, cultural landscapes and diverse heritage.

Appropriations:

(a)	Personal services and				
	employee benefits	444.5	2,392.2	662.4	3,499.1
(b)	Contractual services		344.6	60.0	404.6

(c) Other 88.6 567.1 509.5 1,165.2

Authorized FTE: 28.00 Permanent; 29.50 Term; 1.00 Temporary

The other state funds appropriation to the preservation program of the cultural affairs department includes one million dollars (\$1,000,000) from the department of transportation for archaeological studies as needed for highway projects.

Performance measures:

(a) Output: Number of participants in educational, outreach and special events related to preservation mission 15,000

(b) Output: Number of historic structures preservation projects completed annually using preservation tax credits 45

(c) Output: Dollar value of construction underway on historic buildings using state and federal tax credits, in millions \$8.5

(3) Library services:

The purpose of the library services program is to empower libraries to support the educational, economic and health goals of their communities and to deliver direct library and information services to those who need them.

Appropriations:

(a) Personal services and employee benefits 1,850.2 25.9 694.3 2,570.4

(b) Contractual services 658.9 403.4 1,062.3

(c) Other 1,383.6 35.0 266.2 1,684.8

Authorized FTE: 34.00 Permanent; 13.00 Term

The general fund appropriation to the library services program of the cultural affairs department in the contractual services category includes an additional one hundred eighty thousand dollars (\$180,000) for adult literacy programs, an additional seventy-five thousand dollars (\$75,000) for an expansion of national history day to a year-round program to serve additional students and teachers and fifty thousand dollars (\$50,000) for educational programming at [the Placitas and Edgewood] libraries. *LINE-ITEM VETOED.*

(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	638.3	60.9	160.1	859.3
(b)	Contractual services		581.1		408.1 989.2
(c)	Other	160.8	3.9	164.7	

Authorized FTE: 10.00 Permanent; 3.50 Term

Performance measures:

(a)	Output:	Attendance at programs provided by arts organizations			
		statewide, funded by New Mexico arts from recurring			
		appropriations	1,200,000		

(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	3,631.3	226.7		3,858.0
(b)	Contractual services		171.3		171.3
(c)	Other	164.8	61.1	225.9	

Authorized FTE: 53.00 Permanent

Any unexpended balances of other state funds appropriations or earned revenue to the cultural affairs department in this section remaining at the end of fiscal year 2014 shall not revert to any fund.

~~[Any unexpended balances in the cultural affairs department remaining at the end of fiscal year 2014 from appropriations made from the general fund shall not revert.] LINE-ITEM VETOED.~~

Subtotal 40,872.0

**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	800.0	3,696.8	4,496.8
(b)	Contractual services	75.0	208.1	283.1
(c)	Other	100.0	1,010.4	1,110.4

Authorized FTE: 75.00 Permanent

The general fund appropriation to the livestock inspection program of the New Mexico livestock board in the contractual services category includes seventy-five thousand dollars (\$75,000) for the horse rescue program that teaches incarcerated honorably discharged veterans contemporary horsemanship skills.

Performance measures:

(a) Output:	Number of road stops per month	75
(b) Outcome:	Number of livestock thefts reported per one thousand head inspected	1
(c) Outcome:	Number of disease cases per one thousand head inspected	0.15
Subtotal		5,890.3

**DEPARTMENT OF GAME AND FISH:**

(1) Field operations:

The purpose of the field operations program is to promote and assist the implementation of law enforcement, habitat and public outreach programs throughout the state.

Appropriations:

(a)	Personal services and			
	employee benefits	6,740.6	210.7	6,951.3

(b)	Contractual services		72.8	72.8
(c)	Other	1,701.0	1,701.0	

Authorized FTE: 96.00 Permanent

Performance measures:

(a) Output: Number of conservation officer hours spent in the field  
checking for compliance 30,000

(b) Output: Number of hunter and conservation education programs  
delivered by field staff 350

(c) Output: Number of special field operations to deter, detect and  
apprehend off-highway vehicle and game and fish violators 45

(2) Conservation services:

The purpose of the conservation services program is to manage and conserve the state's public wildlife resources and associated habitats for the benefit of the wildlife and for hunters, anglers and other wildlife users. Actions include the procurement and progressive management of wildlife habitat, providing technical assistance services and consultation to both public and private landowners and other affected interests regarding wildlife management and working to educate all sectors of the public about the wildlife resources of the state.

Appropriations:

(a)	Personal services and employee benefits		4,798.7	5,086.5	9,885.2
(b)	Contractual services		1,407.5	1,720.3	
		3,127.8			
(c)	Other	3,713.6	4,624.0	8,337.6	
(d)	Other financing uses		45.0	452.3	497.3

Authorized FTE: 141.00 Permanent; 10.00 Term; 3.00 Temporary

~~[The other state funds appropriation to the conservation services program of the department of game and fish in the other category includes one hundred fifty thousand dollars (\$150,000) for off-highway vehicle grants and youth safety training equipment.] LINE-ITEM VETOED.~~



Performance measures:

(a) Outcome: Number of days of elk hunting opportunity provided to New

Mexico resident hunters on an annual basis 167,000

(b) Outcome: Percent of public hunting licenses drawn by New Mexico

resident hunters 86%

(c) Output: Annual output of fish from the department's hatchery

system, in pounds 455,000

(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	280.4	280.4
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(b) Contractual services	125.7	125.7
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(c) Other	634.3	634.3
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Authorized FTE: 4.00 Permanent

Performance measures:

(a) Outcome: Percent of depredation complaints resolved within the

mandated one-year timeframe 90%

(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	4,065.6	116.2	4,181.8
(b)	Contractual services	573.4		573.4
(c)	Other	3,021.2	3,021.2	
Authorized FTE: 55.00 Permanent				
	Subtotal		39,389.8	

## ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT:

### (1) Renewable energy and energy efficiency:

The purpose of the renewable energy and energy efficiency program is to develop and implement clean energy programs to decrease per capita energy consumption, utilize New Mexico's substantial renewable energy resources, minimize local, regional and global air emissions, lessen dependence on foreign oil and reduce in-state water demands associated with fossil-fueled electrical generation.

#### Appropriations:

(a)	Personal services and			
	employee benefits	581.7	235.8	817.5
(b)	Contractual services	22.3	203.4	225.7
(c)	Other	14.3	71.0	85.3

Authorized FTE: 9.00 Permanent

~~[The general fund appropriation to the renewable energy and energy efficiency program of the energy, minerals and natural resources department in the contractual services category includes twenty thousand dollars (\$20,000) for an energy storage taskforce.] LINE-ITEM VETOED.~~

### (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	2,578.0	127.1	1,408.9
(b)	Contractual services	66.2	1.0	297.0
				364.2

(c)	Other	347.9	326.6	2,820.7	3,495.2
(d)	Other financing uses			28.0	28.0

Authorized FTE: 58.00 Permanent; 10.00 Term

Performance measures:

(a) Output: Number of nonfederal wildland firefighters provided  
professional and technical incident command system training 600

(b) Output: Number of acres treated in New Mexico's forest and  
watersheds 8,000

(3) State parks:

The purpose of the state parks program is to create the best recreational opportunities possible in state parks by preserving cultural and natural resources, continuously improving facilities and providing quality, fun activities and to do it all efficiently.

Appropriations:

(a)	Personal services and employee benefits	9,437.5	2,962.8	345.7	12,746.0
(b)	Contractual services	106.7	298.8	840.0	1,245.5
(c)	Other	1,185.9	6,029.6	2,750.0	2,605.5
(d)	Other financing uses			3,030.0	3,030.0

Authorized FTE: 204.00 Permanent; 6.00 Term; 53.00 Temporary

Notwithstanding the provisions of Section 9-5B-10 NMSA 1978, the other state funds appropriations to the state parks program of the energy, minerals and natural resources department include three hundred thousand dollars (\$300,000) from the youth conservation corps fund for state parks operations.

Performance measures:

(a) Explanatory: Number of visitors to state parks 4,000,000

(b) Explanatory: Self-generated revenue per visitor, in dollars \$1.05

(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	377.1	528.3	1,876.9	2,782.3
(b)	Contractual services		122.5	4,732.3	4,854.8
(c)	Other 6.2	111.1	222.2	339.5	
(d)	Other financing uses		116.2	116.2	

Authorized FTE: 17.00 Permanent; 15.00 Term

(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	2,973.9	1,054.6	196.6	4,225.1
(b)	Contractual services	100.0	3,927.0	10.0	4,037.0
(c)	Other 515.5	179.2	11.6	706.3	
(d)	Other financing uses		230.5	115.0	345.5

Authorized FTE: 56.00 Permanent; 5.00 Term

Performance measures:

(a) Output: Number of inspections of oil and gas wells and associated facilities 30,000

(b) Output: Percent of renewal of uncontested discharge permits within thirty days of expiration 75%

(6) Program leadership and support:

The purpose of program leadership and support is to provide leadership, set policy and provide support for every division in achieving their goals.

Appropriations:

(a)	Personal services and employee benefits	2,222.1	980.4	922.5	4,125.0
(b)	Contractual services	131.5			131.5
(c)	Other	291.3	17.9	309.2	
(d)	Other financing uses			1,171.6	1,171.6

Authorized FTE: 48.00 Permanent

Subtotal 61,866.4

**YOUTH CONSERVATION CORPS:**

The purpose of the youth conservation program 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	158.7		158.7	
(b)	Contractual services		3,846.9		3,846.9
(c)	Other	48.8	48.8		
(d)	Other financing uses		250.0		250.0

Authorized FTE: 2.00 Permanent

Performance measures:

(a) Output: Number of youth employed annually 800

Subtotal 4,304.4

**INTERTRIBAL CEREMONIAL OFFICE:**

The purpose of the intertribal ceremonial office is to aid in the planning, coordination and development of a successful intertribal ceremonial event in coordination with the Native American population.

Appropriations:

(a)	Contractual services	105.0	105.0
	Subtotal	105.0	

**COMMISSIONER OF PUBLIC LANDS:**

(1) Land trust stewardship:

The purpose of the land trust stewardship program is to generate sustainable revenue from state trust lands to support public education and other beneficiary institutions and to build partnerships with all New Mexicans to conserve, protect and maintain the highest level of stewardship for these lands so that they may be a significant legacy for generations to come.

Appropriations:

(a)	Personal services and employee benefits	10,558.7	10,558.7
(b)	Contractual services	684.8	684.8
(c)	Other	1,956.7	1,956.7
(d)	Other financing uses	505.8	505.8

Authorized FTE: 154.00 Permanent

The commissioner of public lands is authorized to hold in suspense amounts received pursuant to agreements entered into for the sale of state royalty interests that, as a result of the sale, became eligible for tax credits under Section 29 of the federal Internal Revenue Code, above those amounts required by law to be transferred to the land grant permanent fund. The commissioner may expend as much of the money so held in suspense, as well as additional money held in escrow accounts resulting from the sales and money held in fund balance, as is necessary to repurchase the royalty interests pursuant to the agreements.

Performance measures:

(a) Outcome: Bonus income per leased acre from oil and gas activities,

in dollars \$700

(b) Outcome: Dollars generated through oil, natural gas and mineral

audit activities, in millions \$2

(c) Output: Average income per acre from oil, natural gas and mineral activities, in dollars \$181.67

Subtotal 13,706.0

**STATE ENGINEER:**

(1) Water resource allocation:

The purpose of the water resource allocation program is to provide for efficient use of the available surface and underground waters of the state to any person so they can maintain their quality of life and to provide safety inspections of all nonfederal dams within the state for owners and operators of such dams so they can operate the dam safely.

Appropriations:

(a) Personal services and employee benefits	9,876.8	473.8	744.4	11,095.0
(b) Contractual services			624.7	624.7
(c) Other	119.2	1,257.4		1,376.6

Authorized FTE: 167.00 Permanent

The internal service funds/interagency transfers appropriations to the water resource allocation program of the state engineer include one hundred forty-seven thousand six hundred dollars (\$147,600) from the improvement of Rio Grande income fund and two million four hundred seventy-eight thousand nine hundred dollars (\$2,478,900) from the New Mexico irrigation works construction fund.

Performance measures:

- (a) Output: Average number of unprotested new and pending applications processed per month 65
- (b) Explanatory: Number of unprotested and unaggrieved water right applications backlogged 650
- (c) Outcome: Number of dams inspected per year and notices delivered to owners notifying of potential problems 100
- (d) Outcome: Number of transactions abstracted annually into the water

administration technical engineering resource system

database 23,000

(2) Interstate stream compact compliance and water development:

The purpose of the interstate stream compact compliance and water development program is to provide resolution of federal and interstate water issues and to develop water resources and stream systems for the people of New Mexico so they can have maximum sustained beneficial use of available water resources.

Appropriations:

(a)	Personal services and				
	employee benefits	1,878.5	72.6	1,873.4	3,824.5
(b)	Contractual services		32.0	5,332.2	5,364.2
(c)	Other	15.4	3,368.3	3,383.7	

Authorized FTE: 44.00 Permanent; 5.00 Term

The internal service funds/interagency transfers appropriations to the interstate stream compact compliance and water development program of the state engineer include one million six hundred seventy-nine thousand one hundred dollars (\$1,679,100) from the improvement of Rio Grande income fund and eight million seventy-three thousand two hundred dollars (\$8,073,200) from the irrigation works construction fund.

Revenue from the sale of water to United States government agencies by New Mexico for the emergency drought water agreement and from contractual reimbursements associated with state engineer use of the revenue is appropriated to the interstate stream commission for the conservation and recovery of the listed species in the middle Rio Grande basin, including optimizing middle Rio Grande conservancy district operations.

The internal service funds/interagency transfers appropriations to the interstate stream compact compliance and water development program of the state engineer include one hundred thousand dollars (\$100,000) from the game protection fund for Ute dam operations. Any unexpended balances remaining at the end of fiscal year 2014 from this appropriation shall revert to the game protection fund.

The internal service funds/interagency transfers appropriation to the interstate stream compact compliance and water development program of the state engineer in the other category includes 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 2014 from this appropriation shall revert to the game protection fund.

The appropriations to the interstate stream compact compliance and water development program of the state engineer include one million nine hundred thousand dollars (\$1,900,000) for the construction, restoration, repair and protection of dams, reservoirs, ditches, diversions, flumes and appurtenances of acequias and community ditches in the state. The one million nine hundred thousand dollar (\$1,900,000) appropriation is solely authorized for acequia and community ditch projects through the interstate stream



commission as a 90/10 match program; provided that: a) not more than one hundred fifty thousand dollars (\$150,000) of this appropriation shall be used as the state share for any one acequia or community ditch; and b) state money shall not be used to meet the acequia's or community ditch's ten percent share of project costs. Any unexpended amount reverts to the irrigation works construction fund for use for acequia and community ditch projects in subsequent years. ~~[The interstate stream commission shall report twice a year to the legislative finance committee on expenditures of funds for acequia and community ditch projects.]~~ The internal service funds/interagency transfers appropriation to the interstate stream compact compliance and water development program of the state engineer in the contractual services category includes up to three hundred thousand dollars (\$300,000) for engineering services for approved acequia or community ditch projects. *LINE-ITEM VETOED.*

The interstate stream commission's authority to make loans for irrigation improvements includes five hundred thousand dollars (\$500,000) for loans to acequia, irrigation and conservancy districts. The interstate stream commission's authority also includes five hundred thousand dollars (\$500,000) for loans to irrigation districts, conservancy districts and soil and water conservation districts for re-loan to farmers for implementation of water conservation improvements.

The interstate stream commission's authority to make loans from the irrigation works construction fund includes two million dollars (\$2,000,000) for irrigation districts, acequias, conservancy districts and soil and water conservation districts for purchase and installation of meters and measuring equipment. The maximum loan term is five years.

Performance measures:

(a) Outcome: Cumulative state-line delivery credit per the Pecos river

compact and amended decree at the end of calendar year, in

acre-feet      0

(b) Outcome: Rio Grande river compact accumulated delivery credit or

deficit at end of calendar year, in acre-feet      0

(3) Litigation and adjudication:

The purpose of the litigation and adjudication program is to obtain a judicial determination and definition of water rights within each stream system and underground basin to effectively perform water rights administration and meet interstate stream obligations.

Appropriations:

(a) Personal services and

employee benefits	514.9	4,119.5	4,634.4
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(b) Contractual services	100.0	1,335.8	1,435.8
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(c) Other	100.0	235.4	335.4
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Authorized FTE: 68.00 Permanent

The internal service funds/interagency transfers appropriations to the litigation and adjudication program of the state engineer include three million two hundred sixty-five thousand seven hundred dollars (\$3,265,700) from the New Mexico irrigation works construction fund and two million four hundred twenty-five thousand dollars (\$2,425,000) from the water project fund pursuant to Section 72-4A-9 NMSA 1978.

Performance measures:

(a) Outcome: Number of offers to defendants in adjudications 600

(b) Outcome: Percent of all water rights that have judicial determinations 54%

(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	3,001.1	292.9	3,294.0
(b)	Contractual services	50.1	121.6	171.7
(c)	Other	610.1	610.1	

Authorized FTE: 43.00 Permanent

The internal service funds/interagency transfers appropriations to the program support program of the state engineer include one million twenty-four thousand six hundred dollars (\$1,024,600) from the New Mexico irrigation works construction fund.

(5) New Mexico irrigation works construction fund:

Appropriations:

(a)	Other financing uses	14,842.4	14,842.4
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(6) Improvement of Rio Grande income fund:

Appropriations:

(a)	Other financing uses	1,826.7	1,826.7
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Subtotal 52,819.2

TOTAL AGRICULTURE, ENERGY AND  
NATURAL RESOURCES 66,444.1 95,086.4 23,837.1 33,585.5  
218,953.1

## F. HEALTH, HOSPITALS AND HUMAN SERVICES

### [COMMISSION ON THE STATUS OF WOMEN:

(1) Status of women:

The purpose of the commission on the status of women program is to provide information, public events, leadership, support services and career development to individuals, agencies and women's organizations so they can improve the economic, health and social status of women in New Mexico.

Appropriations:

(a) Contractual services 85.0 85.0

(b) Other 40.0 40.0

Subtotal 125.0] *LINE-ITEM VETOED.*

### 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 374.2 374.2

(b) Contractual services 186.0 186.0

(c) Other 140.6 140.6

Authorized FTE: 5.00 Permanent

Subtotal 700.8

### 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			1,087.4	1,087.4
(b)	Contractual services	300.0	200.0	1,344.4	1,844.4
(c)	Other	329.8		329.8	
(d)	Other financing uses			491.0	491.0

Authorized FTE: 15.00 Permanent

The internal service funds/interagency transfers appropriation to the deaf and hard-of-hearing program of the commission for deaf and hard-of-hearing persons in the other financing uses category includes four hundred sixty-six thousand dollars (\$466,000) to transfer to the rehabilitation services program of the division of vocational rehabilitation to match with federal funds to provide deaf and hard-of-hearing rehabilitation services.

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 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.

The general fund appropriation to the deaf and hard-of-hearing program of the commission for deaf and hard-of-hearing persons in the contractual services category includes three hundred thousand dollars (\$300,000) for deaf and deaf-blind support service provider programs.

Performance measures:

(a) Output:	Number of accessible technology equipment distributions	1,000
(b) Output:	Number of clients provided assistance to reduce or eliminate communication barriers	1,000
Subtotal		3,752.6

**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	121.6		121.6
(b)	Contractual services	71.0		71.0
(c)	Other	81.2	81.2	

Authorized FTE: 2.00 Permanent

~~[The general fund appropriation to the Martin Luther King, Jr. commission in the contractual services category includes sixty thousand dollars (\$60,000) for an ACT and SAT preparation program and program evaluation.] LINE-ITEM VETOED.~~

Subtotal				273.8
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**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	1,048.8	55.5	3,409.0	4,513.3
(b)	Contractual services	45.7	2.4	138.8	186.9
(c)	Other	958.4	5,014.3	1,671.8	7,644.5

Authorized FTE: 92.50 Permanent

Any unexpended balances in the blind services program of the commission for the blind remaining at the end of fiscal year 2014 from appropriations made from the general fund shall not revert.

Performance measures:

(a) Output: Number of quality employment opportunities obtained for agency's blind or visually impaired clients 40

(b) Output: Number of blind or visually impaired clients trained in the skills of blindness to enable them to live independently in their homes and communities 600

(c) Outcome: Average hourly wage for the blind or visually impaired person \$13

Subtotal 12,344.7

**INDIAN AFFAIRS DEPARTMENT:**

(1) Indian affairs:

The purpose of the Indian affairs program is to coordinate intergovernmental and interagency programs concerning tribal governments and the state.

Appropriations:

(a) Personal services and employee benefits	1,125.0		1,125.0
(b) Contractual services	390.1	249.3	639.4
(c) Other	898.5	898.5	

Authorized FTE: 15.00 Permanent

The internal service funds/interagency transfers appropriation to the Indian affairs program of the Indian affairs department includes two hundred forty-nine thousand three hundred dollars (\$249,300) from the tobacco settlement program fund for tobacco cessation and prevention programs for Native American communities throughout the state.

Performance measures:

(a) Outcome: Percent of capital and tribal infrastructure fund projects over fifty thousand dollars (\$50,000) completed and closed 75%

Subtotal 2,662.9

## 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 persons with disabilities, residents of long-term care facilities and their families and caregivers that allow them to protect their rights and make informed choices about quality services.

#### Appropriations:

(a)	Personal services and				
	employee benefits	1,808.1	427.4	823.5	3,059.0
(b)	Contractual services	66.0		11.0	77.0
(c)	Other	112.1	31.5	238.9	382.5

Authorized FTE: 41.50 Permanent; 6.00 Term

#### Performance measures:

(a) Outcome: Percent of resident-requested transitions from nursing homes to home- and community-based services completed to the satisfaction of the resident within nine months from the request 90%

### (2) Aging network:

The purpose of the aging network program is to provide supportive social and nutrition services for older individuals and persons with disabilities so they can remain independent and involved in their communities and to provide training, education and work experience to older individuals so they can enter or re-enter the workforce and receive appropriate income and benefits.

#### Appropriations:

(a)	Personal services and				
	employee benefits	106.3	39.0		145.3
(b)	Contractual services	92.8	10.0		102.8
(c)	Other	28,398.4	80.0	8,832.6	37,311.0

Authorized FTE: 1.00 Permanent; .50 Term

The general fund appropriation to the aging network program of the aging and long-term services department in the other category to supplement the federal Older Americans Act shall be contracted to the designated area agencies on aging.

Any unexpended balances remaining at the end of fiscal year 2014 in other state funds from conference registration fees shall not revert.

~~[The aging and long-term services department shall report to the legislative finance committee by May 1, 2014, on the status of leveraging community funding for aging network services.]~~ *LINE-ITEM VETOED.*

The general fund appropriation to the aging network program of the aging and long-term services department in the other category includes eighty thousand dollars (\$80,000) ~~[for the lower valley senior center in Kirtland]~~ and one hundred thousand dollars (\$100,000) for ~~[the]~~ senior centers ~~[at the San Juan, Hogback, Cudei and Beclabito chapters].~~ *LINE-ITEM VETOED.*

Performance measures:

(a) Outcome: Percent of individuals exiting from the federal older

worker program who obtain unsubsidized employment 31.4%

(b) Output: Number of persons receiving aging network community services  
95,000

(c) Outcome: Percent of older New Mexicans whose food insecurity is

alleviated by meals received through the aging network 60%

(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 7,955.9 7,955.9

(b) Contractual services 1,066.8 2,498.6  
3,565.4

(c) Other 1,622.8 1,622.8

Authorized FTE: 132.00 Permanent



Performance measures:

- (a) Output: Number of adults receiving adult protective services investigations of abuse, neglect or exploitation 6,000
- (b) Output: Number of adults who receive in-home services or adult day services as a result of an investigation of abuse, neglect or exploitation 1,120
- (c) Outcome: Percent of emergency or priority one investigations in which a caseworker makes initial face-to-face contact with the alleged victim within prescribed timeframes 95%

(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 3,344.5 442.1 3,786.6
- (b) Contractual services 128.7 128.7
- (c) Other 182.7 182.7 365.4

Authorized FTE: 53.00 Permanent; 1.00 Term

Subtotal 58,502.4

**HUMAN SERVICES DEPARTMENT:**

(1) Medical assistance:

The purpose of the medical assistance program is to provide the necessary resources and information to enable low-income individuals to obtain either free or low-cost health care.

Appropriations:

(a)	Personal services and employee benefits	2,298.2	494.5	142.4	10,297.1	13,232.2
(b)	Contractual services	7,755.7	1,722.4	784.9	35,775.2	46,038.2
(c)	Other	823,199.3	116,062.1	141,090.1	2,892,679.1	3,973,030.6
(d)	Other financing uses	6,040.0	1,161.4	701.5	24,037.5	31,940.4

Authorized FTE: 178.50 Permanent; 11.00 Term

The internal service funds/interagency transfers appropriations to the medical assistance program of the human services department include one million three hundred twelve thousand four hundred dollars (\$1,312,400) from the tobacco settlement program fund for the breast and cervical cancer treatment program and seven million nine hundred seven thousand three hundred dollars (\$7,907,300) from the tobacco settlement program fund for Medicaid programs.

~~[Notwithstanding the provisions of Section 24-1-24, Subsection F of Section 35-7-4, Subsection G of Section 66-8-116.3, Paragraph (7) of Subsection B of Section 66-8-119 NMSA 1978, Section 13 of Chapter 23 of Laws 2004, or other substantive law, the administrative office of the courts and the taxation and revenue department shall remit all brain injury services fees assessed and collected in fiscal year 2014 to the human services department.]~~ The other state funds appropriation to the medical assistance program of the human services department in the contractual services category includes one million seven hundred twenty-two thousand four hundred dollars (\$1,722,400) from brain injury services fees for the statewide brain injury services program. Any unexpended balances of brain injury services fees remitted to the human services department shall not revert. *LINE-ITEM VETOED.*

The general fund appropriation to the medical assistance program of the human services department in the other category includes thirty-one thousand dollars (\$31,000) for medicaid outreach and assistance efforts statewide.

The appropriations to the medical assistance division of the human services department assume the state will receive a federal medical assistance percentage (FMAP) rate of 100 percent for those enrolled in the new adult category, including those currently enrolled in the state coverage insurance program, beginning January 1, 2014, as provided for in the federal Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act of 2010. Should the federal government reduce or rescind the FMAP rates established by the Affordable Care Act, the human services department shall reduce or rescind eligibility for the new adult category.

~~[The general fund appropriation to the medical assistance program of the human services department in the other category includes five hundred thousand dollars (\$500,000) for a centennial care or other medicaid managed care waiver to include evidence-based home visitation services for pregnant women and families of children under two years of age identified as high-risk by the department.]~~ *LINE-ITEM VETOED.*

~~[The general fund appropriation to the medical assistance program of the human services department in the other category includes sufficient funds to allow managed care organizations to negotiate with personal care services agencies a reimbursement amount that reflects regional cost differences and will adequately cover minimum wages with cost of living adjustments, gross receipts~~

~~taxes, mandated health insurance coverage for employees, criminal background screenings and other programmatic requirements.] LINE-ITEM VETOED.~~

The general fund appropriation to the medical assistance program of the human services department in the contractual services category includes one hundred thousand dollars (\$100,000) to contract with a consortium of primary care training programs.

Performance measures:

- (a) Outcome: The percent of children ages two to twenty-one years enrolled in medicaid managed care who had at least one dental visit during the measurement year 72%
- (b) Outcome: The percent of infants in medicaid managed care who had six or more well-child visits with a primary care physician before the age of fifteen months 72%
- (c) Outcome: The average percent of children and youth ages twelve months to nineteen years in medicaid managed care who received a visit with a primary care physician during the measurement year 92%
- (d) Outcome: The percent of children in medicaid managed care ages five to eleven years who are identified as having persistent asthma and who were appropriately prescribed medication during the measurement year 95%
- (e) Outcome: Number of emergency room visits per one thousand medicaid member months 45
- (f) Outcome: Percent hospital readmissions for adults eighteen years and over, within thirty days of discharge 10%

(2) Medicaid behavioral health:

The purpose of the medicaid behavioral health program is to provide the necessary resources and information to enable low-income individuals to obtain either free or low-cost behavioral health care.

Appropriations:

(a) Other	90,620.0	215,452.0	306,072.0
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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 7%

(b) Output: Number of individuals served annually in substance abuse or mental health programs administered through the behavioral health collaborative statewide entity contract 85,000

(3) Income support:

The purpose of the income support program is to provide cash assistance and supportive services to eligible low-income families so they can achieve self-sufficiency. Eligibility requirements are established by state law within broad federal statutory guidelines.

Appropriations:

(a) Personal services and employee benefits	23,898.5	655.3	29,143.6	53,697.4
(b) Contractual services	3,734.2	57.7	21,100.3	24,892.2
(c) Other	17,057.0	3,010.2	789,732.8	809,800.0
(d) Other financing uses			28,033.5	28,033.5

Authorized FTE: 1,031.00 Permanent; 54.00 Term; 50.00 Temporary

~~[No less than fifteen percent and no more than twenty-five percent of the federal funds for the low-income home energy assistance program shall be used for weatherization programs.] LINE-ITEM VETOED.~~

The federal funds appropriations to the income support program of the human services department include ten million five hundred seventeen thousand eight hundred dollars (\$10,517,800) 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 sixty-four million seven hundred fifty-eight thousand dollars (\$64,758,000) from the federal temporary assistance for needy families block grant to provide cash assistance grants to participants as defined in the New Mexico Works Act, including wage subsidies for participants, clothing allowances, diversion payments and state-funded payments to aliens.

The federal funds appropriations to the income support program of the human services department include nine million seven hundred thousand dollars (\$9,700,000) from the federal temporary assistance for needy families block grant for job training and placement and job-related transportation services, seven hundred thousand dollars (\$700,000) for employment related costs, one million two hundred fifty thousand dollars (\$1,250,000) for a substance abuse treatment program and one million one hundred thousand dollars (\$1,100,000) for a transitional employment program.

The federal funds appropriations to the income support program of the human services department include twenty-seven million two hundred seventy-seven thousand five hundred dollars (\$27,277,500) from the federal temporary assistance for needy families block grant for transfer to the children, youth and families department for childcare programs.

The appropriations to the income support program of the human services department include seven million one hundred twenty-seven thousand three hundred dollars (\$7,127,300) from the general fund and two million eight hundred fifteen thousand three hundred dollars (\$2,815,300) from other state funds for general assistance. Any unexpended balances remaining at the end of fiscal year 2014 from the other state funds appropriation derived from reimbursements received from the social security administration for the general assistance program shall not revert.

The general fund appropriations to the income support program of the human services department include two hundred ten thousand nine hundred dollars (\$210,900) for the Navajo sovereign temporary assistance for needy families program.

The general fund appropriations to the income support program of the human services department include thirty-one thousand dollars (\$31,000) for the Zuni sovereign temporary assistance for needy families program.

~~[The human services department shall provide the department of finance and administration and the legislative finance committee quarterly reports on the expenditures of the federal temporary assistance for needy families block grant and state maintenance-of-effort expenditures.]~~ *LINE-ITEM VETOED.*

The general fund appropriations to the income support division of the human services department in the contractual services category include an additional two hundred thousand dollars (\$200,000) for services to people that are homeless.

Performance measures:

- (a) Outcome: Percent of parent participants who meet temporary assistance for needy families federal work participation

requirements 50%

(b) Outcome: Percent of temporary assistance for needy families

two-parent recipients meeting federal work participation

requirements 60%

(c) Outcome: Percent of eligible children in families with incomes of

one hundred thirty percent of the federal poverty level

participating in the supplemental nutrition assistance

program 88%

(d) Outcome: Percent of adult temporary assistance for needy families

recipients who become newly employed during the report year 50%

(4) Behavioral health services:

The purpose of the behavioral health services program is to lead and oversee the provision of an integrated and comprehensive behavioral health prevention and treatment system so that the program fosters recovery and supports the health and resilience of all New Mexicans.

Appropriations:

(a) Personal services and

employee benefits	1,898.5	783.6	2,682.1
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(b) Contractual services	39,744.1	14,970.7
	54,714.8	

(c) Other	422.2	21.0	80.0	523.2
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(d) Other financing uses	279.4	1,073.3	1,352.7
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Authorized FTE: 28.00 Permanent; 9.00 Term

The general fund appropriation to the behavioral health services program of the human services department in the contractual services category includes seven hundred fifty thousand dollars (\$750,000) for operational expenses of the Los Lunas substance abuse treatment center.

The general fund appropriation to the behavioral health services program of the human services department in the contractual services category includes two hundred fifty thousand dollars (\$250,000) for non-medicaid [in-patient] psychiatric services [in southern New Mexico]. *LINE-ITEM VETOED.*

The general fund appropriation to the behavioral health services program of the human services department in the contractual services category includes one hundred fifty thousand dollars (\$150,000) for [residential] substance abuse treatment for women [in northern New Mexico]. *LINE-ITEM VETOED.*

~~[The appropriations to the behavioral health services program of the human services department in the contractual services category include sufficient funds to provide substance abuse treatment services in Gallup, New Mexico.] *LINE-ITEM VETOED.*~~

Performance measures:

- (a) Outcome: Percent of people receiving substance abuse treatments who demonstrate improvement in the alcohol domain on the addiction severity index 90%
- (b) Outcome: Percent of people receiving substance abuse treatments who demonstrate improvement in the drug domain on the addiction severity index 80%
- (c) Outcome: Percent of individuals discharged from inpatient facilities who receive follow-up services at thirty days 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	4,698.7	3,571.6		11,896.2
20,166.5				
(b) Contractual services	1,818.2	1,382.9		4,602.3
7,803.4				
(c) Other	1,267.1	963.8	3,209.7	5,440.6

Authorized FTE: 383.00 Permanent

Performance measures:

(a) Outcome: Percent of cases having current support due and for which support is collected 60%

(b) Outcome: Amount of child support collected, in millions \$135

(c) Outcome: Percent of cases with support orders 80%

(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	4,022.4	3,120.2	10,691.9
17,834.5			

(b) Contractual services	3,899.4	130.2	7,050.1
11,079.7			

(c) Other	4,163.8	740.8	8,232.7	13,137.3
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Authorized FTE: 258.00 Permanent

Performance measures:

(a) Efficiency: Percent compliance with internal schedule for turnaround time associated with the expenditure of federal funds and the request for reimbursement for expenditures from federal treasury 100%

Subtotal	5,421,471.3
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## **WORKFORCE SOLUTIONS DEPARTMENT:**

(1) Workforce transition services:

The purpose of the workforce transition 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	920.8	2,212.9	13,771.7	16,905.4
(b)	Contractual services	282.8	46.6	1,011.2	1,340.6
(c)	Other	56.7	488.7	3,026.9	3,572.3
(d)	Other financing uses		2,213.5		2,213.5

Authorized FTE: 249.00 Permanent; 82.00 Term

Performance measures:

- (a) Outcome: Percent of youth who entered employment or are enrolled in post-secondary education or advanced training after receiving Workforce Investment Act services 57%
- (b) Output: Percent of eligible unemployment insurance claims issued a determination within twenty-one days from the date of claim 75%
- (c) Output: Average time to complete a transaction with the unemployment insurance call center, in minutes 10
- (d) Output: Percent of individuals who receive Workforce Investment Act services that retain employment 85%
- (e) Outcome: Percent of individuals that enter employment after receiving Workforce Investment Act services 65%
- (f) Outcome: Percent of individuals that received Wagner-Peyser employment services retaining employment after six months 70%

(2) Labor relations division:

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	1,242.6	157.0	569.8	152.0	2,121.4
(b)	Contractual services	36.0			27.0	63.0
(c)	Other	1,419.7		1,419.7		
(d)	Other financing uses		1,092.5		157.0	1,249.5

Authorized FTE: 32.00 Permanent; 3.00 Term; 1.00 Temporary

The internal service funds/interagency transfers appropriations to the labor relations program of the workforce solutions department include nine hundred thousand dollars (\$900,000) from the workers' compensation administration fund.

Performance measures:

- (a) Outcome: Percent of wage claims investigated and resolved within  
ninety days 90%
- (b) Output: Percent of targeted public works inspections completed 90%

(3) Workforce technology division:

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	380.3	223.9	2,223.8		2,828.0
(b)	Contractual services	195.6		168.3	2,100.7	2,464.6
(c)	Other	37.5	24.1	1,450.8		1,512.4
(d)	Other financing uses			381.3		381.3

Authorized FTE: 34.00 Permanent; 5.00 Term

Performance measures:

- (a) Outcome: Percent of time unemployment insurance benefits are paid

within two business days of claimant certification 100%

(4) Business services division:

The purpose of the business 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		1,853.8		1,853.8
(b)	Contractual services		126.6		126.6
(c)	Other	54.7	2,816.5		2,871.2

Authorized FTE: 28.00 Permanent; 3.00 Term; 1.00 Temporary

Performance measures:

(a) Output: Number of personal contacts made by field office personnel  
with New Mexico businesses to inform them of available  
services 50,000

(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	233.8	626.8	5,755.0	6,615.6
(b)	Contractual services	100.4	83.2	2,929.2	3,112.8
(c)	Other	198.1	15,633.8		15,831.9
(d)	Other financing uses		844.6		844.6

Authorized FTE: 86.00 Permanent; 21.00 Term

Subtotal

67,328.2

**WORKERS' COMPENSATION ADMINISTRATION:**

(1) Workers' compensation administration:

The purpose of the workers' compensation administration program is to assure the quick and efficient delivery of indemnity and medical benefits to injured and disabled workers at a reasonable cost to employers.

Appropriations:

(a)	Personal services and employee benefits	7,875.3	7,875.3
(b)	Contractual services	300.3	300.3
(c)	Other	1,400.1	1,400.1
(d)	Other financing uses	900.0	900.0

Authorized FTE: 120.00 Permanent

Performance measures:

(a)	Outcome: Rate of serious injuries and illnesses caused by workplace conditions per one hundred workers	0.62
(b)	Outcome: Percent of employers referred for investigation determined to be in compliance with insurance requirements of the Workers' Compensation Act	85%
(c)	Output: Number of first reports of injury processed	33,000

(2) Uninsured employers' fund:

Appropriations:

(a)	Personal services and employee benefits	229.4	229.4
(b)	Contractual services	65.0	65.0

(c) Other 852.2 852.2

Authorized FTE: 3.00 Permanent

Subtotal 11,622.3

**DIVISION OF VOCATIONAL REHABILITATION:**

(1) Rehabilitation services:

The purpose of the rehabilitation services program is to promote opportunities for people with disabilities to become more independent and productive by empowering individuals with disabilities so they may maximize their employment, economic self-sufficiency, independence and inclusion and integration into society.

Appropriations:

(a) Personal services and			
employee benefits	2,681.7	9,805.4	12,487.1
(b) Contractual services	165.3	611.6	776.9
(c) Other	1,563.4	466.0	12,412.5
			14,441.9

Authorized FTE: 186.50 Permanent; 14.00 Term

The internal service funds/interagency transfers appropriation to the rehabilitation services program of the division of vocational rehabilitation in the other category includes four hundred sixty-six thousand dollars (\$466,000) to match with federal funds to support and enhance deaf and hard-of-hearing rehabilitation services.

Any unexpended balances in the division of vocational rehabilitation remaining at the end of fiscal year 2014 from appropriations made from the general fund shall not revert.

Performance measures:

(a) Outcome: Number of clients achieving suitable employment for a

minimum of ninety days 950

(b) Outcome: Percent of clients achieving suitable employment outcomes

of all cases closed after receiving planned services 60%

(2) Independent living services:

The purpose of the independent living services program is to increase access for individuals with disabilities to technologies and services needed for various applications in learning, working and home management.

Appropriations:

(a)	Personal services and		
	employee benefits	34.3	34.3
(b)	Other	1,172.0	250.0 1,422.0

Authorized FTE: .50 Permanent

Performance measures:

- (a) Output: Number of independent living plans developed 875
- (b) Output: Number of individuals served for independent living 1,000

(3) Disability determination:

The purpose of the disability determination program is to produce accurate and timely eligibility determinations to social security disability applicants so they may receive benefits.

Appropriations:

(a)	Personal services and		
	employee benefits		6,261.2 6,261.2
(b)	Contractual services		339.1 339.1
(c)	Other	10,195.9	10,195.9

Authorized FTE: 90.00 Permanent; 6.00 Term

Performance measures:

- (a) Efficiency: Number of days for completing an initial disability claim
- (b) Quality: Percent of initial disability determinations completed accurately 98.8%

Subtotal 45,958.4

## GOVERNOR'S COMMISSION ON DISABILITY:

(1) Governor's commission on disability:

The purpose of the governor's commission on disability is to promote policies and programs that focus on common issues faced by New Mexicans with disabilities, regardless of type of disability, age or other factors. The commission educates state administrators, legislators and the general public on the issues facing New Mexicans with disabilities, especially as they relate to Americans with Disabilities Act directives, building codes, disability technologies and disability culture so they can improve the quality of life of New Mexicans with disabilities.

### Appropriations:

(a)	Personal services and				
	employee benefits	556.0	50.0	222.4	828.4
(b)	Contractual services		195.7	11.5	207.2
(c)	Other	166.6	198.7	365.3	

Authorized FTE: 8.00 Permanent; 4.00 Term

### Performance measures:

(a) Outcome: Percent of requested architectural plan reviews and site

inspections completed 80%

Subtotal 1,400.9

## DEVELOPMENTAL DISABILITIES PLANNING COUNCIL:

(1) Developmental disabilities planning council:

The purpose of the developmental disabilities planning council program is to provide and produce opportunities for people with disabilities so they may realize their dreams and potential and become integrated members of society.

### Appropriations:

(a)	Personal services and				
	employee benefits	429.0		149.0	578.0
(b)	Contractual services		22.7	306.5	329.2
(c)	Other	246.8	75.0	54.0	375.8

Authorized FTE: 8.50 Permanent

(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	69.5	69.5
(b)	Contractual services	29.6	29.6
(c)	Other	21.3	21.3

Authorized FTE: 1.00 Permanent

The general fund appropriation to the brain injury advisory council program of the developmental disabilities planning council in the contractual services category includes twenty thousand dollars (\$20,000) for the safety helmet program.

(3) 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	388.5	388.5	
(b)	Contractual services	3,671.2	400.0	4,071.2
(c)	Other	72.6	72.6	

Authorized FTE: 5.50 Permanent

Any unexpended balances in the office of guardianship of the developmental disabilities planning council remaining at the end of fiscal year 2014 from appropriations made from the general fund and internal service funds/interagency transfers shall not revert.

Performance measures:



(a) Outcome: Percent of protected persons properly served with the least restrictive means, as evidenced by an annual technical compliance audit 95%

Subtotal 5,935.7

**MINERS' HOSPITAL OF NEW MEXICO:**

(1) Healthcare:

The purpose of the healthcare program is to provide quality acute care, long-term care and related health services to the beneficiaries of the miners' trust fund of New Mexico and the people of the region so they can maintain optimal health and quality of life.

Appropriations:

(a)	Personal services and employee benefits	12,260.3	23.7	226.8	12,510.8
(b)	Contractual services	3,533.1			3,533.1
(c)	Other 6,106.6	95.0	6,201.6		
(d)	Other financing uses		5,976.3		5,976.3

Authorized FTE: 210.50 Permanent; 13.50 Term

The internal service funds/interagency transfers appropriation to the healthcare program of the miners' hospital of New Mexico in the other financing uses category includes five million nine hundred seventy-six thousand three hundred dollars (\$5,976,300) from the miners' trust fund.

Performance measures:

(a) Outcome: Annual percent of healthcare-associated infections <1.5%

(b) Outcome: Rate of unassisted patient falls per one thousand patient days in the long-term care facility <0.5%

(c) Quality: Percent of patients readmitted to the hospital within 30 days with the same or similar diagnosis <5%

Subtotal 28,221.8

## DEPARTMENT OF HEALTH:

### (1) Public health:

The purpose of the public health program is to provide a coordinated system of community-based public health services focusing on disease prevention and health promotion to improve health status, reduce disparities and ensure timely access to quality, culturally competent health care.

#### Appropriations:

##### (a) Personal services and

employee benefits	28,801.0	1,960.3	2,509.8	21,744.6
55,015.7				

(b) Contractual services	20,684.6	3,706.2	10,158.4
12,283.5	46,832.7		

(c) Other	17,230.5	21,407.5	248.6	45,326.4	84,213.0
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(d) Other financing uses	602.6		602.6
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Authorized FTE: 323.50 Permanent; 596.50 Term

The internal service funds/interagency transfers appropriations to the public health program of the department of health include five million six hundred eighty-two thousand dollars (\$5,682,000) from the tobacco settlement program fund for smoking cessation and prevention programs, seven hundred forty-eight thousand dollars (\$748,000) from the tobacco settlement program fund for diabetes prevention and control services, two hundred ninety-three thousand dollars (\$293,000) from the tobacco settlement program fund for human immunodeficiency virus/acquired immune deficiency syndrome prevention, services and medicine and one hundred twenty-eight thousand six hundred dollars (\$128,600) from the tobacco settlement program fund for breast and cervical cancer screening.

Any unexpended balances in the public health program of the department of health in the contractual services category from appropriations made from the county-supported medicaid fund for the support of primary healthcare services related to the Rural Primary Health Care Act remaining at the end of fiscal year 2014 shall not revert.

The general fund appropriation to the public health program of the department of health in the contractual services category includes one hundred ten thousand dollars (\$110,000) for school-based health center operations [at Roosevelt middle school in Albuquerque], one hundred ninety-five thousand dollars (\$195,000) for statewide health councils, seventy-five thousand dollars (\$75,000) for an organization [in southwest New Mexico] to expand its workforce development program to encourage students to prepare for health careers, two hundred fifty thousand dollars (\$250,000) to contract with New Mexico primary healthcare clinics eligible for funding under the Rural Primary Health Care Act to hire additional medical providers, thirty thousand dollars (\$30,000) to fund cancer awareness prevalence prevention and early detection services [in southern New Mexico] and one hundred thousand dollars (\$100,000) for operational support for a women's health services program [in Santa Fe county]. *LINE-ITEM VETOED.*

#### Performance measures:

(a) Outcome: Number of teen births prevented among girls ages fifteen to seventeen seen in department of health-funded clinics 850

(b) Output: Percent of preschoolers (ages nineteen to thirty-five months) fully immunized 90%

(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	4,094.3	683.3	66.1	7,010.6	11,854.3
(b)	Contractual services	717.7	251.5	40.0	4,542.1	5,551.3
(c)	Other	3,509.7	113.5	54.5	3,092.4	6,770.1

Authorized FTE: 43.00 Permanent; 123.00 Term

The general fund appropriations to the epidemiology and response program of the department of health include two hundred fifty thousand dollars (\$250,000) to establish and maintain a statewide segment elevation myocardial infarction registry and a statewide stroke registry.

(3) Laboratory services:

The purpose of the laboratory services program is to provide laboratory analysis and scientific expertise for policy development for tax-supported public health, environment and toxicology programs in the state of New Mexico to provide timely identification of threats to the health of New Mexicans.

Appropriations:

(a)	Personal services and				
	employee benefits	5,438.0	1,278.8		1,122.7
		7,839.5			
(b)	Contractual services	153.6	37.2		190.8
(c)	Other	1,973.5	1,521.5	1,016.0	4,511.0

Authorized FTE: 84.00 Permanent; 49.00 Term

Performance measures:

- (a) Efficiency:       Percent of blood alcohol tests from  
                          driving-while-intoxicated cases analyzed and reported  
                          within ten business days   95%

(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   47,945.1     58,479.6     503.9       106,928.6
- (b)   Contractual services       5,102.4     4,185.0     212.1  
9,499.5
- (c)   Other   11,064.2     11,228.5                   22,292.7

Authorized FTE: 2,093.00 Permanent; 5.00 Term; 21.00 Temporary

Performance measures:

- (a) Output:   Percent of operational capacity beds filled at all agency  
                  facilities       100%
- (b) Efficiency:       Percent of collectable third-party revenues at all agency  
                  facilities       90%
- (c) Explanatory:     Total dollar amount, in millions, of uncompensated care at  
                  all agency facilities   \$37

(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	4,817.2	5,995.6	466.4	11,279.2
(b)	Contractual services	15,006.0	1,200.0	1,135.8	
		1,261.2	18,603.0		
(c)	Other	17,526.0	935.0	1,077.6	19,538.6
(d)	Other financing uses	100,291.0			100,291.0

Authorized FTE: 72.00 Permanent; 97.00 Term

The general fund appropriation to the developmental disabilities support program of the department of health in the other financing uses category includes one hundred million two hundred ninety-one thousand dollars (\$100,291,000) for medicaid waiver services in local communities: one million two hundred sixty-one thousand five hundred dollars (\$1,261,500) for medically fragile services and ninety-nine million twenty-nine thousand five hundred dollars (\$99,029,500) for services to the developmentally disabled.

The general fund appropriation to the developmental disabilities support program of the department of health in the contractual services category includes two hundred thirty thousand dollars (\$230,000) for services for children and adults with autism spectrum disorders.

Performance measures:

- (a) Outcome: Percent of adults receiving developmental disabilities day services who are engaged in community-integrated employment 50%
- (b) Efficiency: Percent of developmental disabilities waiver applicants who have a service plan in place within ninety days of income and clinical eligibility determination 100%
- (c) Explanatory: Number of individuals on the developmental disabilities waiver receiving services 4,000
- (d) Explanatory: Number of individuals on the developmental disabilities

waiver waiting list 6,330

(6) Health certification, licensing and oversight:

The purpose of the health certification, licensing and oversight program is to provide health facility licensing and certification surveys, community-based oversight and contract compliance surveys and a statewide incident management system so that people in New Mexico have access to quality health care and that vulnerable populations are safe from abuse, neglect and exploitation.

Appropriations:

(a) Personal services and

employee benefits	3,633.9	1,424.1	2,982.7	1,718.1
	9,758.8			

(b) Contractual services	338.8		338.8	
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(c) Other	462.1	1,375.9	462.2	365.6	2,665.8
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Authorized FTE: 44.00 Permanent; 100.00 Term

Performance measures:

(a) Output: Percent of developmental disabilities, medically fragile, behavioral health and family, infant, toddler providers receiving a survey by the quality management bureau 85%

(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	534.2	534.2
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(b) Contractual services	80.5	80.5
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(c) Other	165.3	165.3
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Authorized FTE: 7.00 Term

(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	5,021.3	428.7	4,091.1	9,541.1	
(b)	Contractual services	2,840.9	50.6	152.9	726.1	3,770.5
(c)	Other	4,263.7	93.4	518.3	4,875.4	

Authorized FTE: 128.00 Permanent; 5.00 Term

Subtotal 543,544.0

**DEPARTMENT OF ENVIRONMENT:**

(1) Field operations and infrastructure:

The purpose of the field operations and infrastructure program is to protect public health and the environment through specific programs that provide regulatory oversight over food service and food processing facilities, compliance with the Safe Drinking Water Act, regulation of on-site treatment and disposal of liquid wastes, regulation of public swimming pools and baths, application of the mosquito abatement regulation, and oversight of waste isolation pilot plant transportation.

Appropriations:

(a)	Personal services and					
	employee benefits	4,235.4	7,946.4	1,024.9		
		13,206.7				
(b)	Contractual services	201.6	2,015.9	23.6	2,241.1	
(c)	Other	691.4	1,225.5	244.6	2,161.5	

Authorized FTE: 129.00 Permanent; 64.00 Term

The general fund appropriation to the field operations and infrastructure program of the department of environment in the contractual services category includes two hundred thousand dollars (\$200,000) for a mutual domestic water system alliance serving North San Ysidro, South San Ysidro, Ifield, San Juan, San Jose, El Ancon, San Miguel del Bado, Coruco, Villanueva, Gonzales ranch, Sacatosa and El Cerrito.

Performance measures:

~~[(a) Output: Percent of new septic tanks inspections completed 78%]~~

(b) Outcome: Percent of high-risk food-related violations corrected within the timeframes noted on the inspection report issued to permitted commercial food establishments 100%

(c) Efficiency: Percent of public drinking water systems inspected within one week of confirmation of system problems that might acutely impact public health 100%

(d) Output: Percent of public water systems surveyed to ensure compliance with drinking water regulations 92%

(2) Resource protection:

The purpose of the resource protection program is to protect the quality of New Mexico's ground- and surface-water resources to ensure clean and safe water supplies are available now and in the future to support domestic, agricultural, economic and recreational activities and provide healthy habitat for fish, plants and wildlife and to ensure that hazardous waste generation, storage, treatment and disposal are conducted in a manner protective of public health and environmental quality.

Appropriations:

(a) Personal services and

employee benefits	1,807.2	8,247.3	7,521.2
	17,575.7		

(b) Contractual services		1,141.7	5,000.8
	6,142.5		

(c) Other	119.6	1,415.4	1,059.7	2,594.7
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Authorized FTE: 51.00 Permanent; 178.50 Term

Performance measures:

(a) Output: Percent of groundwater discharge permitted facilities receiving annual field inspections and compliance evaluations 50%



- (b) Outcome: Percent of permitted facilities where monitoring results demonstrate compliance with groundwater standards 71%
- (c) Output: Percent of large quantity hazardous waste generators inspected 20%
- (d) Outcome: Percent of underground storage tank facilities in significant operational compliance with release prevention and release detection requirements of the petroleum storage tanks regulations 70%

(3) Environmental protection:

The purpose of the environmental protection program is to regulate medical radiation and radiological technologist certification, provide public outreach about radon in homes and public buildings, ensure solid waste is handled and disposed without harming natural resources, ensure New Mexicans breathe healthy air and ensure every employee has safe and healthful working conditions.

Appropriations:

(a)	Personal services and				
	employee benefits	1,711.4	7,883.9	2,267.5	
		11,862.8			
(b)	Contractual services	28.5	747.3	411.2	1,187.0
(c)	Other	261.7	1,218.1	712.1	2,191.9

Authorized FTE: 71.00 Permanent; 90.00 Term

Performance measures:

- (a) Outcome: Percent of permitted active solid waste facilities and infectious waste generators inspected that were found to be in substantial compliance with the New Mexico solid waste rules 86%

- (b) Output: Percent of radiation-producing machine inspections

completed within the timeframes identified in radiation

control bureau policies 88%

(4) Resource management:

The purpose of the resource management program is to provide overall leadership, administrative, legal and information management support to programs to operate in the most knowledgeable, efficient and cost-effective manner so the public can receive the information it needs to hold the department accountable.

Appropriations:

(a) Personal services and

employee benefits	2,027.4	33.3	2,736.1	1,622.3
6,419.1				

(b) Contractual services 141.4 40.2 226.1 338.0 745.7

(c) Other 242.8 1.5 367.7 258.0 870.0

Authorized FTE: 46.00 Permanent; 31.00 Term

Performance measures:

(a) Output: Percent of enforcement actions brought within one year of  
inspection or documentation of violation 98%

(5) Special revenue funds:

Appropriations:

(a) Contractual services		3,500.0	3,500.0
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(b) Other	7,600.0	7,600.0	
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(c) Other financing uses		31,484.8	31,484.8
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Subtotal		109,783.5	
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**OFFICE OF THE NATURAL RESOURCES TRUSTEE:**

(1) Natural resource damage assessment and restoration:

The purpose of the natural resource damage assessment and restoration program is to restore or replace natural resources injured or lost due to releases of hazardous substances or oil into the environment.

Appropriations:

(a)	Personal services and employee benefits	36.1	218.5	254.6	
(b)	Contractual services	7.7	1,984.3		1,992.0
(c)	Other	43.2	43.2		

Authorized FTE: 3.75 Permanent

Performance measures:

- (a) Outcome: Number of acres of habitat restoration 750
- (b) Outcome: Number of acre-feet of water conserved through restoration 750

Subtotal 2,289.8

**VETERANS' SERVICES DEPARTMENT:**

(1) Veterans' services:

The purpose of the veterans' services program is to carry out the mandates of the New Mexico legislature and the governor to provide information and assistance to veterans and their eligible dependents to obtain the benefits to which they are entitled to improve their quality of life.

Appropriations:

(a)	Personal services and employee benefits	2,204.6	282.5	2,487.1	
(b)	Contractual services	814.2		814.2	
(c)	Other	272.0	56.9	34.5	363.4

Authorized FTE: 37.00 Permanent; 5.00 Term

The general fund appropriation to the veterans' services program of the veterans' services department in the personal services and employee benefits category includes one hundred thirty thousand dollars (\$130,000) to establish a Native American veterans' division contingent on enactment of House Bill 207 or similar legislation of the first session of the fifty-first legislature.

The general fund appropriation to the veterans' services program of the veterans' services department in the contractual services category includes seventy-five thousand dollars (\$75,000) for

transportation of veterans [from a central location in Las Vegas] to the veterans affairs medical center in Albuquerque. *LINE-ITEM VETOED.*

Performance measures:

(a) Output: Number of veterans served by veterans' services department  
field offices 38,000

(b) Output: Number of homeless veterans provided overnight shelter for  
a period of two weeks or more 190

(c) Output: Compensation received by New Mexico veterans as a result of  
the department's contracts with veterans' organizations, in  
millions \$128

(d) Output: Number of property tax waiver and exemption certificates  
issued to New Mexico veterans 8,000

Subtotal 3,664.7

**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 51,256.3 1,613.5 574.2 132.8 53,576.8

(b) Contractual services 9,096.5 1,000.0 509.4 1,200.5  
11,806.4

(c) Other 6,271.8 327.1 17.5 6,616.4

Authorized FTE: 939.30 Permanent; 3.00 Term

Performance measures:

- (a) Outcome: Percent of clients who complete formal probation 92%
- (b) Outcome: Percent of incidents in juvenile justice services facilities requiring use of force resulting in injury 1.5%
- (c) Outcome: Percent of clients recommitted to a children, youth and families department facility within two years of discharge from facilities 10%
- (d) Outcome: Percent of juvenile justice division facility clients age eighteen and older who enter adult corrections within two years after discharge from a juvenile justice facility 8%
- (e) Output: Number of physical assaults in juvenile justice facilities <260

(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	36,136.1	1,196.5	12,246.4	
		49,579.0			
(b)	Contractual services	11,234.1	822.4	79.4	9,724.4
		21,860.3			
(c)	Other	25,129.7	1,873.8	24,866.8	51,870.3
(d)	Other financing uses			2,734.3	2,734.3

Authorized FTE: 845.80 Permanent; 6.00 Term

Performance measures:

- (a) Outcome: Percent of adult victims or survivors receiving domestic violence services who have an individualized safety plan 93%

(b) Outcome: Percent of children who are not the subject of substantiated maltreatment within six months of a prior determination of substantiated maltreatment 93%

(c) Output: Percent of children who are not the subject of substantiated maltreatment while in foster care 99.7%

(3) Early childhood services:

The purpose of the early childhood services program is to provide quality childcare, nutrition services, early childhood education and training to enhance the physical, social and emotional growth and development of children.

Appropriations:

(a)	Personal services and				
	employee benefits	2,906.8	30.8	5,037.5	7,975.1
(b)	Contractual services	16,126.9	180.0	1,698.1	4,639.6
		22,644.6			
(c)	Other	35,660.5	750.0	26,337.5	74,050.7
					136,798.7

Authorized FTE: 101.50 Permanent; 50.00 Term

The internal service funds/interagency transfers appropriations to the early childhood services program of the children, youth and families department include twenty-seven million two hundred seventy-seven thousand five hundred dollars (\$27,277,500) for childcare programs from the temporary assistance for needy families block grant to New Mexico.

The federal funds appropriations to the early childhood services program of the children, youth and families department include thirty million seven hundred forty-four thousand eight hundred dollars (\$30,744,800) for childcare programs from the child care and development block grant to New Mexico.

The general fund appropriation to the early childhood services program of the children, youth and families department [~~in the contractual services category~~] includes nine million two hundred thirty-five thousand nine hundred dollars (\$9,235,900) for the prekindergarten program. *LINE-ITEM VETOED.*

The general fund appropriation to the early childhood services program of the children, youth and families department in the contractual services category includes one hundred twenty-five thousand dollars (\$125,000) for services that provide early childhood [~~oral deaf spoken language~~] education to deaf and hard-of-hearing children who use cochlear implants and hearing aids. *LINE-ITEM VETOED.*

Performance measures:

- (a) Outcome: Percent of children receiving state subsidy in stars/aim high programs level three through five or with national accreditation 25%
- (b) Outcome: Percent of licensed childcare providers participating in stars/aim high levels three through five or with national accreditation 25%
- (c) Outcome: Percent of children in state funded prekindergarten showing measurable progress on the preschool readiness kindergarten tool 92%

(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 support the development and professionalism of employees.

Appropriations:

- (a) Personal services and employee benefits 10,498.7 551.2 3,106.5 14,156.4
- (b) Contractual services 11,600.8 458.9 276.6 12,336.3
- (c) Other 3,268.8 1,663.0 4,931.8

Authorized FTE: 192.00 Permanent; 9.00 Term

Performance measures:

- (a) Outcome: Turnover rate for youth care specialists 25%
- (b) Output: Turnover rate for protective service workers 25%

Subtotal 396,886.4

TOTAL HEALTH, HOSPITALS AND HUMAN 1,638,091.9 337,599.2 255,307.3  
4,485,470.8 6,716,469.2

## SERVICES

### G. PUBLIC SAFETY

#### DEPARTMENT OF MILITARY AFFAIRS:

(1) National guard support:

The purpose of the national guard support program is to provide administrative, fiscal, personnel, facility construction and maintenance support to the New Mexico national guard in maintaining a high degree of readiness to respond to state and federal missions and to supply an experienced force to protect the public, provide direction for youth and improve the quality of life for New Mexicans.

#### Appropriations:

(a)	Personal services and employee benefits	2,906.5	100.1	4,135.6	7,142.2
(b)	Contractual services	361.7		2,607.6	2,969.3
(c)	Other	3,542.2	109.3	2,648.4	6,299.9

Authorized FTE: 29.00 Permanent; 86.00 Term

#### Performance measures:

- (a) Outcome: Rate of attrition of the New Mexico army national guard 16%
- (b) Outcome: Percent of strength of the New Mexico national guard 97%
- (c) Outcome: Percent of cadets successfully graduating from the youth challenge academy 93%
- (d) Output: Number of New Mexico youth challenge academy cadets who earn the equivalent of a high school diploma annually 40

Subtotal 16,411.4

#### 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	358.7	358.7
(b)	Contractual services	7.8	7.8
(c)	Other	126.4	126.4

Authorized FTE: 6.00 Permanent

Performance measures:

- (a) Efficiency: Percent of revocation hearings held within thirty days of a parolee's return to the corrections department 95%
- (b) Outcome: Percent of parole certificates issued within ten days of hearing or ten days of receiving all relevant information needed 95%

Subtotal 492.9

**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 low risk for reoffending or re-victimizing the community.

Appropriations:

(a)	Contractual services	4.5	4.5
(b)	Other	10.5	10.5
	Subtotal		15.0

**CORRECTIONS DEPARTMENT:**

(1) Inmate management and control:

The purpose of the inmate management and control program is to incarcerate in a humane, professionally sound manner offenders sentenced to prison and to provide safe and secure prison operations. This includes quality hiring and in-service training of correctional officers, protecting the public

from escape risks and protecting prison staff, contractors and inmates from violence to the extent possible within budgetary resources.

Appropriations:

(a)	Personal services and employee benefits	87,311.9	12,525.7	113.7	143.5	100,094.8
(b)	Contractual services	44,379.1		36.0		44,415.1
(c)	Other	94,346.3	2,264.8	83.4	27.7	96,722.2

Authorized FTE: 1,838.00 Permanent; 32.00 Term

~~[The inmate management and control program of the corrections department includes sufficient funding to carry out a joint powers agreement between the corrections department and the higher education department on behalf of the Luna community college to advance the operation of the Springer correctional center to develop the economy in the community.] LINE-ITEM VETOED.~~

Performance measures:

- (a) Outcome: Recidivism rate of the success for offenders after release  
program at thirty-six months 32%
- (b) Outcome: Percent of female offenders successfully released in  
accordance with their scheduled release dates, excluding  
in-house parole 90%
- (c) Outcome: Percent of male offenders successfully released in  
accordance with their scheduled release dates, excluding  
in-house parole 90%
- (d) Outcome: Percent of prisoners reincarcerated back into the  
corrections department system within thirty-six months due  
to new charges or pending charges 23%
- (e) Outcome: Percent of residential drug abuse program graduates  
reincarcerated within thirty-six months of release 40%

- (f) Output: Percent of inmates testing positive for drug use or refusing to be tested in a random monthly drug test 2%
- (g) Output: Number of inmate-on-inmate assaults with serious injury 18
- (h) Output: Number of inmate-on-staff assaults with serious injury 4
- (i) Output: Number of escapes from a publicly run corrections department facility 0
- (j) Output: Number of escapes from a secure privately operated corrections department facility 0
- (k) Outcome: Percent of prisoners reincarcerated back into the corrections department within thirty-six months due to technical parole violations, excluding absconders and sanctioned parole violators 20%

(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	72.7	1,573.7	1,646.4
(b)	Contractual services	1.0	25.4	26.4
(c)	Other	76.3	1,644.7	1,721.0

Authorized FTE: 27.00 Permanent; 3.00 Term

(3) Community offender management:

The purpose of the community offender management program is to provide programming, supervision and residential and nonresidential placement services to offenders on probation and parole, with emphasis on high-risk offenders, to better ensure the probability of them becoming law-abiding citizens,

protect the public from undue risk and to provide intermediate sanctions and post-incarceration support services as a cost-effective alternative to incarceration.

Appropriations:

(a)	Personal services and employee benefits	18,563.5	1,074.8	19,638.3
(b)	Contractual services	60.2		60.2
(c)	Other	11,787.6	1,575.7	13,363.3

Authorized FTE: 392.00 Permanent

The general fund appropriations to the community offender management program of the corrections department include three million one hundred sixty-nine thousand eight hundred dollars (\$3,169,800) and the other state funds appropriations to the community offender management program of the corrections department include six hundred twelve thousand seven hundred dollars (\$612,700) for the community corrections grant fund.

Performance measures:

- (a) Outcome: Percent turnover of probation and parole officers 12%
- (b) Outcome: Percent of out-of-office contacts per month with offenders  
on high and extreme supervision on standard caseloads 90%
- (c) Output: Percent of male offenders who complete the residential  
treatment center program 75%
- (d) Output: Percent of female offenders who complete the residential  
treatment center program 80%
- (e) Output: Percent of female offenders who complete the halfway house  
program 95%

(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	10,066.9	150.9	249.8	10,467.6
(b)	Contractual services	657.7	427.0		1,084.7
(c)	Other	2,476.8	151.4	2,628.2	

Authorized FTE: 155.00 Permanent

Performance measures:

- (a) Outcome: Percent of prisoners reincarcerated back into the corrections department within thirty-six months due to technical parole violations 20%

Subtotal 291,868.2

**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	915.5		915.5
(b)	Contractual services	214.4		214.4
(c)	Other	707.2	579.5	1,286.7

Authorized FTE: 16.00 Permanent

Performance measures:

- (a) Output: Number of formal regional trainings conducted annually 8
- (b) Output: Number of formal internal staff trainings conducted annually 6
- (c) Efficiency: Average number of days to process applications <120

(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		255.2	255.2
(b)	Contractual services		28.0	28.0
(c)	Other	4,092.7	4,092.7	
(d)	Other financing uses		800.0	800.0

Authorized FTE: 4.00 Term

Performance measures:

(a) Efficiency: Percent of sub-recipients who receive compliance monitoring  
via desk audits 85%

(b) Output: Number of training workshops conducted for sub-recipients 12

(c) Efficiency: Percent of site visits conducted 30%

Subtotal 7,592.5

**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	54,637.7	1,080.5	3,829.6	1,079.9
		60,627.7			
(b)	Contractual services	951.0	568.5	58.2	30.0
					1,607.7

(c)	Other	15,185.4	4,165.0	2,058.2	669.4	22,078.0
(d)	Other financing uses			3,509.0		3,509.0

Authorized FTE: 756.00 Permanent; 3.00 Term; 24.20 Temporary

Performance measures:

(a) Output: Number of licensed alcohol premises inspections conducted  
per agent assigned to alcohol enforcement duties 288

(b) Output: Number of driving-while-intoxicated arrests per patrol  
officer 12

(c) Output: Number of criminal investigations conducted by commissioned  
personnel per full-time equivalent assigned to the patrol  
and investigations bureaus 60

(2) Motor transportation:

The purpose of the motor transportation program is to provide the highest quality of commercial motor vehicle enforcement services to the public and ensure a safer state.

Appropriations:

(a)	Personal services and employee benefits	17,455.3	7,402.5	350.0	6,260.0	3,442.8
(b)	Contractual services		495.7	1,870.1	903.0	3,268.8
(c)	Other		2,371.0	75.0	1,571.3	1,155.3
						5,172.6

Authorized FTE: 217.50 Permanent; 55.00 Term

The internal service funds/interagency transfers appropriations to the motor transportation program of the department of public safety include five million eight hundred forty-four thousand three hundred dollars (\$5,844,300) from the state road fund for the motor transportation division.

Any unexpended balances in the motor transportation program of the department of public safety remaining at the end of fiscal year 2014 made from appropriations from the state road fund shall revert to the state road fund.

Performance measures:

(a) Output: Number of commercial motor vehicle citations issued 30,000

(b) Output: Number of commercial motor vehicle safety inspections  
90,000

(3) 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	7,705.4	1,220.4	790.3	9,716.1	
(b)	Contractual services	688.5	503.0	445.0	895.0	2,531.5
(c)	Other	1,940.0	929.6	120.0	929.8	3,919.4
(d)	Other financing uses			780.0	780.0	

Authorized FTE: 101.00 Permanent; 41.00 Term

~~[The general fund appropriations to the statewide law enforcement support program of the department of public safety include sufficient funding for all operations at the forensic laboratory in southeastern New Mexico.] LINE-ITEM VETOED.~~

(4) 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	3,605.8	51.6	502.9	4,160.3
(b)	Contractual services	89.2	5.0	100.0	194.2
(c)	Other	1,041.0	6.6	4,000.0	5,047.6

Authorized FTE: 52.00 Permanent; 8.00 Term



Subtotal 140,068.2

**HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT:**

(1) Homeland security and emergency management program:

The purpose of the homeland security and emergency management program is to provide for and coordinate an integrated, statewide, comprehensive emergency management system for New Mexico, including all agencies, branches and levels of government for the citizens of New Mexico.

Appropriations:

(a)	Personal services and				
	employee benefits	1,560.6	103.3	2,647.7	4,311.6
(b)	Contractual services	79.8		1,342.4	1,422.2
(c)	Other	783.9	110.0	80.0	30,206.5
					31,180.4

Authorized FTE: 15.00 Permanent; 45.00 Term

Performance measures:

(a) Outcome: Number of exercises conducted annually in compliance with federal guidelines 38

(b) Outcome: Number of program and administrative team compliance visits conducted each year on all grants 42

Subtotal 36,914.2

TOTAL PUBLIC SAFETY 377,492.9 31,205.0 21,230.8 63,433.7  
493,362.4

**H. TRANSPORTATION**

**DEPARTMENT OF TRANSPORTATION:**

(1) Programs and infrastructure:

The purpose of the programs and infrastructure program is to provide improvements and additions to the state's highway infrastructure to serve the interest of the general public. These improvements include those activities directly related to highway planning, design and construction necessary for a complete system of highways in the state.

Appropriations:

(a)	Personal services and employee benefits	21,150.6	4,461.3	25,611.9
(b)	Contractual services 344,385.9	97,916.1	246,469.8	
(c)	Other	49,793.5	153,494.5	203,288.0

Authorized FTE: 359.00 Permanent; 38.00 Term

The other state funds appropriations to the programs and infrastructure program of the department of transportation include eight million three hundred sixty-eight thousand four hundred dollars (\$8,368,400) for maintenance, reconstruction and related construction costs of state-managed highways.

Notwithstanding the provisions of Paragraph (1) of Subsection B of Section 6-21-6.8 NMSA 1978 or other substantive law to the contrary, any funds received by the New Mexico finance authority from the department of transportation in fiscal year 2014 as an annual administrative fee for issuing state transportation bonds pursuant to Sections 67-3-59.3 NMSA 1978 and 67-3-59.4 NMSA 1978 shall not be deposited into the local transportation infrastructure fund.

Performance measures:

- (a) Explanatory: Annual number of riders on park and ride >275,000
- (b) Explanatory: Annual number of riders on the rail runner, in millions 1.3
- (c) Outcome: Number of occupants not wearing seatbelts in motor vehicle fatalities <150
- (d) Outcome: Number of crashes in established safety corridors <600
- (e) Outcome: Percent of projects in production let as scheduled >70%
- (f) Quality: Ride quality index for new construction >4.0

(2) Transportation and highway operations:

The purpose of the transportation and highway operations program is to maintain and provide improvements to the state's highway infrastructure to serve the interest of the general public. These improvements include those activities directly related to preserving roadway integrity and maintaining open highway access throughout the state system.

Appropriations:

(a)	Personal services and employee benefits	92,524.4	3,000.0	95,524.4
(b)	Contractual services	46,120.2		46,120.2
(c)	Other	101,023.4	101,023.4	

Authorized FTE: 1,822.00 Permanent; 16.70 Term

~~[The other state funds appropriations to the transportation and highway operations program of the department of transportation include sufficient funding for costs associated with changing signage along Ben Lujan memorial highway.] LINE-ITEM VETOED.~~

Performance measures:

(a) Output: Number of statewide pavement preservation lane miles >2,500

(b) Outcome: Percent of non-interstate lane miles rated good >85%

(c) Output: Amount of litter collected from department roads, in tons >14,000

(d) Outcome: Percent of interstate lane miles rated good 97%

(e) Quality: Customer satisfaction levels at rest areas >98%

(3) Program support:

The purpose of program support is to provide management and administration of financial and human resources, custody and maintenance of information and property and management of construction and maintenance projects.

Appropriations:

(a)	Personal services and employee benefits	23,793.0	23,793.0
(b)	Contractual services	5,115.4	5,115.4
(c)	Other	13,853.3	13,853.3
(d)	Other financing uses	5,844.3	5,844.3

Authorized FTE: 250.00 Permanent; 1.80 Term

Performance measures:

- (a) Quality: Number of external audit findings <6
- (b) Outcome: Vacancy rate in all programs <11%
- (c) Output: Number of employee injuries <95

Subtotal 864,559.8

TOTAL TRANSPORTATION 457,134.2 407,425.6 864,559.8

**I. OTHER EDUCATION**

**PUBLIC EDUCATION DEPARTMENT:**

The purpose of the public education department is to provide a public education to all students. The secretary of public education is responsible to the governor for the operation of the department. It is the secretary's duty to manage all operations of the department and to administer and enforce the laws with which the secretary or the department is charged. To do this, the department focuses on leadership and support, productivity, building capacity, accountability, communication and fiscal responsibility.

Appropriations:

- (a) Personal services and  
  - employee benefits 9,740.8 2,128.8 17.6 7,096.6
  - 18,983.8
- (b) Contractual services 958.0 555.0 17,023.2 18,536.2
- (c) Other 1,013.1 577.6 2,941.9 4,532.6

Authorized FTE: 148.80 Permanent; 97.50 Term; 1.00 Temporary

The general fund appropriations to the public education department include seven hundred fifty thousand dollars (\$750,000) for operating and maintaining the operating budget management system and student, teacher accountability reporting system [~~contingent on the public education department granting access to these systems to the legislative finance committee and the legislative education study committee~~].  
*LINE-ITEM VETOED.*

Performance measures:

- (a) Outcome: Average processing time for school district budget  
  - adjustment requests, in days 7

- (b) Outcome: Percent change from the preliminary unit value to the final

unit value 2%

(c) Explanatory: Number of eligible children served in state-funded  
prekindergarten TBD

(d) Explanatory: Number of elementary schools participating in the  
state-funded elementary school breakfast program TBD

Subtotal 42,052.6

**APPRENTICESHIP ASSISTANCE:**

Appropriations: 192.4 192.4

Subtotal 192.4

**REGIONAL EDUCATION COOPERATIVES:**

Appropriations:

(a) Northwest: 674.6 674.6

(b) Northeast: 1,412.1 1,412.1

(c) Lea county: 535.1 365.2 900.3

(d) Pecos valley: 1,507.3 599.4 2,106.7

(e) Southwest: 1,275.4 1,275.4

(f) Central: 2,231.6 114.2 415.4 2,761.2

(g) High plains: 2,662.3 355.8 3,018.1

(h) Clovis: 1,168.2 28.4 1,196.6

(i) Ruidoso: 3,439.0 1,182.6 4,621.6

Subtotal 17,966.6

**PUBLIC EDUCATION DEPARTMENT SPECIAL APPROPRIATIONS**

Appropriations:

(a)	Teacher mentorship	25.0	25.0
(b)	Breakfast for elementary students	1,924.6	1,924.6
(c)	Regional education cooperatives operations	938.2	938.2
(d)	Prekindergarten program	14,950.0	14,950.0
(e)	Graduation, reality and dual-role skills program	200.0	200.0
(f)	New Mexico cyber academy	890.0	890.0
(g)	Mock trials program	102.1	102.1
(h)	Kindergarten-three plus	15,950.0	15,950.0
(i)	Advanced placement	750.0	750.0
(j)	Early reading initiative	11,500.0	11,500.0
(k)	Teaching support for low-income students	500.0	500.0
(l)	Intervention for D and F schools	4,000.0	4,000.0
(m)	Statewide formative assessments	2,000.0	2,000.0
(n)	Athletic and extracurricular support	100.0	100.0
(o)	Workforce readiness	500.0	500.0
(p)	Early college high school		

	start up	500.0	500.0
(q)	Dropout prevention program	500.0	500.0
(r)	Science, technology, engineering and math initiative	1,500.0	1,500.0
Subtotal			56,829.9

The general fund appropriation to the public education department for teacher mentorship includes twenty-five thousand dollars (\$25,000) for a nonprofit organization to operate and manage a program that matches master teachers in mentorship relationships with students in teacher preparation programs and with teachers in their first three years of teaching, offers meaningful teaching experiences for students in teacher preparation programs and provides for professional development opportunities.

A regional education cooperative may submit an application to the public education department for an allocation from the nine hundred thirty-eight thousand two hundred dollar (\$938,200) general fund appropriation. The public education department may allocate amounts to a regional education cooperative provided the regional education cooperative's application has adequately justified a need for the allocation, and the department finds the regional education cooperative has submitted timely quarterly financial reports, is in compliance with state and federal financial reporting requirements, including annual audit requirements pursuant to the Audit Act, and is otherwise financially stable. An allocation made to a regional education cooperative may only be used for current year operating expenses.

The general fund appropriation of fourteen million nine hundred fifty thousand dollars (\$14,950,000) to the public education department for the prekindergarten program includes no less than thirteen million four hundred fifty-five thousand dollars (\$13,455,000) to be used to fund student participation and no more than one million four hundred ninety-five thousand dollars (\$1,495,000) to be used for administrative and program support. If, after considering all appropriations made for prekindergarten to the public education department and the children, youth and families department, including appropriations in Senate Bill 113 or similar legislation enacted during the first session of the fifty-first legislature, the agencies do not receive equal amounts of funding in fiscal year 2014, pursuant to Section 32A-23-9 NMSA 1978, the public education department shall transfer an amount of the department's prekindergarten appropriation to the children, youth and families department to equalize appropriations between the agencies.

Notwithstanding the provisions of Section 22-13-28 NMSA 1978, for the 2013 kindergarten-three-plus program, elementary schools that received a D or F school grade for the 2011-2012 school year pursuant to the A-B-C-D-F Schools Rating Act shall be eligible to apply for kindergarten-three-plus funds. The public education department shall ensure applicant schools that meet the high poverty standard defined in Section 22-13-28 NMSA 1978 are prioritized and remaining funds are made available to applicant schools that do not meet the high poverty standard but received a D or F school grade for the 2011-2012 school year.

The general fund appropriation to the public education department for the early reading initiative includes three million six hundred thousand dollars (\$3,600,000) to be transferred to the teacher professional development fund to support training on effective reading instruction and data-driven decision-making and for regional and district reading coaches and intervention support in the district to support teachers with the implementation of a common formative assessment tool and reading interventions.

Prior to the distribution of early reading initiative funding to a school district or regional education cooperative, the public education department shall develop a distribution plan ~~[that targets funds for direct services to students at schools with high proportions of students not proficient in reading and high proportions of at-risk students]~~. The public education department shall not approve a school district budget that does not demonstrate that its early reading initiative allocation will be used to fund proven instructional strategies and professional development strategies ~~[such as extended school day and extended school year programs, reading coaches and reading specialists and prekindergarten programs]~~. *LINE-ITEM VETOED.*

The general fund appropriation to the public education department for teaching support for low-income students includes five hundred thousand dollars (\$500,000) for a nonprofit organization that provides teaching support in schools with at least sixty percent of the enrolled students eligible for free or reduced-fee lunch, with a priority for schools with eighty-five percent or more of the enrolled students eligible for free or reduced-fee lunch.

The general fund appropriation to the public education department for intervention in D and F schools is contingent on the department allocating the funds to schools rated D or F for ~~[both the 2011-2012 school year and]~~ the 2012-2013 school year pursuant to the A-B-C-D-F Schools Rating Act. The public education department may prioritize funding to school districts that commit to provide matching funds. *LINE-ITEM VETOED.*

The general fund appropriation to the public education department for a science, technology, engineering and mathematics initiative includes one million five hundred thousand dollars (\$1,500,000) to provide stipends to qualified ~~[level two and level three]~~ teachers to teach science, math, engineering and mathematics courses. *LINE-ITEM VETOED.*

The general fund appropriation to the public education department includes one hundred thousand dollars (\$100,000) for a nonprofit educational association whose principal purpose is the regulation, direction, administration and supervision of interscholastic activities in New Mexico for athletic and extracurricular activities and support for public school students.

~~[Except as otherwise provided by substantive law, no portion of the appropriations made in paragraphs (a) through (r) shall be retained by the public education department for administration or oversight of the individual initiatives contained therein. The general fund appropriations to the public education department made in paragraphs (j) through (r) are contingent on the public education department providing a detailed report to the legislative finance committee and the legislative education study committee on planned expenditure of funds prior to encumbrance of any funds, a detailed report during the fiscal year on progress made as a result of individual appropriations, and a detailed report at the close of the fiscal year on expenditures and student outcomes.]~~ *LINE-ITEM VETOED.*

Any unexpended balances in the special appropriations to the public education department remaining at the end of fiscal year 2014 from appropriations made from the general fund shall revert to the general fund.

## **PUBLIC SCHOOL FACILITIES AUTHORITY:**

The purpose of the public school facilities oversight program is to oversee public school facilities in all eighty-nine school districts to ensure correct and prudent planning, building and maintenance using state funds and to ensure adequacy of all facilities in accordance with public education department approved educational programs.

Appropriations:



(a)	Personal services and employee benefits	3,958.4	3,958.4
(b)	Contractual services	179.5	179.5
(c)	Other	1,439.9	1,439.9

Authorized FTE: 50.00 Permanent

Performance measures:

(a) Outcome: Percent of projects meeting all contingencies completed  
within the specified period of awards 90%

(b) Explanatory: Statewide public school facility condition index measured  
at December 31 of prior calendar year TBD

Subtotal 5,577.8

TOTAL OTHER EDUCATION 68,734.2 22,332.7 131.8 31,420.6  
122,619.3

## J. HIGHER EDUCATION

On approval of the higher education department, the state budget division of the department of finance and administration may approve increases in budgets of agencies, in this section, with the exception of the policy development and institutional financial oversight program of the higher education department, whose other state funds exceed amounts specified. In approving budget increases, the director of the state budget division shall advise the legislature through its officers and appropriate committees, in writing, of the justification for the approval.

Except as otherwise provided, any unexpended balances remaining at the end of fiscal year 2014 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	2,719.3	170.0	914.6	3,803.9
(b)	Contractual services	305.3		2,012.8	2,318.1
(c)	Other	9,724.5	287.9	311.0	6,997.6
					17,321.0

Authorized FTE: 31.50 Permanent; 21.50 Term

Any unexpended balances in the policy development and institutional financial oversight program of the higher education department remaining at the end of fiscal year 2014 from appropriations made from the general fund shall revert to the general fund.

The general fund appropriation to the policy development and institutional financial oversight program of the higher education department in the other category includes an additional one hundred thousand dollars (\$100,000) for the mathematics, engineering and science achievement program.

The general fund appropriation to the policy development and institutional financial oversight program of the higher education department in the other category includes one hundred thousand dollars (\$100,000) to implement the tribal college dual credit program.

~~[The higher education department shall work with the department of finance and administration, the legislative finance committee and institutions to recommend revisions to the instruction and general purpose funding formula authorized in Section 21-2-5.1 NMSA 1978, including revisions to base funding, workload and awards matrices, the institutional share credit, and new mission-specific measures. The department shall submit these recommendations to the legislature no later than September 1, 2013.]~~  
*LINE-ITEM VETOED.*

Performance measures:

(a) Outcome: Percent of first-time, degree-seeking community college

students who have graduated from the same institution or  
another public institution or have transferred within three  
years 23%

(b) Outcome: Percent of first-time, degree-seeking university students

who have graduated from the same institution or another  
public institution within six years 43%

(c) Output: Number of enrollees in four-year public postsecondary

institutions who are transfers from public two-year

postsecondary institutions 14,000

(2) Student financial aid:

The purpose of the student financial aid program is to provide access, affordability, and opportunities for success in higher education to students and their families so that all New Mexicans may benefit from postsecondary education and training beyond high school.

Appropriations:

(a)	Contractual services	53.5		53.5		
(b)	Other	21,923.1	23,291.1	44,237.8	250.0	89,702.0

~~[The other state funds appropriation to the student financial aid program of the higher education department in the other category includes five hundred thousand dollars (\$500,000) from the education trust board for the General Knowles legislative scholarship program at the New Mexico military institute and seventy-five thousand dollars (\$75,000) from the education trust board for the boys and girls state program.]~~ *LINE-ITEM VETOED.*

Performance measures:

(a) Output:	Number of lottery success recipients enrolled in or graduated from college within the ninth semester	3,800
(b) Outcome:	Number of need-based scholarships awarded to students with an estimated family contribution of zero	37,000
(c) Output:	Number of students receiving college affordability awards	3,200
Subtotal		113,198.5

**UNIVERSITY OF NEW MEXICO:**

(1) Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a)	Instruction and general purposes	179,091.6	185,892.0	5,199.0	370,182.6
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(b)	Other	180,899.0	148,113.0	329,012.0
(c)	Athletics	2,643.3	32,255.0	31.0 34,929.3
(d)	Educational television	1,164.3	5,610.0	1,198.0
		7,972.3		

The general fund appropriations include eight hundred seventy-five thousand seven hundred eighty-two dollars (\$875,782) pursuant to Section 22-11-21 NMSA 1978 and are contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

~~[The general fund appropriation to the athletics program of the university of New Mexico includes one hundred fifteen thousand dollars (\$115,000) for the baseball program.] LINE-ITEM VETOED.~~

Performance measures:

(a) Outcome: Percent of full-time, degree-seeking, first-time freshmen

completing an academic program within six years 47%

(b) Output: Number of post-baccalaureate degrees awarded 1,500

(c) Output: Number of undergraduate transfer students from two-year colleges 1,800

(2) Gallup branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Instruction and general

purposes 8,911.3 6,835.2 883.7 16,630.2

(b) Other 1,711.9 22.2 1,734.1

(c) Nurse expansion 150.0 150.0

The general fund appropriation for the instruction and general purposes category include thirty-seven thousand one hundred sixty-four dollars (\$37,164) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

Performance measures:

- (a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program in one hundred fifty percent of normal time to completion 8%
- (b) Output: Number of students enrolled in the adult basic education program 725
- (c) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 83%

(3) Los Alamos branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

- (a) Instruction and general purposes 1,861.9 1,745.0 130.0 3,736.9
- (b) Other 559.0 241.0 800.0

The general fund appropriation includes nine thousand two hundred seventy-four dollars (\$9,274) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

Performance measures:

- (a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program in one hundred fifty percent of normal time to

completion 60%

(b) Output: Number of students enrolled in the adult basic education

program 415

(c) Outcome: Percent of first-time, full-time, degree-seeking students

enrolled in a given fall term who persist to the following

spring term 80%

(4) Valencia branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Instruction and general

purposes	5,316.5	5,335.8	2,643.7	13,296.0
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(b) Other	1,754.1	177.2	1,931.3	
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The general fund appropriation includes twenty-two thousand fifty dollars (\$22,050) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or

certificate-seeking community college students who complete

the program in one hundred fifty percent of normal time to

completion 5%

(b) Output: Number of students enrolled in the adult basic education

program 1,500

(c) Outcome: Percent of first-time, full-time, degree-seeking students

enrolled in a given fall term who persist to the following  
spring term 80%

(5) Taos branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	3,399.5	3,296.8	347.2	7,043.5
(b)	Other	746.3	746.3		

The general fund appropriation includes twelve thousand eight hundred eighty-two dollars (\$12,882) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

Performance measures:

- (a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program in one hundred fifty percent of normal time to completion 20%
- (b) Output: Number of students enrolled in the adult basic education program 275
- (c) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 82%

(6) Research and public service projects:

Appropriations:

(a)	Judicial selection	22.6	22.6
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(b)	Southwest research center	1,090.3		1,090.3
(c)	Substance abuse program	135.8		135.8
(d)	Resource geographic information system	64.6		64.6
(e)	Southwest Indian law clinic	206.8	206.8	
(f)	Bureau of business and economic research census/ population analysis	375.1		375.1
(g)	New Mexico historical review	47.4	47.4	
(h)	Ibero-American education	89.3		89.3
(i)	Manufacturing engineering program	554.0		554.0
(j)	Wildlife law education	69.9		69.9
(k)	Morrissey hall programs	47.3		47.3
(l)	Disabled student services	192.4		192.4
(m)	Minority student services	859.3		859.3
(n)	Community-based education	434.2		434.2
(o)	Corrine Wolfe children's law center	169.0	169.0	
(p)	Utton transboundary resources center	289.9		289.9



(q)	Student mentoring program	286.6		286.6
(r)	Land grant studies	131.6	131.6	
(s)	Small business innovation and research outreach program	125.0		125.0

The general fund appropriations for the research and public service projects category include twenty thousand three hundred fifty-four dollars (\$20,354) pursuant to Section 22-11-21 NMSA 1978 and are contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the education retirement fund.

The general fund appropriation for the minority student services program category includes an additional one hundred seventy-five thousand dollars (\$175,000) for Native American student retention and intervention efforts.

(7) Health sciences center:

The purpose of the instruction and general program at the university of New Mexico health sciences center is to provide educational, clinical and research support for the advancement of health of all New Mexicans.

Appropriations:

(a)	Instruction and general purposes	60,449.7	44,559.3	5,712.9	110,721.9
(b)	Other	295,544.0	71,753.8	367,297.8	
(c)	Office of medical investigator	4,761.2	2,591.5	0.8	7,353.5
(d)	Poison and drug information center	1,510.2	833.2	170.6	2,514.0

The general fund appropriation for the instruction and general purposes category includes two hundred ninety-five thousand seven hundred eighty-two dollars (\$295,782) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

The general fund appropriation to the health sciences center of the university of New Mexico for the office of the medical investigator includes twenty-three thousand two hundred dollars (\$23,200) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the education retirement fund.

The general fund appropriation to the health sciences center of the university of New Mexico for the poison and drug information center includes nine thousand three hundred dollars (\$9,300) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the education retirement fund.

Performance measures:

- (a) Output: Total number of university of New Mexico hospital inpatient discharges 28,405
- (b) Output: Percent of human poisoning exposures treated safely at home after poison and drug information center contact 72%
- (c) Outcome: Pass rate on national certification licensing exam test by college of nursing bachelors of science in nursing candidates 85%

(8) Health sciences center research and public service projects:

Appropriations:

- (a) Native American suicide prevention 100.0 100.0
- (b) Children's psychiatric hospital 6,807.4 13,889.9 20,697.3
- (c) Carrie Tingley hospital 4,916.9 13,722.1 18,639.0
- (d) Out-of-county indigent fund 664.4 664.4
- (e) Newborn intensive care 3,249.3 1,960.1 146.8 5,356.2
- (f) Pediatric oncology 1,272.6 285.2 1,557.8
- (g) Cancer center 2,646.9 4,318.4 13,050.8 20,016.1

(h)	Genomics, biocomputing and environmental health research			1,210.1	
		1,210.1			
(i)	Trauma specialty education			261.4	261.4
(j)	Pediatrics specialty education	261.4		261.4	
(k)	Native American health center	270.1		270.1	
(l)	Hepatitis community health outcomes	1,476.6	3.3		1,479.9
(m)	Nurse expansion	831.4			831.4

The general fund appropriations to the health sciences center of the university of New Mexico for research and public service projects include two hundred thirty-one thousand six hundred dollars (\$231,600) pursuant to Section 22-11-21 NMSA 1978 and are contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the education retirement fund.

The other state funds appropriations to the health sciences center of the university of New Mexico for research and public service projects, including the poison and drug information center, include two million nine hundred sixty-two thousand one hundred dollars (\$2,962,100) from the tobacco settlement program fund.

Subtotal 1,352,587.9

**NEW MEXICO STATE UNIVERSITY:**

(1) Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a)	Instruction and general purposes	112,131.3	106,573.2	7,156.9	225,861.4
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(b)	Other	64,324.7	131,598.1	195,922.8
(c)	Athletics	3,165.1	9,343.5	42.6 12,551.2
(d)	Educational television	1,075.2	963.4	2,038.6

The general fund appropriations include five hundred ninety-eight thousand two dollars (\$598,002) pursuant to Section 22-11-21 NMSA 1978 and are contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

Performance measures:

(a) Outcome: Percent of full-time, degree-seeking, first-time freshmen

completing an academic program within six years 47%

(b) Output: Total number of baccalaureate degrees awarded 2,450

(c) Outcome: Number of undergraduate transfer students from two-year

colleges 1,200

(2) Alamogordo branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Instruction and general

purposes 7,586.7 5,906.7 1,470.3 14,963.7

(b) Other 909.9 5,065.7 5,975.6

The general fund appropriation includes thirty-three thousand seven hundred fifty-eight dollars (\$33,758) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or

certificate-seeking community college students who complete

the program in one hundred fifty percent of normal time to

completion 14%

(b) Output: Number of students enrolled in the adult basic education program 550

(c) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 80%

(3) Carlsbad branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	4,340.5	6,615.1	862.5	11,818.1
(b)	Other	696.4	2,537.6	3,234.0	
(c)	Nurse expansion-Carlsbad	53.2		53.2	

The general fund appropriation for the instruction and general purposes category includes nineteen thousand four hundred thirty-eight dollars (\$19,438) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program in one hundred fifty percent of normal time to completion 6%

(b) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following

spring term 73%

(4) Dona Ana branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Instruction and general

purposes	21,868.2	17,457.3	1,394.7	40,720.2
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(b) Other	4,149.7	23,402.0	27,551.7	
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The general fund appropriation includes ninety-eight thousand three hundred sixty-one dollars (\$98,361) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or

certificate-seeking community college students who complete

the program in one hundred fifty percent of normal time to

completion 15%

(b) Output: Number of students enrolled in the adult basic education

program 5,000

(c) Outcome: Percent of first-time, full-time, degree-seeking students

enrolled in a given fall term who persist to the following

spring term 83%

(5) Grants branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	3,545.3	1,948.2	1,180.3	6,673.8
(b)	Other	389.8	2,146.7	2,536.5	

The general fund appropriation includes fifteen thousand six hundred fifteen dollars (\$15,615) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or

certificate-seeking community college students who complete the program in one hundred fifty percent of normal time to completion 22%

(b) Output: Number of students enrolled in the adult basic education program 400

(c) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 78%

(6) Department of agriculture:

Appropriations:

(a)	Department of agriculture	11,050.7	3,912.4	1,501.9	16,465.0
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The general fund appropriation to the department of agriculture of the New Mexico state university includes thirty-six thousand seven hundred five dollars (\$36,705) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

The general fund appropriation to the department of agriculture of the New Mexico state university includes an additional eighty-five thousand dollars (\$85,000) to develop and promote farmers' markets, an additional two hundred thousand dollars (\$200,000) for soil and water conservation districts

~~[and an additional one hundred thousand dollars (\$100,000) to meet the purposes of the acequia and community ditch fund]. LINE-ITEM VETOED.~~

(7) Agricultural experiment station:

Appropriations:

(a) Agricultural experiment

station	14,154.5	12,926.0	2,400.0	29,480.5
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The general fund appropriation to the agricultural experiment station of the New Mexico state university includes one hundred fifteen thousand one hundred twenty-four dollars (\$115,124) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

(8) Cooperative extension service:

Appropriations:

(a) Cooperative extension

service	12,712.0	10,400.0	2,800.0	25,912.0
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The general fund appropriation to the cooperative extension program of the New Mexico state university includes ninety-nine thousand seven hundred dollars (\$99,700) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund and an additional five thousand dollars (\$5,000) for training adult 4-H volunteers to better assist 4-H students with projects.

(9) Research and public service projects:

Appropriations:

(a) Water resource research	214.9	98.0	942.2	1,255.1
(b) Indian resources development		220.6		220.6
(c) Carlsbad manufacturing				
sector development program		230.8		230.8
(d) Manufacturing sector				
development program	442.0	396.5	2,603.0	3,441.5
(e) Minority student services	440.3	13.7	429.3	883.3
(f) Arrowhead center for				



	business development	151.9	435.0	412.8	999.7
(g)	Nurse expansion	441.5		441.5	
(h)	Mental health nurse practitioner	252.8		252.8	
(i)	Alliance teaching and learning advancement	75.8		75.8	
	<b>Subtotal</b>		<b>629,559.4</b>		

The general fund appropriations for research and public service projects include nine thousand seven hundred thirty-two dollars (\$9,732) pursuant to Section 22-11-21 NMSA 1978 and are contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

### **NEW MEXICO HIGHLANDS UNIVERSITY:**

(1) Main:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

#### Appropriations:

(a)	Instruction and general purposes	26,795.3	12,513.1	483.3	39,791.7
(b)	Other	14,619.7	12,314.2	26,933.9	
(c)	Athletics	1,971.0	522.2	3.7	2,496.9

The general fund appropriations include one hundred twenty-five thousand six hundred eighty-eight dollars (\$125,688) pursuant to Section 22-11-21 NMSA 1978 and are contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

#### Performance measures:

- (a) Output: Percent of full-time, degree-seeking, first-time freshmen completing an academic program within six years 20%

(b) Output: Total number of baccalaureate degrees awarded 360

(c) Output: Number of undergraduate transfer students from two-year colleges 470

(2) Research and public service projects:

Appropriations:

(a) Minority student services 353.2 353.2

(b) Advanced placement 230.3 230.3

(c) Forest and watershed  
institute 310.5 250.0 560.5

(d) Ben Lujan leadership  
institute 200.0 200.0

The general fund appropriations for research and public service projects of the New Mexico highlands university include three thousand two hundred ninety dollars (\$3,290) pursuant to Section 22-11-21 NMSA 1978 and are contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

Subtotal 70,566.5

## WESTERN NEW MEXICO UNIVERSITY:

(1) Main:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a) Instruction and general  
purposes 15,898.7 10,185.7 472.5 26,556.9

(b) Other 3,018.1 6,510.7 9,528.8

(c) Athletics 1,735.7 388.5 2,124.2

The general fund appropriations include seventy-five thousand twelve dollars (\$75,012) pursuant to Section 22-11-21 NMSA 1978 and are contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

Performance measures:

- (a) Output: Total number of baccalaureate degrees awarded 180
- (b) Output: Number of undergraduate transfer students from two-year colleges 170
- (c) Output: Percent of full-time, degree-seeking, first-time freshmen completing an academic program within six years 20%

(2) Research and public service projects:

Appropriations:

(a)	Child development center	211.7		211.7
(b)	Instructional television	78.4		78.4
(c)	Web-based teacher licensure	141.4		141.4
(d)	Nurse expansion	802.6		802.6
<del>(e)</del>	<del>Service learning program</del>	<del>100.0</del>		<del>100.0</del>
	Subtotal		39,544.0	

**EASTERN NEW MEXICO UNIVERSITY:**

(1) Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a)	Instruction and general purposes	25,969.9	16,464.0	3,535.0	45,968.9
(b)	Other	12,328.0	28,522.0	40,850.0	

(c)	Athletics	1,984.9	1,309.0	22.0	3,315.9
(d)	Educational television		1,098.5	1,144.0	25.8
		2,268.3			

The general fund appropriations include one hundred twenty-six thousand one hundred forty-five dollars (\$126,145) pursuant to Section 22-11-21 NMSA 1978 and are contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

Performance measures:

(a) Output: Total number of baccalaureate degrees awarded 630

(b) Output: Percent of full-time, degree-seeking, first-time freshmen  
 completing an academic program within six years 30%

(2) Roswell branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	11,585.1	7,089.0	679.0	19,353.1
(b)	Other	5,813.0		11,866.0	17,679.0
(c)	Nurse expansion-Roswell		33.3		33.3

The general fund appropriation for instruction and general purposes category includes fifty-three thousand forty-five dollars (\$53,045) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

Performance measures:

(a) Outcome: Percent of students who complete within one hundred fifty percent of time 17%

(b) Outcome: Percent of first-time, full-time, degree-seeking students

enrolled in a given fall term who persist to the following  
spring term 77%

(3) Ruidoso branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	2,072.6	2,987.6	331.0	5,391.2
(b)	Other	530.5	3,000.0	3,530.5	

The general fund appropriation includes nine thousand fifty dollars (\$9,050) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program in one hundred fifty percent of normal time to completion 20%

(b) Output: Number of students enrolled in adult basic education 480

(c) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 73%

(4) Research and public service projects:

Appropriations:

(a)	Blackwater Draw site and museum	94.6	33.7	128.3	
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(b)	Student success programs	455.8		455.8
(c)	Nurse expansion	180.0		180.0
(d)	At-risk student tutoring	195.5		195.5
(e)	Allied health	155.6		155.6
	Subtotal			139,505.4

The general fund appropriations for research and public service projects include four hundred twenty-five dollars (\$425) pursuant to Section 22-11-21 NMSA 1978 and are contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

### **NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY:**

(1) Main:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the work force, compete and advance in the new economy and contribute to social advancement through informed citizenship.

#### Appropriations:

(a)	Instruction and general purposes	26,529.0	12,775.0	39,304.0
(b)	Other	10,306.5		10,306.5
(c)	Athletics	207.2	10.0	217.2

The general fund appropriations include ninety thousand two hundred eighty-eight dollars (\$90,288) pursuant to Section 22-11-21 NMSA 1978 and are contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

#### Performance measures:

- (a) Output: Number of undergraduate transfer students from two-year colleges 60
- (b) Output: Percent of full-time, degree-seeking, first-time freshmen completing an academic program within six years 48%

(c) Output: Total number of degrees awarded 320

(2) Bureau of mine safety:

Appropriations:

(a) Bureau of mine safety 260.8 165.0 425.8

The general fund appropriation to the bureau of mine safety of the New Mexico institute of mining and technology includes nine hundred dollars (\$900) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

(3) Bureau of geology and mineral resources:

Appropriations:

(a) Bureau of geology and mineral  
resources 3,675.5 369.0 513.0 4,557.5

The general fund appropriation to the bureau of geology and mineral resources of the New Mexico institute of mining and technology includes fifteen thousand seven hundred dollars (\$15,700) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

The general fund appropriation to the bureau of geology and mineral resources of the New Mexico institute of mining and technology includes one hundred thousand dollars (\$100,000) from federal Mineral Leasing Act receipts.

(4) Petroleum recovery research center:

Appropriations:

(a) Petroleum recovery research  
center 1,980.2 1,550.5 3,530.7

The general fund appropriation to the petroleum recovery research center of the New Mexico institute of mining and technology includes five thousand seven hundred dollars (\$5,700) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

(5) Geophysical research center:

Appropriations:

(a) Geophysical research center 849.2 2,500.0  
3,349.2

The general fund appropriation to the geophysical research center of the New Mexico institute of mining and technology includes four thousand three hundred dollars (\$4,300) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

(5) Research and public service projects:

Appropriations:

(a)	Energetic materials research				
	center	745.0	7,500.0	41,500.0	49,745.0
(b)	Science and engineering fair			208.5	208.5
(c)	Institute for complex				
	additive systems analysis	747.1		1,350.0	2,097.1
(d)	Cave and karst research	380.5			380.5
(e)	Homeland security center	547.1		1,461.0	2,008.1
(f)	Aquifer mapping	305.0			305.0

The general fund appropriations to the research and public service projects include thirteen thousand four hundred dollars (\$13,400) pursuant to Section 22-11-21 NMSA 1978 and are contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

Subtotal 116,435.1

**NORTHERN NEW MEXICO COLLEGE:**

(1) Main:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a)	Instruction and general				
	purposes	10,649.7	5,651.9	5,390.0	21,691.6
(b)	Other	2,344.0	4,987.4	7,331.4	



(c)	Athletics	199.5		199.5
<del>(d)</del>	<del>Faculty salary adjustments</del>	<del>155.0</del>		<del>155.0</del>
(e)	Science, technology, engineering, and math initiative	150.0		150.0

The general fund appropriations for the instruction and general purposes category and the athletics category include forty-eight thousand seven hundred nineteen dollars (\$48,719) pursuant to Section 22-11-21 NMSA 1978 and are contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

Performance measures:

(a) Output:	Number of undergraduate transfer students from two-year colleges	105		
(b) Output:	Percent of first-time, full-time freshmen completing an academic program within six years	25%		
(c) Output:	Total number of baccalaureate degrees awarded	55		
	Subtotal		29,527.5	

**SANTA FE COMMUNITY COLLEGE:**

(1) Main:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	9,137.0	22,617.0	2,916.0	34,670.0
(b)	Other	5,723.0	6,804.0	12,527.0	
(c)	Small business development centers	4,172.1		1,601.0	5,773.1

(d)	Nurse expansion	40.9	40.9
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The general fund appropriation for the instruction and general purposes category includes forty-two thousand two hundred thirty-six dollars (\$42,236) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

The general fund appropriation for the small business development centers category includes seven hundred nine dollars (\$709) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or

certificate-seeking community college students who complete

the program in one hundred fifty percent of normal time to

completion 11%

(b) Output: Number of students enrolled in the adult basic education

program 2,100

(c) Outcome: Percent of first-time, full-time, degree-seeking students

enrolled in a given fall term who persist to the following

spring term 79.5%

Subtotal			53,011.0
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**CENTRAL NEW MEXICO COMMUNITY COLLEGE:**

(1) Main:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Instruction and general

purposes	51,647.3	82,761.3		5,038.5	139,447.1
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(b)	Other	9,647.9	46,784.0	56,431.9
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The general fund appropriation includes two hundred eighteen thousand six dollars (\$218,006) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or

certificate-seeking community college students who complete

the program in one hundred fifty percent of normal time to

completion 11%

(b) Outcome: Percent of first-time, full-time, degree-seeking students

enrolled in a given fall term who persist to the following

spring term 82.5%

Subtotal			195,879.0	
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**LUNA COMMUNITY COLLEGE:**

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Instruction and general

purposes	7,345.8	90.0	893.0	8,328.8
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(b) Athletics	215.2	212.7		427.9
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(c) Nurse expansion	31.8	31.8		63.6
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(d) Student retention and

completion	579.5	229.5		809.0
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The general fund appropriations for the instruction and general purposes category and the athletics category include thirty-three thousand four hundred seventy-eight dollars (\$33,478) pursuant to Section

22-11-21 NMSA 1978 and are contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

Performance measures:

- (a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program in one hundred fifty percent of normal time to completion 25%
- (b) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 75%

Subtotal 9,629.3

**MESALANDS COMMUNITY COLLEGE:**

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

- (a) Instruction and general purposes 4,165.8 1,304.0 372.0 5,841.8
- (b) Other 1,320.0 1,580.0 2,900.0
- (c) Athletics 59.9 59.9
- (d) Wind training center 71.0 71.0

The general fund appropriation for the instruction and general purposes category includes fourteen thousand nine hundred seventeen dollars (\$14,917) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

Performance measures:

- (a) Outcome: Percent of a cohort of full-time, first-time, degree- or

certificate-seeking community college students who complete the program in one hundred fifty percent of normal time to completion 26%

(b) Output: Number of students enrolled in the adult basic education program 200

(c) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 70%

Subtotal 8,872.7

**NEW MEXICO JUNIOR COLLEGE:**

(1) Main campus:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	5,611.8	13,922.0	823.0	20,356.8
(b)	Other	2,506.0	5,383.0	7,889.0	
(c)	Athletics	329.1		329.1	
(d)	Oil and gas job training center	176.7	176.7		
(e)	Nurse expansion	72.9		72.9	
(f)	Lea county distance education consortium		30.0		30.0

The general fund appropriations for the instruction and general purposes category and the athletics category include twenty-seven thousand eight hundred fifty-seven dollars (\$27,857) pursuant to Section 22-11-21 NMSA 1978 and are contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

Performance measures:

- (a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program in one hundred fifty percent of normal time to completion 33%
- (b) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 75%

Subtotal 28,854.5

**SAN JUAN COLLEGE:**

(1) Main campus:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	23,843.1	28,565.0	1,464.0	53,872.1
(b)	Other	7,276.0	10,920.0	18,196.0	
(c)	Dental hygiene program	166.0		166.0	
(d)	Nurse expansion	163.4		163.4	

The general fund appropriations include one hundred thousand nine hundred ninety-eight dollars (\$100,998) pursuant to Section 22-11-21 NMSA 1978 and are contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program in one hundred fifty percent of normal time to completion 14%

(b) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 83%

Subtotal 72,397.5

**CLOVIS COMMUNITY COLLEGE:**

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	9,608.9	3,806.0	620.0	14,034.9
(b)	Other	3,671.0	10,144.0		13,815.0
(c)	Nurse expansion	31.7			31.7

The general fund appropriation for the instruction and general purposes category includes thirty-nine thousand two hundred fifteen dollars (\$39,215) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program in one hundred fifty percent of normal time to

completion 20%

(b) Outcome: Percent of first-time, full-time, degree-seeking students

enrolled in a given fall term who persist to the following

spring term 74%

Subtotal

27,881.6

### **NEW MEXICO MILITARY INSTITUTE:**

The purpose of the New Mexico military institute is to provide college-preparatory instruction for students in a residential, military environment culminating in a high school diploma or associates degree.

#### Appropriations:

(a) Instruction and general

purposes 1,062.7 23,325.0 123.0 24,510.7

(b) Other 6,606.0 1,170.0 7,776.0

(c) Athletics 279.5 97.9 377.4

(d) Knowles legislative

scholarship program 842.8 842.8

The general fund appropriation for the instruction and general purposes category includes sixty-eight thousand nine hundred dollars (\$68,900) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

#### Performance measures:

(a) Outcome: American college testing composite scores for graduating

high school seniors 22

(b) Outcome: Collegiate assessment of academic proficiency reading

scores for graduating college sophomores 60

(c) Outcome: Collegiate assessment of academic proficiency mathematics

scores for graduating college sophomores 59



Subtotal 33,506.9

**NEW MEXICO SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED:**

The purpose of the New Mexico school for the blind and visually impaired program is to provide the training, support and resources necessary to prepare blind and visually impaired children of New Mexico to participate fully in their families, communities and workforce and to lead independent, productive lives.

Appropriations:

(a)	Instruction and general purposes	634.3	11,417.0	528.1	12,579.4
(b)	Early childhood center		373.4		373.4
(c)	Low vision clinic programs		117.8		117.8

The general fund appropriation for the instruction and general purposes category includes fifty thousand three hundred dollars (\$50,300) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

Performance measures:

- (a) Outcome: The school will create a system to convey and receive information about blindness and visual impairment educational services, trends, research, etc. to all those involved or interested in serving students who are blind or visually impaired 100%
- (b) Outcome: The school will build a system of data-driven decision making that will be used collaboratively to determine goals, services and settings for educating New Mexico students with blindness and visual impairments 100%

Subtotal 13,070.6

**NEW MEXICO SCHOOL FOR THE DEAF:**

The purpose of the New Mexico school for the deaf program is to provide a school-based comprehensive, fully accessible and language-rich learning environment for its students who are deaf and hard-of-hearing and to work collaboratively with families, agencies and communities throughout the state to meet the unique communication, language and learning needs of children and youth who are deaf and hard-of-hearing.

Appropriations:

(a) Instruction and general

purposes	3,784.7	11,415.1	389.5	15,589.3
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(b) Statewide outreach services		231.9		231.9
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The general fund appropriation for the instruction and general purposes category includes sixty thousand two hundred dollars (\$60,200) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

Performance measures:

(a) Outcome: Percent of students in kindergarten through twelfth grade

demonstrating academic improvement across curriculum domains 75%

(b) Outcome: Percent of students in grades three to twelve who are

significantly cognitively delayed demonstrating sufficient

growth across curricular domains 100%

(c) Outcome: Percent of students in grades three to twelve who are late

language learners who demonstrate significant gains in

language and communication as demonstrated by pre- and

post-test results 80%

Subtotal		15,821.2		
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TOTAL HIGHER EDUCATION	790,636.1	1,441,565.2	44,718.8	672,928.5
	2,949,848.6			

**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 2014.

## PUBLIC SCHOOL SUPPORT:

(1) State equalization guarantee distribution:

The purpose of public school support is to carry out the mandate to establish and maintain a uniform system of free public schools sufficient for the education of, and open to, all the children of school age in the state.

Appropriations:	2,361,895.8	1,500.0	2,363,395.8
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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 2013-2014 school year and then, on verification of the number of units statewide for fiscal year 2014 but no later than January 31, 2014, the secretary of public education may adjust the program unit value, except as otherwise provided.

The state equalization guarantee distribution includes sufficient funds to provide a one percent average salary increase for all teachers, other instructional staff and other licensed and unlicensed staff, and the compensation shall be effective the first full pay period after July 1, 2013. This amount does not include and is in addition to salary increases due to licensure advancement pursuant to the School Personnel Act, Article 10A of Chapter 22, NMSA 1978. ~~[Prior to the approval of a school district or charter school's budget, the secretary of public education shall verify each school district or charter school is providing an average one percent salary increase for all teachers and other licensed school employees and an average one percent salary increase for all unlicensed school employees.]~~ *LINE-ITEM VETOED.*

The general fund appropriation to the state equalization guarantee distribution includes eleven million one hundred sixty-six thousand four hundred dollars (\$11,166,400) pursuant to Section 22-11-21 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

The general fund appropriation to the state equalization guarantee distribution includes funding to implement targeted early literacy interventions and remediation, including reading coaches, reading specialists and teacher professional development to support kindergarten through third grade students who are not proficient in reading.

For fiscal year 2014, if the program cost and the appropriation for the supplemental special education maintenance of effort distribution made available in fiscal year 2014 are 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, up to sixteen million dollars (\$16,000,000) is transferred from the state equalization guarantee distribution to the supplemental special education maintenance of effort distribution to meet the level of state support required by Part B of the federal Individuals with Disabilities Education Act for fiscal year 2014, and the secretary of public education shall reset the final unit value accordingly. The transfer is contingent on the public education department: [4] certifying that the program cost and the appropriation for the supplemental special education maintenance of effort distribution made available in fiscal year 2014 are insufficient in fiscal year 2014 to meet the maintenance of effort requirements of Part B of the federal Individuals with Disabilities Education Act; [2] reviewing with the legislative finance committee and the legislative education study committee the certification that the state equalization guarantee distribution transfer is needed to meet the maintenance of effort requirements of Part B of the federal Individuals with Disabilities Education Act for fiscal year 2014; and [3] obtaining board of finance approval to transfer and distribute funds. The public education department shall not request the transfer of more of the state equalization guarantee distribution to the supplemental special education maintenance of effort distribution than is necessary to meet the maintenance of effort requirements of Part B of the federal Individuals with Disabilities

Education Act for fiscal year 2014. Distribution from the fund shall be made in the same manner and on the same basis as the state equalization guarantee distribution. *LINE-ITEM VETOED.*

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.

For the 2013-2014 school year, the state equalization guarantee distribution includes sufficient funding for school districts and charter schools to implement a new formula-based program. Those districts and charter schools shall use current year membership on the first reporting date in the calculation of program units for the new formula-based program.

The general fund appropriation to the state equalization guarantee distribution reflects the deduction of federal revenue pursuant to Paragraph (2) of Subsection C of Section 22-8-25 NMSA 1978 that includes payments commonly known as "impact aid funds" pursuant to 20 U.S.C. 7701 et seq., and formerly known as "PL874 funds".

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 the federal Mineral Leasing Act receipts otherwise unappropriated.

The secretary of public education shall verify and audit student membership and program units claimed by school districts and charter schools and shall work with and assist superintendents and school boards and head administrators and governing bodies of charter schools to ensure efficient spending practices, membership and program units are calculated correctly, and school district and charter school operating budgets are implemented in a manner that will minimize adverse impacts to instructional programs and student achievement. The secretary shall ensure the number of instructional days budgeted by a school district or charter school for the 2013-2014 school year is not reduced from the 2012-2013 school year.

~~[The general fund appropriation to the state equalization guarantee distribution shall not be used by any school district or charter school to pay for expenses associated with student outreach, recruitment and school promotional activities including advertising and marketing efforts through mailers, telephone, television, newspaper or other print, radio or the internet. A school district or charter school found by the public education department to have spent state equalization guarantee distribution funds in this manner shall have their state equalization guarantee distribution decreased by the public education department accordingly.] *LINE-ITEM VETOED.*~~

Any unexpended balances in the authorized distributions remaining at the end of fiscal year 2014 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 52%
- (b) Outcome: Percent of fourth-grade students who achieve proficiency or above on the standards-based assessment in mathematics 50%

- (c) Outcome: Percent of eighth-grade students who achieve proficiency or above on the standards-based assessment in reading 60%
- (d) Outcome: Percent of eighth-grade students who achieve proficiency or above on the standards-based assessment in mathematics 50%
- (e) Outcome: Percent of recent New Mexico high school graduates who take remedial courses in higher education at two-year and four-year schools 40%

(2) Transportation distribution:

Appropriations:	100,342.5	100,342.5
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The general fund appropriation to the transportation distribution includes sufficient funds to provide a one percent average salary increase for all transportation employees, and the compensation shall be effective the first full pay period after July 1, 2013. This amount does not include and is in addition to salary increases due to licensure advancement pursuant to the School Personnel Act, Article 10A of Chapter 22, NMSA 1978. ~~[Prior to the approval of a school district or state-chartered charter school's budget, the secretary of public education shall verify each school district or state-chartered charter school is providing an average one percent salary increase for all transportation employees.]~~ *LINE-ITEM VETOED.*

The general fund appropriation to the transportation distribution includes two hundred ninety-three thousand eight hundred dollars (\$293,800) pursuant to Section 22-11-2 NMSA 1978 and is contingent on enactment of legislation of the first session of the fifty-first legislature to improve actuarial solvency of the educational retirement fund.

(3) Supplemental distribution:

Appropriations:			
(a)	Out-of-state tuition	346.0	346.0
(b)	Emergency supplemental	2,500.0	2,500.0

Prior to the distribution of emergency supplemental funds to any public school district or charter school, the secretary of public education shall verify with the New Mexico state auditor that the school district or charter school is in compliance with all provisions of Section 12-6-12 NMSA 1978. No emergency supplemental distributions shall be made to any school district or charter school not current with its audits.

Emergency supplemental funds shall not be distributed to any school district or charter school having 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 2014 from appropriations made from the general fund shall revert to the general fund.

Subtotal	2,466,584.3
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**FEDERAL FLOW THROUGH:**

Appropriations:	414,202.3	414,202.3
Subtotal	414,202.3	

**INSTRUCTIONAL MATERIALS:**

(1) Instructional material fund:

Appropriations:	20,975.8	20,975.8
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The appropriation to the instructional material fund is made from the federal Mineral Leasing Act (30 U.S.C. 181, et seq.) receipts.

(2) Dual credit instructional materials:

Appropriations:	857.0	857.0
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The general fund appropriation to the public education department for dual credit instructional materials shall be used by the department to reimburse school districts, charter schools, state-supported schools and bureau of Indian education high schools in New Mexico for the cost of required textbooks and other course supplies for students enrolled in the dual credit program to the extent of the available funds.

Subtotal	21,832.8
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**INDIAN EDUCATION FUND:**

Appropriations:	1,824.6	1,824.6
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The general fund appropriation to the public education department for the Indian Education Act includes four hundred thousand dollars (\$400,000) for a nonprofit organization that provides teaching support in schools with a high proportion of Native American students.

The general fund appropriation to the public education department for the Indian Education Act includes three hundred thousand dollars (\$300,000) to provide a rural literacy initiative to support after-school and summer literacy block programs for students in kindergarten through eighth grade in schools with a high proportion of Native American students contingent on receipt of three hundred thousand dollars (\$300,000) in matching funds from other than state sources [~~no later than September 30, 2013~~].  
*LINE-ITEM VETOED.*

Subtotal	1,824.6
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**SUPPLEMENTAL SPECIAL EDUCATION MAINTENANCE OF EFFORT DISTRIBUTION:**

Appropriations: 10,000.0 10,000.0

The general fund appropriation of ten million dollars (\$10,000,000) to the public education department for the supplemental special education maintenance of effort distribution is made to ensure the state makes sufficient funds available in fiscal year 2014 to meet the special education maintenance of effort requirements of Part B of the federal Individuals with Disabilities Education Act. The appropriation is contingent on the public education department: [4] certifying that the program cost made available in fiscal year 2014 is insufficient to meet the maintenance of effort requirements of Part B of the federal Individuals with Disabilities Education Act in fiscal year 2014 [; 2) reviewing with the legislative finance committee and the legislative education study committee the certification that the supplemental special education maintenance of effort distribution is needed to meet the maintenance of effort requirements of Part B of the federal Individuals with Disabilities Education Act for fiscal year 2014;] and [3] obtaining board of finance approval to transfer and distribute funds. The public education department shall not distribute more of the supplemental special education maintenance of effort distribution than is necessary to meet the maintenance of effort requirements of Part B of the federal Individuals with Disabilities Education Act for fiscal year 2014. Distribution from the fund shall be made in the same manner and on the same basis as the state equalization guarantee distribution. *LINE-ITEM VETOED.*

Subtotal 10,000.0

TOTAL PUBLIC SCHOOL SUPPORT 2,498,741.7 1,500.0 414,202.3  
2,914,444.0

**GRAND TOTAL FISCAL YEAR 2014**

APPROPRIATIONS 5,867,091.4 3,292,722.0 914,914.7 6,125,702.5 16,200,430.6

**Chapter 227 Section 5 Laws 2013**

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 2013 and 2014. Unless otherwise indicated, any unexpended balances of the appropriations remaining at the end of fiscal year 2014 shall revert to the appropriate fund.

[1] LEGISLATIVE COUNCIL SERVICE 50.0 50.0

For expenses of budgetary standing committees prior to the 2014 session. The appropriation is from legislative cash balances.] *LINE-ITEM VETOED.*

(2) LEGISLATIVE COUNCIL SERVICE 200.0 200.0

For master planning activities of the capitol buildings planning commission. The appropriation is from legislative cash balances.

[3] LEGISLATIVE COUNCIL SERVICE 50.0 50.0

~~For expenses of a disabilities concerns committee. The appropriation is from legislative cash balances.]  
LINE-ITEM VETOED.~~

~~[(4) LEGISLATIVE COUNCIL SERVICE 750.0 750.0~~

~~For the legislative council service and the legislative finance committee to provide consulting and monitoring support of the upgrade of the statewide human resources, accounting and management reporting system and the reconciliation of cash variances. The appropriation is from legislative cash balances.]~~

~~[(5) ADMINISTRATIVE OFFICE OF THE COURTS 50.0 50.0~~

~~To perform a staff study.] LINE-ITEM VETOED.~~

(6) ADMINISTRATIVE OFFICE OF  
THE COURTS 1,365.0 1,365.0

To purchase information technology equipment, furnishings and vehicles for eleven district courts.

(7) FIRST JUDICIAL DISTRICT ATTORNEY 224.9 224.9

To prosecute a fraud case affecting the city and county of Santa Fe.

(8) ADMINISTRATIVE OFFICE OF THE DISTRICT ATTORNEYS

Any unexpended balances remaining at the end of fiscal year 2013 from revenues received in fiscal year 2013 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 but shall remain with the recipient district attorney's office. The administrative office of the district attorneys shall provide to the department of finance and administration [~~and the legislative finance committee~~] prior to November 1, 2013 a detailed report documenting the amount of all southwest border prosecution initiative funds that do not revert at the end of fiscal year 2013 for each of the district attorneys and the administrative office of the district attorneys. *LINE-ITEM VETOED.*

(9) ADMINISTRATIVE OFFICE OF THE DISTRICT ATTORNEYS

Any unexpended balances remaining at the end of fiscal year 2013 from revenues received in the fiscal year 2013 and prior years by a district attorney's office from any Native American tribe, pueblo, or political subdivision pursuant to a contract, memorandum of understanding, joint powers agreement or grant shall not revert but shall remain with the recipient district attorney's office. The administrative office of the district attorneys shall provide to the department of finance and administration and the legislative finance committee prior to November 1, 2013 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 2013 for each of the district attorneys and the administrative office of the district attorneys.

(10) ELEVENTH JUDICIAL DISTRICT ATTORNEY,  
DIVISION II 50.0 50.0

To purchase two new vehicles.



(11) ATTORNEY GENERAL 273.1 273.1

To pay attorney fees and expenses related to three lawsuits against the office of the secretary of state.

~~[(12) DEPARTMENT OF FINANCE~~

~~AND ADMINISTRATION 350.0 350.0~~

~~To provide emergency funding to support protective custody and social detoxification services in the city of Gallup.] LINE-ITEM VETOED.~~

(13) DEPARTMENT OF FINANCE

AND ADMINISTRATION 250.0 50.0 300.0

For disbursement to the renewable energy transmission authority for operating costs.

~~[(14) DEPARTMENT OF FINANCE~~

~~AND ADMINISTRATION 50.0 50.0~~

~~For the New Mexico rodeo council for senior high school and 4-H rodeo.] LINE-ITEM VETOED.~~

(15) DEPARTMENT OF FINANCE

AND ADMINISTRATION 200.0 200.0

For deposit into the housing trust fund for use pursuant to the Housing Trust Fund Act and the Affordable Housing Act.

(16) DEPARTMENT OF FINANCE

AND ADMINISTRATION 250.0 250.0

For the comprehensive annual financial report audit.

(17) DEPARTMENT OF FINANCE

AND ADMINISTRATION 50.0 50.0

To investigate alternative sources of water for the village of Hatch.

(18) DEPARTMENT OF FINANCE

AND ADMINISTRATION 400.0 400.0

To repay a board of finance loan for the cash management remediation project.

(19) GENERAL SERVICES DEPARTMENT 200.0 200.0

For aviation program expenses.

(20) GENERAL SERVICES DEPARTMENT 900.0 900.0

From the public buildings repair fund to the property control division for buildings outside of Santa Fe under the jurisdiction of the division, including assessments, planning, design, renovation, improvements and construction of infrastructure and facilities at the youth diagnostic and development center and Sequoyah adolescent treatment center in Bernalillo county and Fort Stanton in Lincoln county.

(21) GENERAL SERVICES DEPARTMENT 9,240.0 [43,860.0] 23,100.0

~~For transfer to the group self-insurance fund. [The general services department may levy a one-time assessment on state agencies and local public bodies for their equitable share of group self-insurance from other state funds and federal funds for credit to the department's group self-insurance fund. The total one-time assessment shall not exceed thirteen million eight hundred sixty thousand dollars (\$13,860,000). The general services department shall submit to the department of finance and administration and the legislative finance committee a plan to address solvency in the group self-insurance fund before June 15, 2013.] LINE-ITEM VETOED.~~

(22) GENERAL SERVICES DEPARTMENT 20.0 20.0

For maintenance costs at the Fort Stanton cemetery.

(23) GENERAL SERVICES DEPARTMENT 1,400.0 1,400.0

From the public buildings repair fund to the property control division to conduct facility condition assessments of all state facilities under the jurisdiction of the property control division.

(24) GENERAL SERVICES DEPARTMENT

The period of time for expending the four hundred fifty-eight thousand five hundred dollar (\$458,500) appropriation from the purchasing enterprise fund contained in Subsection 10 of Section 5 of Chapter 19 of Laws 2012 to implement an electronic bid and contracts management web-based system is extended through fiscal year 2014.

(25) SECRETARY OF STATE 300.0 300.0

For election expenses. The appropriation is from the public elections fund.

(26) SECRETARY OF STATE 350.0 350.0

For transition costs associated with the transfer of responsibility for chartering and regulating corporations from the public regulatory commission to the secretary of state, contingent on enactment of House Bill 46 or similar legislation of the first session of the fifty-first legislature.

~~(27) PERSONNEL BOARD 75.0 75.0 150.0~~

~~For a study of the classified services reclassification and compensation system.] LINE-ITEM VETOED.~~

(28) ECONOMIC DEVELOPMENT DEPARTMENT 3,000.0 3,000.0

For the job training incentive program.

(29) ECONOMIC DEVELOPMENT DEPARTMENT 500.0 500.0

For the mainstreet program, including sufficient funding for frontier areas of the state.

(30)	ECONOMIC DEVELOPMENT DEPARTMENT	3,300.0	3,300.0
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For economic development projects pursuant to the Local Economic Development Act including three hundred thousand dollars (\$300,000) to prioritize projects in non-metropolitan statistical areas of the state.

(31)	REGULATION AND LICENSING DEPARTMENT	32.5	32.5
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To train financial examiners on the federal deposit insurance corporation and the Dodd-Frank Wall Street Reform and Consumer Protection Act.

(32)	GAMING CONTROL BOARD		
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The balance of the general fund appropriation made pursuant to Subsection 14 of Section 5 of Chapter 19 of Laws 2012 to the gaming control board shall not revert but may be expended by the gaming control board in fiscal year 2014 for possible arbitration and litigation expenses related to tribal gaming.

(33)	STATE RACING COMMISSION	67.5	67.5
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For a database that will provide real-time background checks on all racing participants.

(34)	CUMBRES AND TOLTEC SCENIC		
	RAILROAD COMMISSION	300.0	300.0

For building maintenance and repair.

(35)	OFFICE OF MILITARY BASE		
	PLANNING AND SUPPORT	50.0	50.0

To study, develop, design and produce a New Mexico military base value case statement and reference material.

(36)	CULTURAL AFFAIRS DEPARTMENT	400.0	400.0
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For operating costs at the New Mexico museum of space history.

(37)	CULTURAL AFFAIRS DEPARTMENT	6,543.6	6,543.6
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To carry out the provisions of the Cultural Affairs Department Act and other laws administered by the department or any of its divisions and for expenditures. ~~[Any unexpended or unencumbered balance remaining in fiscal year 2013 or fiscal year 2014 shall not revert.]~~ *LINE-ITEM VETOED.*

(38)	CULTURAL AFFAIRS DEPARTMENT	200.0	200.0
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To comply with purchase agreements regarding the preservation of Los Luceros.

(39)	NEW MEXICO LIVESTOCK BOARD	350.0	350.0
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To purchase vehicles.

(40) DEPARTMENT OF GAME AND FISH 250.0 250.0

To partner and coordinate with federal and state agencies, including the commissioner of public lands, to remove feral swine on state trust land throughout New Mexico. The appropriation is from the game protection fund.

~~[(41) INTERTRIBAL CEREMONIAL OFFICE 25.0 25.0]~~

~~To promote the intertribal ceremonial.] LINE-ITEM VETOED.~~

(42) COMMISSIONER OF PUBLIC LANDS 500.0 500.0

To reduce high levels of wildland fire fuel and tree densities for fire prevention and community safety.

(43) COMMISSIONER OF PUBLIC LANDS

The period of time for expending the seven hundred six thousand dollar (\$706,000) appropriation from the land maintenance fund contained in Subsection 17 of Section 5 of Chapter 19 of Laws 2012 to microfilm state lands records is extended through fiscal year 2014.

(44) STATE ENGINEER 6,500.0 6,500.0

For water litigation on interstate streams and their tributaries.

(45) STATE ENGINEER 400.0 400.0

To update regional and state water plans. The interstate stream commission shall report to the interim water and natural resources committee on the progress and content of the water plans.

(46) STATE ENGINEER 500.0 500.0

For transfer to the irrigation works construction fund.

~~[(47) STATE ENGINEER 100.0 100.0]~~

~~For a weather modification program in Lea and Roosevelt counties.] LINE-ITEM VETOED.~~

(48) COMMISSION ON STATUS OF WOMEN

The period of time for expending the one hundred twenty-five thousand dollar (\$125,000) appropriation from the general fund contained in Subsection 18 of Section 5 of Chapter 19 of Laws 2012 is extended through fiscal year 2014.

(49) OFFICE OF AFRICAN AMERICAN AFFAIRS 30.0 30.0

To disseminate statewide the results of a disparity study.

(50) MARTIN LUTHER KING, JR. COMMISSION 38.0 38.0

To implement anti-bullying curriculum throughout the state and for leadership conference expenses.

(51) AGING AND LONG-TERM

SERVICES DEPARTMENT	100.0	100.0
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For a health promotion initiative for seniors to enhance fitness and manage chronic diseases.

(52) HUMAN SERVICES DEPARTMENT

Any unexpended balances remaining at the end of fiscal year 2013 from reimbursements received from the social security administration to support the general assistance program shall not revert but may be expended by the human services department in fiscal year 2014 for payments to recipients in the general assistance program.

(53) WORKFORCE SOLUTIONS DEPARTMENT

The period of time for expending the remaining balance of federal funds available through the American Recovery and Reinvestment Act of 2009 contained in Subsection 9 of Section 5 of Chapter 6 of Laws 2010 is extended through fiscal year 2014.

(54) DEPARTMENT OF HEALTH	2,250.3	374.7	2,625.0
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For the Jackson v. Fort Stanton lawsuit disengagement activities mandated by federal court.

(55) DEPARTMENT OF HEALTH	100.0	100.0
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To coordinate with tribal public health programs to develop and implement tribal youth diabetes prevention protocols.

(56) DEPARTMENT OF ENVIRONMENT	2,841.1	2,841.1
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To match federal funds for clean-up of superfund hazardous waste sites in New Mexico.

(57) VETERANS' SERVICES DEPARTMENT	100.0	100.0
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To implement a veterans' posttraumatic stress disorder virtual reality treatment pilot project with western New Mexico university.

(58) CHILDREN, YOUTH AND

FAMILIES DEPARTMENT	375.0	375.0
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To provide technical and capacity-building assistance in high-risk home visiting investment zones.

(59) DEPARTMENT OF MILITARY AFFAIRS	25.0	25.0
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To educate the people of New Mexico about the mission of the nuclear-powered submarine USS New Mexico.

(60) CORRECTIONS DEPARTMENT

Any unexpended balance remaining at the end of fiscal year 2013 from revenues received by the New Mexico corrections department from the United States department of justice pursuant to the state criminal alien assistance program shall not revert but shall remain with the corrections department for expenditure in fiscal year 2014. The New Mexico corrections department shall provide to the department of finance and administration by November 01, 2013, a detailed report documenting the amount of all state criminal alien assistance program funds that do not revert at the end of fiscal year 2013 and also ensure proper reporting in the department's fiscal year 2013 audit.

(61)	CORRECTIONS DEPARTMENT	2,000.0	2,000.0
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To repair and replace prioritized infrastructure repair projects.

(62)	DEPARTMENT OF PUBLIC SAFETY	2,412.7	2,412.7
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For vehicle replacement in the law enforcement program and the motor transportation program.

(63)	DEPARTMENT OF PUBLIC SAFETY	816.0	816.0
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To finish replacing the in-vehicle digital video recording equipment used to record traffic stops.

(64)	DEPARTMENT OF PUBLIC SAFETY		
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The period of time for expending the two hundred thousand dollar (\$200,000) appropriation from the general fund contained in Subsection 29 of Section 5 of Chapter 19 of Laws 2012 to pay the department of information technology for wide area network circuits at department of public safety-designated sites to provide law enforcement officers quick access to and transmittal of criminal information is extended through fiscal year 2014.

(65)	DEPARTMENT OF TRANSPORTATION		
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The other state funds and federal funds appropriations to the programs and infrastructure program of the department of transportation pertaining to prior fiscal years may be extended through fiscal year 2014 but not to exceed four hundred million dollars (\$400,000,000).

(66)	DEPARTMENT OF TRANSPORTATION		
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The other state funds and federal funds appropriations to the transportation and highway operations program of the department of transportation pertaining to prior fiscal years may be extended through fiscal year 2014 but not to exceed eighty million dollars (\$80,000,000).

(67)	DEPARTMENT OF TRANSPORTATION	35,000.0	
		35,000.0	

To use non-obligated fund balances for road maintenance.

(68)	PUBLIC EDUCATION DEPARTMENT	3,400.0	3,400.0
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For implementing a new teacher and school leader evaluation system. The appropriation is from the separate account of the appropriation contingency fund dedicated for the purpose of implementing and maintaining educational reforms created in Section 12 of Chapter 114 of Laws 2004.

(69)	PUBLIC EDUCATION DEPARTMENT	5,800.0	5,800.0
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For emergency support to school districts experiencing shortfalls. All requirements for distribution of funds shall be in accordance with Section 22-8-30 NMSA 1978.

(70) PUBLIC EDUCATION DEPARTMENT

Unexpended and unencumbered balances in the kindergarten plus fund established in Section 22-2-20 NMSA 1978 shall be transferred to the kindergarten-three-plus fund established in Section 22-13-28.1 NMSA 1978.

(71) PUBLIC EDUCATION DEPARTMENT 100.0 100.0

To distribute to school districts and charter schools for the purchase of New Mexico grown fresh fruits and vegetables for school meal programs.

(72) PUBLIC EDUCATION DEPARTMENT 5,200.0 5,200.0

To purchase computers for administration of the next generation assessment developed by the partnership for assessment of readiness for college and careers to students in grades three through eleven. The appropriation is from the separate account of the appropriation contingency fund dedicated for the purpose of implementing and maintaining educational reforms created in Section 12 of Chapter 114 of Laws 2004.

(73) PUBLIC EDUCATION DEPARTMENT 15,400.0 4,600.0 20,000.0

To ensure the state makes sufficient funds available in fiscal year 2013 to meet the special education maintenance of effort requirements pursuant to the federal Individuals with Disabilities Education Act. The appropriation of twenty million dollars (\$20,000,000) includes fifteen million four hundred thousand dollars (\$15,400,000) from the separate account of the appropriation contingency fund dedicated for the purpose of implementing and maintaining educational reforms created in Section 12 of Chapter 114 of Laws 2004 and four million six hundred thousand dollars (\$4,600,000) in other state funds transferred to the public education department from the taxation and revenue department pursuant to Section 66-5-44 NMSA 1978. The appropriation is contingent on the public education department: [1] certifying that the program cost made available in fiscal year 2013 is insufficient to meet the maintenance of effort requirements of Part B of the federal Individuals with Disabilities Education Act in fiscal year 2013; [2] reviewing with the legislative finance committee and the legislative education study committee the certification that the twenty million dollar (\$20,000,000) supplemental appropriation is needed to meet the maintenance of effort requirements of Part B of the federal Individuals with Disabilities Education Act for fiscal year 2013; and [3] obtaining board of finance approval to transfer and distribute funds. The public education department shall not distribute more of the supplemental appropriation than is necessary to meet the maintenance of effort requirements of Part B of the federal Individuals with Disabilities Education Act for fiscal year 2013. The public education department shall distribute the required amount of the supplemental appropriation to each school district and charter school in the same manner and on the same basis as the state equalization guarantee distribution. *LINE-ITEM VETOED.*

(74) PUBLIC EDUCATION DEPARTMENT 2,000.0 2,000.0

To the public education department to provide stipends to [level two and level three] teachers and school leaders to move from schools rated A or B to schools rated D or F pursuant to the A-B-C-D-F Schools Rating Act that serve a high proportion of at-risk students or high-poverty students and to provide stipends to high school teachers of advanced placement classes that increase the proportion of students receiving college credit for advance placement classes. The appropriation is from the separate account of the appropriation contingency fund dedicated for the purpose of implementing and maintaining educational reforms created in Section 12 of Chapter 114 of Laws 2004. *LINE-ITEM VETOED.*

(75) PUBLIC EDUCATION DEPARTMENT 1,500.0 1,500.0

For transition to the common core content standards. [~~Prior to expenditure of funds, the public education department shall submit to the legislative finance committee and the legislative education study committee a report on planned expenditure of funds, and by January 1, 2014, progress made as a result of the appropriation.~~] The appropriation is from the separate account of the appropriation contingency fund dedicated for the purpose of implementing and maintaining educational reforms created in Section 12 of Chapter 114 of Laws 2004. *LINE-ITEM VETOED.*

(76) PUBLIC EDUCATION DEPARTMENT

The period of time for expending one million five hundred thousand dollars (\$1,500,000) of the appropriation made in Subsection 38 of Section 5 of Chapter 19 of Laws 2012 is extended through fiscal year 2014 to provide supplemental funding for increased fuel costs incurred by school districts and state-chartered charter schools. The appropriation is contingent on certification by the public education department to the department of finance and administration [~~and the legislative finance committee~~] that no other funds, including federal funds, are available in fiscal year 2013 or fiscal year 2014 for the purpose specified. The distribution of funding shall be based on miles traveled for to-and-from transportation of public school students. School districts and state-chartered charter schools shall request funds for fuel from the secretary of public education and provide supporting documentation that they have incurred increased costs due to higher fuel prices. The secretary of public education shall approve requests for funding for fuel cost increases and make distributions on a reimbursement basis. *LINE-ITEM VETOED.*

(77) PUBLIC SCHOOL FACILITIES AUTHORITY 172.8 172.8

For loan repayment for the Animas school district. The appropriation is from the public school capital outlay fund.

~~[(78) HIGHER EDUCATION DEPARTMENT 75.0 75.0]~~

~~To study the feasibility of establishing the Gallup branch campus of the university of New Mexico as an independent community college.] *LINE-ITEM VETOED.*~~

(79) HIGHER EDUCATION DEPARTMENT 50.0 50.0

To study the expansion of intercollegiate sports at comprehensive universities pursuant to the Higher Education Act of 1965, Title IX.

~~[(80) HIGHER EDUCATION DEPARTMENT 20,000.0 20,000.0]~~

~~To replenish the higher education endowment fund.] *LINE-ITEM VETOED.*~~

~~[(81) UNIVERSITY OF NEW MEXICO 200.0 200.0]~~

~~For the university of New Mexico Gallup branch campus to complete phase two campus utility infrastructure and fire suppression improvements.] *LINE-ITEM VETOED.*~~

(82) EASTERN NEW MEXICO UNIVERSITY 200.0 200.0

To manage a year-long program to prepare teams of New Mexico students in grades three through twelve and their teachers to design, build, program and test robots, and to allow students to compete in



an international robot competition for student teams to demonstrate their skills and knowledge as academic athletes.

(83)	COMPUTER SYSTEMS ENHANCEMENT	20,368.0	
	20,368.0		

For transfer to the computer systems enhancement fund for system replacements or enhancements.

TOTAL SPECIAL APPROPRIATIONS	112,198.5	53,147.0	14,234.7
	179,580.2		

## Chapter 227 Section 6 Laws 2013

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 2013 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 2013 for the purpose specified and approval by the department of finance and administration. Any unexpended balances remaining at the end of fiscal year 2013 shall revert to the appropriate fund. *LINE-ITEM VETOED.*

(1)	ADMINISTRATIVE OFFICE OF THE COURTS	400.0	400.0
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For a building lease payment shortfall in the magistrate court.

(2)	NINTH JUDICIAL DISTRICT ATTORNEY	136.0	136.0
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To correct statewide human resources, accounting and management reporting system balances.

(3)	STATE INVESTMENT COUNCIL	4,000.0	4,000.0
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To pay for investment-related management fees.

~~[(4) DEPARTMENT OF FINANCE AND ADMINISTRATION~~

~~The department of finance and administration, subject to board of finance approval, is authorized to adjust up to seventy million dollars (\$70,000,000) from the allowance for potential loss account of the general fund operating reserve.] *LINE-ITEM VETOED.*~~

(5)	SECRETARY OF STATE	1,100.0	1,100.0
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For 2012 general election expenses and to reimburse some counties for 2012 primary expenses.

(6)	OFFICE OF MILITARY BASE		
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	PLANNING AND SUPPORT	3.9	3.9
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For a shortfall in personal services and employee benefits at the end of fiscal year 2012.

(7)	ENERGY, MINERALS AND NATURAL		
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RESOURCES DEPARTMENT 100.0 100.0

For propane conversion costs at state parks.

(8) DEVELOPMENTAL DISABILITIES PLANNING COUNCIL

Any unexpended balances remaining at the end of fiscal year 2013 from the office of guardianship in the developmental disabilities planning council shall not revert but may be expended in fiscal year 2014 to support the office of guardianship of the developmental disabilities planning council.

(9) DEVELOPMENTAL DISABILITIES

PLANNING COUNCIL 112.0 112.0

To fund guardianship services for emergency cases.

(10) DEPARTMENT OF PUBLIC SAFETY 100.0 100.0

For increased fleet maintenance and for the costs associated with a second police recruit school.

(11) PUBLIC EDUCATION DEPARTMENT

For fiscal year 2013, if the program cost and the twenty million dollar (\$20,000,000) special

appropriation made available in fiscal year 2013 are 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, up to twenty million dollars (\$20,000,000) is transferred from the state equalization guarantee distribution to the public education department to meet the level of state support required by Part B of the federal Individuals with Disabilities Education Act for fiscal year 2013, and the secretary of the public education department shall reset the final unit value accordingly. The transfer is contingent on the public education department: [4] certifying that the program cost and the twenty million dollar (\$20,000,000) special appropriation to the public education department made available in fiscal year 2013 are insufficient in fiscal year 2013 to meet the maintenance of effort requirements of Part B of the federal Individuals with Disabilities Education Act; [2] reviewing with the legislative finance committee and the legislative education study committee the certification that the state equalization guarantee distribution transfer is needed to meet the maintenance of effort requirements of Part B of the federal Individuals with Disabilities Education Act for fiscal year 2013; and [3] obtaining board of finance approval to transfer and distribute funds. The public education department shall not request the transfer of more of the state equalization guarantee distribution than is necessary to meet the maintenance of effort requirements of Part B of the federal Individuals with Disabilities Education Act for fiscal year 2013. The public education department shall distribute the required amount of the transferred state equalization guarantee distribution to each school district and charter school in the same manner and on the same basis as the state equalization guarantee distribution. *LINE-ITEM VETOED.*

TOTAL SUPPLEMENTAL AND

DEFICIENCY APPROPRIATIONS 1,951.9 4,000.0 5,951.9

**Chapter 227 Section 7 Laws 2013**

Section 7. **DATA PROCESSING APPROPRIATIONS.**--The following amounts are appropriated from the computer systems enhancement fund, or other funds as indicated, for the purposes specified.

Unless otherwise indicated, the appropriation may be expended in fiscal years 2013, 2014 and 2015. Unless otherwise indicated, any unexpended balances remaining at the end of fiscal year 2015 shall revert to the computer systems enhancement fund or other funds as indicated. For executive branch agencies, the department of finance and administration shall allocate amounts from the funds for the purposes specified upon receiving certification and supporting documentation from the state chief information officer that indicates compliance with the project certification process. The judicial information systems council shall certify compliance to the department of finance and administration for judicial branch projects. For executive branch agencies, all hardware and software purchases funded through appropriations made in Sections 4, 5, 6 and 7 of this act shall be procured using consolidated purchasing led by the state chief information officer and state purchasing division to achieve economies of scale and to provide the state with the best unit price.

(1) ADMINISTRATIVE OFFICE OF THE COURTS 310.0 310.0

To extend the statewide integrated and consolidated case management system with electronic document management and electronic filing to the Bernalillo county metropolitan court.

(2) ADMINISTRATIVE OFFICE OF THE COURTS 220.0 220.0

To extend the statewide integrated and consolidated case management system with electronic document management and electronic filing to the New Mexico supreme court and the New Mexico court of appeals.

(3) ADMINISTRATIVE OFFICE OF THE COURTS 298.0 298.0

To purchase video equipment for the statewide judicial video arraignment network.

(4) TAXATION AND REVENUE DEPARTMENT

Except as otherwise provided for in this appropriation, the period of time for expending the appropriation contained in Subsection 3 of Section 7 of Chapter 124 of Laws 2009 as extended in Subsection 2 of Section 7 of Chapter 179 of Laws 2011 to replace the 30-year-old common business oriented language-based driver and vehicle systems is extended for the same purpose through fiscal year 2015; however, up to one million dollars (\$1,000,000) of this appropriation may be used for enhanced maintenance and support of the department's gentax system in fiscal year 2014. The extension is contingent on the department submitting a project plan, including estimated completion date, estimated total cost and expected deliverables, for review by the ~~[legislative finance committee, the]~~ department of finance and administration and the department of information technology. The department shall provide monthly written status reports and independent validation and verification reports to the department of finance and administration ~~[and the legislative finance committee]~~. *LINE-ITEM VETOED.*

(5) GENERAL SERVICES DEPARTMENT 757.2 ~~[4,135.8]~~ 1,893.0

The general services department may ~~[assess a one-time assessment on state agencies and local public bodies to collect their equitable share of other state funds and federal funds to the credit of the group self-insurance fund to]~~ upgrade the statewide human resources, accounting and management reporting system for the employee group health benefits program. *LINE-ITEM VETOED.*

(6) EDUCATIONAL RETIREMENT BOARD

The period of time for expending the three million five hundred thousand dollar (\$3,500,000) appropriation from the educational retirement fund contained in Subsection 3 of Section 7 of Chapter 179 of Laws 2011 to upgrade the integrated retirement information system is extended through fiscal year 2015.

(7) DEPARTMENT OF INFORMATION TECHNOLOGY 5,000.0 5,000.0

To stabilize and upgrade the statewide human resources, accounting and management reporting system to current levels of hardware and software. Release of the appropriation is contingent on the department of information technology completing request for proposals and subsequent contract or contracts with clearly-defined and established project milestones and deliverables and a project plan with phased release of funds [subject to certification by the information technology commission]. The department of information technology statewide human resources, accounting and management reporting system manager shall provide monthly written status reports and independent validation and verification reports to the department of finance and administration [and the legislative finance committee]. *LINE-ITEM VETOED.*

(8) PUBLIC EMPLOYEES RETIREMENT ASSOCIATION 2,800.0 2,800.0

To upgrade the retirement information online system. The appropriation is from interest earned on investments.

(9) STATE COMMISSION OF PUBLIC RECORDS 822.4 822.4

To continue implementation of the centralized electronic records repository system.

(10) SECRETARY OF STATE 1,215.0 1,215.0

To purchase and implement new software and related information technology for the business services division of the secretary of state.

(11) STATE TREASURER 1,950.0 1,950.0

To implement a treasury management module in the statewide human resources, accounting and management reporting system.

(12) REGULATION AND LICENSING DEPARTMENT 186.2 186.2

To implement and upgrade the construction tracking system.

(13) PUBLIC REGULATION COMMISSION 1,250.0 1,250.0

To migrate the insurance system and processes towards a paperless, web-based environment. The appropriation is from the insurance operations fund.

(14) GAMING CONTROL BOARD 2,500.0 2,500.0

To modernize or replace the central gaming monitoring system. The central gaming monitoring system shall meet or exceed the current national gaming standards for protocols based on computer industry standard technologies that will maintain the games of today and well into the future; the board shall implement the new system no later than June 30, 2014.

(15) STATE ENGINEER 400.0 400.0

To upgrade the water rights information management system. The appropriation is from the irrigation works construction fund.

(16) HUMAN SERVICES DEPARTMENT

The period of time for expending the six million three hundred ninety-two thousand dollar (\$6,392,000) appropriation from the computer enhancement fund and the seven million nine hundred seventy-two thousand four hundred dollars (\$7,972,400) in federal funds contained in Subsection 8 of Section 7 of Chapter 124 of Laws 2009 as extended by Subsection 6 of Section 7 of Chapter 179 of Laws 2011 to continue replacing the income support division integrated services delivery system is extended through fiscal year 2015.

(17) CHILDREN, YOUTH AND FAMILIES DEPARTMENT 355.0 355.0

To implement the accounts receivables module of the statewide human resources, accounting and management reporting system.

(18) CHILDREN, YOUTH AND FAMILIES DEPARTMENT 3,454.2 3,454.2

To develop and implement the service management component of the enterprise provider information constituent services system.

(19) DEPARTMENT OF PUBLIC SAFETY 2,850.0 2,850.0

To implement an integrated computer-aided dispatch and records management system. Release of the appropriation is contingent on the department of public safety issuing a request for information regarding available system alternatives, issuing a request for proposals, and submitting a project plan to the department of information technology, department of finance and administration and the legislative finance committee that includes milestones, estimated completion dates for each milestone, estimated total cost and deliverables.

(20) DEPARTMENT OF PUBLIC SAFETY 450.0 450.0

To implement an automated fingerprint identification system as part of the western identification network.

TOTAL DATA PROCESSING APPROPRIATIONS 24,818.0 1,135.8  
25,953.8

## Chapter 227 Section 8 Laws 2013

### Section 8. COMPENSATION APPROPRIATIONS.--

A. Eight million one hundred ninety-seven thousand sixty-eight dollars (\$8,197,068) is appropriated from the general fund to the department of finance and administration for expenditure in fiscal year 2014 to provide salary increases to employees in budgeted positions who have completed their probationary period subject to satisfactory job performance. The salary increases shall be effective the first full pay period after July 1, 2013 and distributed as follows:

(1) one hundred sixteen thousand one hundred dollars (\$116,100) 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 percent;

(2) two hundred thirty-one thousand eight hundred eighty-four dollars (\$231,884) to provide the justices of the supreme court a salary increase to one hundred twenty-four thousand nine hundred twenty-eight dollars (\$124,928) and to provide the chief justice of the supreme court; the chief judge of the court of appeals; and judges of the court of appeals, district courts, metropolitan courts and magistrate courts a salary increase pursuant to the provisions of Section 34-1-9 NMSA 1978;

(3) one million two hundred thousand three hundred dollars (\$1,200,300) to provide child support hearing officers, special commissioners, all judicial permanent employees and all district attorney permanent employees other than elected district attorneys and other than employees whose salaries are set by statute, with an average salary increase of one percent;

(4) eighteen thousand seven hundred dollars (\$18,700) to provide a salary increase of one percent for district attorneys;

(5) five million forty-four thousand two hundred four dollars (\$5,044,204) to provide incumbents in agencies governed by the state Personnel Act with a salary increase of one percent as follows:

(a) two million six hundred forty-six thousand one hundred eighty-two dollars (\$2,646,182) for classified employees not covered by a collective bargaining agreement;

(b) two million three hundred ninety-eight thousand twenty-two dollars (\$2,398,022) for classified employees covered by a collective bargaining agreement in effect on July 1, 2013;

(6) seven hundred seven thousand eight hundred eighty dollars (\$707,880) for executive exempt employees, including attorney general employees and workers' compensation judges to provide an average salary increase of one percent; and

(7) eight hundred seventy-eight thousand dollars (\$878,000) of which seven hundred sixty-three thousand dollars (\$763,000) is for commissioned police officers of the state police division to provide an average salary increase of three percent in accordance with the New Mexico state police career pay system and one hundred fifteen thousand dollars (\$115,000) for commissioned officers in the motor transportation division governed by the State Personnel Act to provide an average salary increase of three percent.

B. Five million eight hundred forty-four thousand eight hundred dollars (\$5,844,800) is appropriated from the general fund to the higher education department

for expenditure in fiscal year 2014 to provide faculty and staff of four- and two-year public post-secondary educational institutions with an average annual salary increase of one percent effective the first full pay period after July 1, 2013.

C. The department of finance and administration shall distribute a sufficient amount to each agency to provide the appropriate increase for those employees whose salaries are received as a result of the general fund appropriations in the General Appropriation Act of 2013. Any unexpended or unencumbered balances remaining at the end of fiscal year 2014 shall revert to the general fund.

D. For those state employees whose salaries are referenced in or received as a result of non-general fund appropriations in the General Appropriations Act of 2013, 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, and such amounts are appropriated for expenditure in fiscal year 2014. Any unexpended or unencumbered balance remaining at the end of fiscal year 2014 shall revert to the appropriate fund.

## **Chapter 227 Section 9 Laws 2013**

### **Section 9. ADDITIONAL FISCAL YEAR 2013 BUDGET ADJUSTMENT**

**AUTHORITY.**--During fiscal year 2013, 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 2012:

A. the administrative office of the courts may request budget increases up to five hundred twenty-nine thousand eight hundred dollars (\$529,800) from other state funds and fund balances to pay jurors, interpreters and witnesses, may request budget increases up to ninety-seven thousand dollars (\$97,000) from internal service funds/interagency transfers and other state funds from funds received from any political subdivision of the state to reimburse magistrate courts for services provided, may request up to five hundred thousand dollars (\$500,000) from other state funds from the warrant enforcement fund to pay for magistrate lease payments shortfalls, may request up to two hundred seventy-five thousand dollars (\$275,000) from other state funds from automation fees collected by the courts and may request budget increases up to two hundred thousand dollars (\$200,000) from other state funds from the magistrate mediation fund to pay magistrate lease payment shortfalls;

B. the fifth judicial district court may request budget increases up to fifteen thousand dollars (\$15,000) from other state funds from duplication fees;

C. the eighth judicial district court may request budget increases up to fifteen thousand dollars (\$15,000) from other state funds from the alternative dispute resolution fund;

D. the ninth judicial district court may request budget increases up to nine thousand dollars (\$9,000) from other state funds from drug court fees and may request budget increases up to ten thousand dollars (\$10,000) from other state funds from duplication fees;

E. the twelfth judicial district court may request budget increases up to ten thousand dollars (\$10,000) from other state funds from duplication fees and may request budget increases up to ten thousand dollars (\$10,000) from other state funds from drug court fees;

F. the thirteenth judicial district court may request budget increases up to twenty-six thousand dollars (\$26,000) from other state funds from duplication fees, may request budget increases up to one hundred thousand dollars (\$100,000) from other state funds and fund balances from contracts and mediation and arbitration fees, may request budget increases up to sixty-five thousand dollars (\$65,000) from other state funds from prior year grant balances and may request budget increases up to fifty-five thousand dollars (\$55,000) from other state funds from presbyterian medical services for pre-trial services;

G. the Bernalillo county metropolitan court may request budget increases up to thirty thousand dollars (\$30,000) from other state funds from the mediation fund;

H. the eleventh judicial district attorney-division I may request budget increases up to seventy-five thousand dollars (\$75,000) from internal service funds/interagency transfers and other state funds;

I. the eleventh judicial district attorney-division II may request budget increases up to seventy-five thousand dollars (\$75,000) from internal service funds/interagency transfers and other state funds from forfeiture revenues pursuant to Section 31-27-1 NMSA 1978 for prosecution of cases;

J. the legal services program of 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 litigation costs related to the United States supreme court Texas v. New Mexico and Colorado lawsuit and other pending water litigation and may request budget increases up to three hundred fifty thousand dollars (\$350,000) from other state funds from the consumer settlement fund for litigation costs associated with the tobacco master settlement, utility rate cases, environment cases and prosecutions related to government accountability;

K. the procurement services program of the general services department may request category transfers up to one hundred eighteen thousand two hundred dollars (\$118,200) to and from the other financing uses category;



L. the public employees retirement association may request budget increases up to seven million dollars (\$7,000,000) from other state funds for investment-related management performance fees;

M. the elections program of the secretary of state may request budget increases up to twenty thousand dollars (\$20,000) from internal service funds/interagency transfers and other state funds received from any political subdivision of the state to conduct seminars on the administration of the Election Code before each statewide election;

N. in the regulation and licensing department, the funeral services board may request budget increases up to ten thousand dollars (\$10,000) from other state funds for costs associated with contractual services and other services, the real estate appraisers board may request budget increases up to twenty-four thousand five hundred dollars (\$24,500) from other state funds for costs associated with an increased number of hearings, the athletic commission may request budget increases up to ten thousand dollars (\$10,000) from other state funds for costs associated with regulating athletic events and the real estate commission may request budget increases up to ten thousand dollars (\$10,000) for costs associated with updating educational material;

O. the cultural affairs department may request budget increases up to three hundred thousand dollars (\$300,000) from internal service funds/interagency transfers and other state funds;

P. the department of game and fish may request program transfers up to two hundred fifty thousand dollars (\$250,000) between programs, may request budget adjustments specific to capital projects, 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 operating transfers received from other agencies in excess of the five percent budget increase limitation;

Q. the energy, minerals and natural resources department may request category transfers of federal funds to and from the other financing uses category to maximize the use of federal funds;

R. the human services department may request program transfers between the medical assistance program and the medicaid behavioral health program;

S. the office of guardianship of the developmental disabilities planning council may request budget increases up to two hundred thousand dollars (\$200,000) from internal service funds/interagency transfers and other state funds;

T. the department of health may request general fund program transfers up to two million dollars (\$2,000,000) from the public health program to the facilities management program for adolescent drug treatment and to the developmental disabilities support program for the developmental disabilities medicaid waiver program

and the family, infant, toddler program and the developmental disabilities support program may request budget increases up to six hundred sixty-four thousand one hundred dollars (\$664,100) from internal service funds/interagency transfers for the developmental disabilities medicaid waiver;

U. the department of environment may request budget increases up to one million five hundred thousand dollars (\$1,500,000) from internal service funds/interagency transfers from the office of natural resources trustee to oversee the remediation and restoration of San Vincente creek;

V. the juvenile justice facilities program of the children, youth and families department may request budget increases up to one million dollars (\$1,000,000) from other state funds from distributions from the land grant permanent and land income funds;

W. the corrections department may request budget increases in excess of the five percent limitation from funds whose original designation was federal funds, may request program transfers up to one million dollars (\$1,000,000) among programs and program support may request budget increases up to one hundred fifty thousand dollars (\$150,000) from internal service funds/interagency transfers and other state funds from social security administration incentive payments;

X. the department of public safety may request program transfers from the statewide law enforcement support program and program support up to five hundred thousand dollars (\$500,000) to the law enforcement program for operational shortfalls in the contractual service category and other category; and

Y. the department of transportation may request budget increases up to twenty million dollars (\$20,000,000) from other state funds to meet federal match requirements for debt service and related costs, intergovernmental agreements, lawsuit and construction- and maintenance-related costs and may request program transfers between the transportation and highway operations program and the program and infrastructure program for costs related to engineering, construction and maintenance activities.

## **Chapter 227 Section 10 Laws 2013**

### **Section 10. CERTAIN FISCAL YEAR 2014 BUDGET ADJUSTMENTS AUTHORIZED.--**

A. As used in this section and Section 9 of the General Appropriation Act of 2013:

(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 2014.

C. In addition to the specific category transfers authorized in Subsection E of this section and unless a conflicting category transfer is authorized in Subsection E of this section, all agencies, including legislative agencies, may request category transfers among personal services and employee benefits, contractual services and other.

D. Unless a conflicting budget increase is authorized in Subsection E of this section, a program with internal service funds/interagency transfers appropriations or other state funds appropriations that collects money in excess of those appropriated may request budget increases in an amount not to exceed five percent of its internal service funds/interagency transfers or other state funds appropriation contained in Section 4 of the General Appropriation Act of 2013. 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 2013, 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 costs associated with subscriptions, supreme court updates and other publications;

(2) the judicial standards commission may request budget increases up to thirty thousand dollars (\$30,000) from other state funds from investigation and trial cost reimbursements;

(3) the first judicial district attorney may request budget increases from internal service funds/interagency transfers and other state funds received from any political subdivision of the state or from Indian tribes and may request budget increases up to one hundred twenty-five thousand dollars (\$125,000) from internal service funds/interagency transfers to prosecute tax crimes statewide;

(4) the second judicial district attorney may request budget increases up to five hundred thousand dollars (\$500,000) from internal service funds/interagency transfers from the attorney general to support the joint powers agreement for the prosecution of certain cases and may request budget increases up to one hundred ninety thousand dollars (\$190,000) from internal service funds/interagency transfers and other state funds;

(5) the eighth judicial district attorney may request budget increases up to two hundred fifty thousand dollars (\$250,000) from internal service funds/interagency transfers and other state funds from forfeiture revenues pursuant to Section 31-27-1 NMSA 1978 for prosecution of cases;

(6) the eleventh judicial district attorney-division I may request budget increases up to one hundred fifty thousand dollars (\$150,000) from internal service funds/interagency transfers and other state funds to assist in the prosecution of cases;

(7) the eleventh judicial district attorney-division II may request budget increases up to fifty thousand dollars (\$50,000) from internal service funds/interagency transfers and other state funds received from any political subdivision of the state or from Indian tribes to assist in the prosecution of crimes within McKinley county and may request budget increases up to seventy-five thousand dollars (\$75,000) from internal service funds/interagency transfers and other state funds received from forfeiture revenues pursuant to Section 31-27-1 NMSA 1978 for prosecution of cases;

(8) the twelfth judicial district attorney may request budget increases up to one hundred thousand dollars (\$100,000) from internal service funds/interagency transfers and other state funds received from any political subdivision of the state or from Indian tribes to assist in the prosecution of crimes within Otero and Lincoln counties;

(9) the thirteenth judicial district attorney may request budget increases up to one hundred thousand dollars (\$100,000) from internal service funds/interagency transfers and other state funds received from any political subdivision of the state or from Indian tribes to assist in the prosecution of cases;

(10) the legal services program of the attorney general may request budget increases up to five hundred thousand dollars (\$500,000) from other state funds to provide for the joint powers agreement with the second judicial district attorney's office for discovery and litigation costs associated with the tobacco master settlement agreement, to provide for expert witness fees, court reporting and cost share fees to support Qui Tam cases the office is pursuing on behalf of the state of New Mexico, and may request budget increases up to eight million nine hundred thousand dollars (\$8,900,000) from other state funds to provide foreclosure prevention and mortgage counseling services to New Mexico residents and may request up to two million five

hundred thousand dollars (\$2,500,000) for litigation costs in the United States supreme court Texas v. New Mexico and Colorado case and other water litigation;

(11) the state investment council may request budget increases from other state funds up to five million dollars (\$5,000,000) for investment-related management fees and may request transfers up to five hundred thousand dollars (\$500,000) from contractual services to personal services and employee benefits;

(12) the benefits and risk program and program support program of the public school insurance authority may request budget increases from internal service funds/interagency transfers, other state funds and fund balances;

(13) the health care benefits administration program of the retiree health care authority may request budget increases from other state funds for the benefits program;

(14) the building office space management and maintenance services program of the general services department may request category transfers up to one hundred fourteen thousand four hundred dollars (\$114,400) to and from the other financing uses category, the procurement services program may request category transfers up to one hundred twenty-one thousand one hundred dollars (\$121,100) to and from the other financing uses category and the risk management program may request budget increases up to five hundred thousand dollars (\$500,000) from internal service funds/interagency transfers in the risk management operating fund for operating expenses;

(15) the educational retirement board may request budget increases from other state funds to meet emergencies or unexpected physical plant failures that might impact the health and safety of workers or visitors to the agency;

(16) the public defender department may request budget increases up to six hundred thousand dollars (\$600,000) from internal service funds/interagency transfers and other state funds;

(17) the department of information technology may request budget increases up to two million dollars (\$2,000,000) from fund balances for telecommunication, information processing and the statewide human resources, accounting and management reporting system, may request budget increases up to ten percent of internal service funds/interagency transfers appropriated in Section 4 of the General Appropriation Act of 2013 to support existing or new services and may request budget increases from fund balances up to the amount of depreciation expense, as reported in the notes to the financial statements of the agency's independent audit of the fiscal year ended June 30, 2013, for the purpose of acquiring and replacing capital equipment and associated software used to provide enterprise services;

(18) the public employees retirement association may request budget increases from other state funds to meet emergencies or unexpected physical plant failures that might impact the health and safety of workers or visitors to the agency;

(19) the personnel board may request budget increases up to four hundred thousand dollars (\$400,000) from internal service funds/interagency transfers from fees collected from other agencies with less than one hundred employees that contract with the personnel board for human resource services;

(20) the real estate commission of the regulation and licensing department may request budget increases up to ninety-nine thousand eight hundred dollars (\$99,800) from other state funds for costs associated with updating educational materials and the securities education, training, and enforcement division may request budget increases up to three hundred fifty thousand dollars (\$350,000) from other state funds for costs associated with training of agents, development of a media program, and the purchase of media;

(21) the public regulation commission may request program transfers among programs, may request budget increases for the office of the state fire marshal from the firefighter training academy use fee fund and the patient's compensation program of the public regulation commission may request budget increases up to two million dollars (\$2,000,000) from fund balances for patient's compensation expenses;

(22) the New Mexico medical board may request budget increases up to one hundred thousand dollars (\$100,000) from other state funds for the administrative hearing and litigation process;

(23) the preservation program of the department of cultural affairs may request budget increases from internal service funds/interagency transfers and other state funds for archaeological services;

(24) the energy, minerals and natural resources department may request category transfers to and from other financing uses from federal funds to allow programs to maximize the use of federal grants, the oil conservation program of the energy, minerals and natural resources department may request budget increases from internal service funds/interagency transfers from funds received from the department of environment for the water quality program, the healthy forests program may request budget increases from internal service funds/interagency transfers from the New Mexico youth conservation corps fund for projects approved by the New Mexico youth conservation corps commission, the healthy forests program may request budget increases up to one hundred thousand dollars (\$100,000) from other state funds for costs associated with the conservation planting revolving fund and the renewable energy and energy efficiency program may request budget increases from internal

service funds/interagency transfers and other state funds for renewable energy and energy efficiency program projects;

(25) the youth conservation corps may request category transfers to and from the other financing uses category for awards issued to other state agencies and operational costs;

(26) the commissioner of public lands may request budget increases up to sixty thousand dollars (\$60,000) from other state funds for litigation and expert witness expenses;

(27) the office of the state engineer may request budget increases up to four hundred thousand dollars (\$400,000) from other state funds from the Ute dam construction fund to perform a required Ute dam sediment survey, construct flumes, modify the outlet works, perform a cost of service study, complete other required minor dam repairs and continue to manage and participate in the Ute reservoir master plan development or other operational requirements at Ute reservoir, may request budget increases up to forty thousand dollars (\$40,000) from contractual services reimbursements for water modeling supply studies, may request budget increases up to fifty thousand dollars (\$50,000) from other state funds from the boat dock revenue deposited into the Ute dam construction fund to transfer to the state parks program of the energy, minerals and natural resources department for the costs of inspection, enforcement and administration of boat docks at Ute reservoir per the memorandum of understanding between the two agencies and may request budget increases up to one hundred fifty thousand dollars (\$150,000) from the bureau of reclamation for the operation and maintenance costs of the Vaughn pipeline;

(28) the commission for the blind may request budget increases from other state funds for contracts for the employment of blind or visually impaired persons, provided that such employment is pursuant to the federal Randolph-Sheppard Act, the federal Javits-Wagner-O'Day Act or the federal abilityone program;

(29) the workforce solutions department may request program transfers up to five hundred thousand dollars (\$500,000) between programs and the labor relations program may request budget increases up to one hundred twenty thousand dollars (\$120,000) from internal service funds/interagency transfers and other state funds from the public works apprenticeship fund to pay participants who successfully complete the public works apprenticeship program;

(30) the miners' hospital of New Mexico may request budget increases from other state funds;

(31) 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 and may request budget increases from

other state funds related to private insurer payments for services provided through the public health and family, infant, toddler programs;

(32) the department of environment may request budget increases from other state funds from the corrective action fund for claims, may request budget increases from other state funds and internal service funds/interagency transfers for responsible party prepayments, may request budget increases from other state funds and internal service funds/interagency transfers from the hazardous waste emergency fund, may request budget increases up to eight hundred thousand dollars (\$800,000) from internal service funds/interagency transfers from the office of natural resources trustee to oversee the remediation and restoration of San Vicente creek and the resource protection program may request budget increases up to five hundred thousand dollars (\$500,000) from internal service funds/interagency transfers or other state funds to coordinate multi-state Rio Grande salinity management programs and provide technical support for potential litigation on interstate streams and water issues;

(33) the children, youth and families department may request program transfers up to one million dollars (\$1,000,000) between programs;

(34) the corrections department may request program transfers up to one million dollars (\$1,000,000) among programs, the community offender management program may request budget increases up to one million five hundred thousand dollars (\$1,500,000) from internal service funds/interagency transfers and other state funds from program fees, cash balances from probation and parole fees and the community corrections grant fund, program support may request budget increases up to one million dollars (\$1,000,000) from internal service funds/interagency transfers and other state funds from social security administration incentive payments and additional payments for international cadet training classes and the inmate management and control program may request budget increases up to one million five hundred thousand dollars (\$1,500,000) from internal service funds/interagency transfers and other state funds from permanent and land grant funds, inmate work crew income and phone card reimbursements;

(35) the department of public safety may request budget increases from state chemist revenues and balances and from the state forfeiture fund to address the enforcement of the Controlled Substances Act and may request budget increases from concealed handgun carry revenues and balances to address the enforcement of the Concealed Handgun Carry Act;

(36) the department of transportation may request budget increases up to thirty million dollars (\$30,000,000) from other state funds to meet federal match requirements and for debt service and related costs, intergovernmental agreements, lawsuit and construction- and maintenance-related costs and may request program transfers between the transportation and highway operations program and the program and infrastructure program for costs related to engineering, construction and maintenance activities; and



(37) the policy development and institutional financial oversight program of the higher education department may request budget increases up to twenty thousand dollars (\$20,000) from other state funds to review regulations and conduct program enforcement in the private and proprietary schools program.

F. The department of military affairs, the homeland security and emergency management department, the department of public safety, and the energy, minerals and natural resources department may request budget increases from the general fund as required by an executive order declaring a disaster or emergency.

## **Chapter 227 Section 11 Laws 2013**

Section 11. **FUND TRANSFERS.**--Seventeen million dollars (\$17,000,000) is transferred from the operating reserve to the appropriation contingency fund to address reductions in federal funding to New Mexico agencies resulting from the federal sequester.

## **Chapter 227 Section 12 Laws 2013**

Section 12. **TRANSFER AUTHORITY.**--

A. If revenue and transfers to the general fund at the end of fiscal year 2013 are not sufficient to meet appropriations, the governor, with state board of finance approval, may transfer to the appropriation account of the general fund the amount necessary to meet that fiscal year's obligations from the operating reserve; provided that the total transferred pursuant to this subsection shall not exceed one hundred twenty million dollars (\$120,000,000). This transfer is in addition to the transfer provided in Laws 2012 Chapter 19, Section 11.

B. If, after the total amount authorized in Subsection A of this section has been transferred, revenue and transfers to the general fund at the end of fiscal year 2014 are not sufficient to meet appropriations, the governor, with state board of finance approval, may transfer to the appropriation account of the general fund the amount necessary to meet that fiscal year's obligations from the operating reserve; provided that the total transferred pursuant to this subsection shall not exceed sixty million dollars (\$60,000,000).

## **Chapter 227 Section 13 Laws 2013**

Section 13. **SEVERABILITY.**--If any part or application of this act is held invalid, the remainder or its application to other situations or persons shall not be affected.

Approved April 5, 2013

## **LAWS 2013, CHAPTER 228**

### **AN ACT**

RELATING TO PUBLIC MONEY; INCREASING DISTRIBUTIONS TO THE LOTTERY TUITION FUND; MAKING A DISTRIBUTION FROM THE TOBACCO SETTLEMENT PERMANENT FUND TO THE LOTTERY TUITION FUND; MAKING A DISTRIBUTION FROM THE TOBACCO SETTLEMENT PERMANENT FUND TO THE TOBACCO SETTLEMENT PROGRAM FUND FOR APPROPRIATION FOR EARLY CHILDHOOD CARE AND EDUCATION PROGRAMS ADMINISTERED BY THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2011; MAKING APPROPRIATIONS.

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

### **Chapter 228 Section 1 Laws 2013**

SECTION 1. Section 6-4-9 NMSA 1978 (being Laws 1999, Chapter 207, Section 1, as amended by Laws 2011, Chapter 3, Section 1 and by Laws 2011, Chapter 167, 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 Sections 6-4-12 and 6-4-13 NMSA 1978, enacted pursuant to the master settlement agreement or as otherwise authorized by law. Money in the fund shall be invested by the state investment officer in accordance with the limitations in Article 12, Section 7 of the constitution of New Mexico. Income from investment of the fund shall be credited to the fund. Money in the fund shall not be expended for any purpose, except as provided in this section.

B. In fiscal year 2007 and in each fiscal year thereafter, an annual distribution shall be made from the tobacco settlement permanent fund to the tobacco settlement program fund of an amount equal to fifty percent of the total amount of money distributed to the tobacco settlement permanent fund in that fiscal year until that amount is less than an amount equal to four and seven-tenths percent of the average of the year-end market values of the tobacco settlement permanent fund for the immediately preceding five calendar years. Thereafter, the amount of the annual distribution shall be four and seven-tenths percent of the average of the year-end

market values of the tobacco settlement permanent fund for the immediately preceding five calendar years. In the event that the actual amount distributed to the tobacco settlement program fund in a fiscal year is insufficient to meet appropriations from that fund for that fiscal year, the secretary of finance and administration shall proportionately reduce each appropriation accordingly.

C. In addition to the distribution made pursuant to Subsection B of this section, in fiscal years 2009 through 2013, the remaining fifty percent of the total amount of money distributed to the tobacco settlement permanent fund in that fiscal year shall be distributed from the tobacco settlement permanent fund to the tobacco settlement program fund.

D. In addition to the distribution made pursuant to Subsections B and E of this section, in fiscal year 2014, twenty-five percent of the total amount of money distributed pursuant to the master settlement agreement to the tobacco settlement permanent fund in that fiscal year shall be distributed from the tobacco settlement permanent fund to the lottery tuition fund.

E. In addition to the distribution made pursuant to Subsections B and D of this section, in fiscal year 2014, twenty-five percent of the total amount of money distributed to the tobacco settlement permanent fund in that fiscal year shall be distributed from the tobacco settlement permanent fund to the tobacco settlement program fund for appropriation for direct services provided by early childhood care and education programs administered by the children, youth and families department.

F. The tobacco settlement permanent fund shall be considered a reserve fund of the state and, as a reserve fund, may be expended in the event that general fund balances, including all authorized revenues and transfers to the general fund and balances in the general fund operating reserve, the appropriation contingency fund and the tax stabilization reserve, will not meet the level of appropriations authorized from the general fund for a fiscal year. In that event, in order to avoid an unconstitutional deficit, the legislature may authorize a transfer from the tobacco settlement permanent fund to the general fund but only in an amount necessary to meet general fund appropriations."

## **Chapter 228 Section 2 Laws 2013**

### **SECTION 2. APPROPRIATION.--**

A. Nine million seven hundred fifty thousand dollars (\$9,750,000) is appropriated from the tobacco settlement program fund to the children, youth and families department for direct services provided by early childhood care and education programs that the department administers for expenditure in fiscal year 2014 to be allocated as follows:

(1) two million dollars (\$2,000,000) for reimbursement of licensed child care providers that the department has determined meet one of the top three

levels of a tiered quality rating and improvement system that includes educational components;

(2) five million seven hundred fifty thousand dollars (\$5,750,000) for pre-kindergarten; and

(3) two million dollars (\$2,000,000) for home visiting programs.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2014 shall revert to the tobacco settlement program fund.

### **Chapter 228 Section 3 Laws 2013**

~~[SECTION 3. TEMPORARY PROVISION--TRANSFER OF FUNDS.--On the effective date of this act, fifty million dollars (\$50,000,000) is transferred from the general fund operating reserve to the tobacco settlement permanent fund. This transfer represents a restoration of funds diverted from the tobacco settlement permanent fund to meet state fiscal solvency requirements.]~~ *LINE-ITEM VETOED.*

### **Chapter 228 Section 4 Laws 2013**

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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SFC/SFC/Senate Bill 113 & SEC/Senate Bill 392, aa, partial veto

Approved April 5, 2013

## **OFFICIAL ROSTER OF THE STATE OF NEW MEXICO**

### **UNITED STATES SENATORS**

Martin Heinrich, Democrat, Albuquerque  
Tom Udall, Democrat, Santa Fe

### **UNITED STATES REPRESENTATIVES**

Michelle Lujan Grisham, Democrat, 1st Congressional District - Albuquerque  
Steve Pearce, Republican, 2nd Congressional District - Hobbs  
Ben R. Lujan, Democrat, 3rd Congressional District - Santa Fe

## STATE OFFICIALS

	Susana Martinez, Republican	Governor
	John A. Sanchez, Republican	Lieutenant Governor
	Dianna J. Duran, Republican	Secretary of State
	Hector H. Balderas, Democrat	State Auditor
	James B. Lewis, Democrat	State Treasurer
	Gary K. King, Democrat	Attorney General
	Ray Bennett Powell, Democrat	Commissioner of Public Lands
	Karen Louise Montoya, Democrat	Public Regulation Commissioner,
District 1		
	Patrick H. Lyons, Republican	Public Regulation
Commissioner, District 2		
	Valerie L. Espinoza, Democrat	Public Regulation Commissioner,
District 3		
	Theresa Becenti-Aguilar, Democrat	Public Regulation
Commissioner, District 4		
	Ben R. Hall, Republican	Public Regulation Commissioner,
District 5		

## JUSTICES OF THE SUPREME COURT

Petra Jimenez Maes, Chief Justice  
Richard C. Bosson  
Edward L. Chavez  
Charles W. Daniels  
Barbara J. Vigil

## JUDGES OF THE COURT OF APPEALS

Roderick T. Kennedy, Chief Judge  
James J. Wechsler  
Michael D. Bustamante  
Jonathan B. Sutin  
Cynthia A. Fry  
Michael E. Vigil  
Linda M. Vanzi  
Timothy L. Garcia  
M. Monica Zamora  
J. Miles Hannisee

## DISTRICT COURTS

## DISTRICT JUDGES

### FIRST JUDICIAL DISTRICT

#### Santa Fe, Los Alamos & Rio Arriba Counties

Division	I	Francis J. Mathew	Santa Fe
Division	II	Sarah M. Singleton	Santa Fe
Division	III	Raymond Z. Ortiz	Santa Fe
Division	IV	Sylvia LaMar	Santa Fe
Division	V	Sheri A. Raphaelson	Santa Fe
Division	VI	Stephen D. Pfeffer	Santa Fe
Division	VII	T. Glenn Ellington	Santa Fe
Division	VIII	Mary L. Marlowe Sommer	Santa Fe

### SECOND JUDICIAL DISTRICT

#### Bernalillo County

Division	I	William E. Parnall	Albuquerque
Division	II	Stan Whitaker	Albuquerque
Division	III	Brett Roger Loveless	Albuquerque
Division	IV	Beatrice Brickhouse	Albuquerque
Division	V	Ted C. Baca	Albuquerque
Division	VI	Briana H. Zamora	Albuquerque
Division	VII	John J. Romero	Albuquerque
Division	VIII	Ross C. Sanchez	Albuquerque
Division	IX	Judith K Nakamura	Albuquerque
Division	X	Christina P. Argyres	Albuquerque
Division	XI	Gerard J. Lavelle	Albuquerque
Division	XII	Clay Pace Campbell	Albuquerque
Division	XIII	Valerie A. Huling	Albuquerque
Division	XIV	Reed S. Sheppard	Albuquerque
Division	XV	Alan M. Malott	Albuquerque
Division	XVI	Carl J. Butkus	Albuquerque
Division	XVII	Nan G. Nash	Albuquerque
Division	XVIII	Denise Barela-Shepherd	Albuquerque
Division	XIX	Benjamin Chavez	Albuquerque
Division	XX	Jacqueline D. Flores	Albuquerque
Division	XXI	Alisa Ann Hadfield	Albuquerque
Division	XXII	Deborah Davis Walker	Albuquerque
Division	XXIII	Shannon Bacon	Albuquerque
Division	XXIV	Kenneth H. Martinez	Albuquerque

Division	XXV	Elizabeth Whitefield	Albuquerque
Division	XXVI	Charles W. Brown	Albuquerque

**THIRD JUDICIAL DISTRICT**

**Doña Ana County**

Division	I	Manuel I. Arrieta	Las Cruces
Division	II	Marci E. Beyer	Las Cruces
Division	III	Darren Murray Kugler	Las Cruces
Division	IV	Mary W. Rosner	Las Cruces
Division	V	Lisa C. Schultz	Las Cruces
Division	VI	Jim T. Martin	Las Cruces
Division	VII	Douglas R. Driggers	Las Cruces
Division	VIII	Fernando R. Macias	Las Cruces

**FOURTH JUDICIAL DISTRICT**

**Guadalupe, Mora & San Miguel Counties**

Division	I	Vacant	Las Vegas
Division	II	Abigail Aragon	Las Vegas
Division	III	Matthew J. Sandoval	Las Vegas

**FIFTH JUDICIAL DISTRICT**

**Lea, Eddy & Chaves Counties**

Division	I	Raymond L. Romero	Carlsbad
Division	II	Freddie J. Romero	Roswell
Division	III	William G.W. Shoobridge	Lovington
Division	IV	Mark T. Sanchez	Lovington
Division	V	Jane Shuler Gray	Carlsbad
Division	VI	James M. Hudson	Roswell
Division	VII	Gary L. Clingman	Lovington
Division	VIII	Charles C. Currier, III	Roswell
Division	IX	Lisa B. Riley	Carlsbad
Division	X	Steven L. Bell	Chaves

**SIXTH JUDICIAL DISTRICT**

**Grant, Hidalgo & Luna Counties**

Division	I	Henry R. Quintero	Silver City
Division	II	Jennifer Ellen Delaney	Deming
Division	III	J. C. Robinson	Silver City
Division	IV	Daniel Viramontes	Deming

**SEVENTH JUDICIAL DISTRICT**

**Catron, Sierra, Socorro & Torrance Counties**

Division	I	Edmund H. Kase, III	Socorro
Division	II	Matthew G. Reynolds	Socorro
Division	III	Kevin R. Sweazea	Estancia

**EIGHTH JUDICIAL DISTRICT**

**Colfax, Union & Taos Counties**

Division	I	John M. Paternoster	Raton
Division	II	Sarah C. Backus	Taos
Division	III	Jeff F. McElroy	Taos

**NINTH JUDICIAL DISTRICT**

**Curry & Roosevelt Counties**

Division	I	Stephen K. Quinn	Clovis
Division	II	Drew Tatum	Clovis
Division	III	Ted Hartley	Clovis, Portales
Division	IV	Donna J. Mowrer	Clovis, Portales
Division	V	David P. Reeb, Jr.	Portales

**TENTH JUDICIAL DISTRICT**

**Quay, DeBaca, & Harding Counties**

Division	I	Albert J. Mitchell, Jr.	Tucumcari
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**ELEVENTH JUDICIAL DISTRICT**

**McKinley & San Juan Counties**



Division	I	William C. Birdsall	Farmington
Division	II	Louis E. DePauli, Jr.	Gallup
Division	III	Sandra A. Price	Farmington
Division	IV	John Arthur Dean, Jr.	Farmington
Division	V	Grant L. Foutz	Gallup
Division	VI	Daylene Marsh	Aztec
Division	VII	Robert A. Aragon	Gallup
Division	VIII	Karen L. Townsend	Aztec

## TWELFTH JUDICIAL DISTRICT

### Lincoln & Otero Counties

Division	I	Jerry H. Ritter, Jr.	Alamogordo
Division	II	James Waylon Counts	Alamogordo
Division	III	Karen L. Parsons	Carrizozo
Division	IV	William H. Brogan	Alamogordo

## THIRTEENTH JUDICIAL DISTRICT

### Cibola, Sandoval & Valencia Counties

Division	I	James Lawrence Sanchez	Los Lunas
Division	II	George P. Eichwald	Bernalillo
Division	III	William "Bill" Sanchez	Los Lunas
Division	IV	Camille Martinez-Olguin	Grants
Division	V	Louis P. McDonald	Bernalillo
Division	VI	Violet C. Otero	Los Lunas
Division	VII	John F. Davis	Bernalillo

## DISTRICT ATTORNEYS

First Judicial District Arriba & Los Alamos	Angela R "Spence" Pacheco	Santa Fe, Rio
Second Judicial District	Kari E. Brandenburg	Bernalillo
Third Judicial District	Mark D'Antonio	Doña Ana
Fourth Judicial District Mora	Richard D. Flores	San Miguel, Guadalupe &
Fifth Judicial District	Janetta B. Hicks	Chaves, Eddy & Lea
Sixth Judicial District Hidalgo	Francesca Estevez	Grant, Luna &
Seventh Judicial District	Clint Wellborn	Catron, Sierra, Socorro &

Torrance	Eighth Judicial District	Donald A. Gallegos	Taos, Colfax & Union
	Ninth Judicial District	Matthew E. Chandler	Curry &
Roosevelt	Tenth Judicial District	Timothy Lee Rose	Quay, Harding &
DeBaca	Eleventh Judicial District	Robert "Rick" P. Tedrow	Division 1: San Juan
		Karl R. Gillson	Division 2: McKinley
	Twelfth Judicial District	Diana A. Martwick	Otero & Lincoln
	Thirteenth Judicial District	Lemuel L. Martinez	Sandoval, Valencia &
Cibola			

## STATE SENATORS SERVING IN THE FIFTY-FIRST LEGISLATURE

STATE OF NEW MEXICO  
 FIRST SESSION  
 CONVENED JANUARY 15, 2013

<u>District</u>	<u>County</u>	<u>Name</u>	<u>City</u>
1	San Juan Farmington	William E. Sharer	
2	San Juan	Steven P. Neville	Aztec
3	McKinley & San Juan Tohatchi	John Pinto	
4	Cibola, McKinley & San Juan	George K. Munoz	Gallup
5	Los Alamos, Rio Arriba, Sandoval Española & Santa Fe	Richard C. Martinez	
6	Los Alamos, Rio Arriba, Santa Fe & Taos	Carlos R. Cisneros	Questa
7	Curry, Quay & Union Broadview	John Patrick Woods	
8	Colfax, Guadalupe, Harding, Mora, Quay, Vegas	Pete Campos	Las
9	San Miguel & Taos Bernalillo & Sandoval Corrales	John M. Sapien	
10	Bernalillo & Sandoval Albuquerque	John C. Ryan	
11	Bernalillo Albuquerque	Linda M. Lopez	
12	Bernalillo Albuquerque	Gerald Ortiz y Pino	
13	Bernalillo Albuquerque	Bill B. O'Neill	
14	Bernalillo Albuquerque	Michael Padilla	
15	Bernalillo	Daniel A. Ivey-Soto	

16	Albuquerque Bernalillo	Cisco McSorley	
17	Albuquerque Bernalillo	Timothy M. Keller	
18	Albuquerque Bernalillo	Lisa Torracco	
19	Albuquerque Bernalillo, Sandoval, Santa Fe & Torrance	Sue Wilson Beffort	Sandia
Park 20	Bernalillo	William H. Payne	
21	Albuquerque Bernalillo	Mark Moores	
22	Albuquerque Bernalillo, McKinley, Rio Arriba, San Juan, Pueblo	Benny J. Shendo Jr.	Jemez
23	& Sandoval Bernalillo	Sander Rue	
24	Albuquerque Santa Fe	Nancy Rodriguez	Santa
25	Santa Fe	Peter Wirth	Santa
26	Bernalillo	Jacob Candelaria	
27	Albuquerque Chaves, Curry, DeBaca, Lea & Roosevelt Portales	Stuart Ingle	
28	Catron, Grant & Socorro	Howie C. Morales	Silver
City 29	Bernalillo & Valencia	Michael S. Sanchez	Belen
30	Cibola, McKinley, Socorro & Valencia	Clemente Sanchez	
31	Grants Doña Ana	Joseph Cervantes	Las
Cruces 32	Chaves, Eddy & Otero	Cliff R. Pirtle	
33	Roswell Chaves, Lincoln & Otero	William F. Burt	
34	Alamogordo Doña Ana, Eddy & Otero	Ron Griggs	
35	Alamogordo Doña Ana, Hidalgo, Luna & Sierra	John Arthur Smith	
36	Deming Doña Ana	Lee S. Cotter	Las
Cruces 37	Doña Ana	William P. Soules	Las
Cruces 38	Doña Ana	Mary Kay Papen	Las
Cruces 39	Bernalillo, Lincoln, San Miguel, Santa Fe, Jose	Phil A. Griego	San
40	Torrance & Valencia Sandoval	Craig W. Brandt	Rio

Rancho			
41	Eddy & Lea	Carroll H. Leavell	Jal
42	Chaves, Eddy & Lea	Gay G. Kernan	
	Hobbs		

## STATE REPRESENTATIVES SERVING IN THE FIFTY-FIRST LEGISLATURE

STATE OF NEW MEXICO  
 FIRST SESSION  
 CONVENED JANUARY 15, 2013

<u>District</u>	<u>County</u>	<u>Name</u>	<u>City</u>
1	San Juan Farmington	Thomas C. Taylor	
2	San Juan Farmington	James R.J. Strickler	
3	San Juan	Paul C. Bandy	Aztec
4	San Juan Kirtland	Sharon E. Clahchischilliage	
5	McKinley & San Juan Crownpoint	Sandra D. Jeff	
6	Cibola & McKinley	Eliseo Lee Alcon	Milan
7	Valencia	Kelly K. Fajardo	Belen
8	Valencia	Alonzo Baldonado	Los Lunas
9	McKinley & San Juan	Patricia A. Lundstrom	Gallup
10	Bernalillo Albuquerque	Henry "Kiki" Saavedra	
11	Bernalillo Albuquerque	Rick S. Miera	
12	Bernalillo Albuquerque	Ernest H. Chavez	
13	Bernalillo Albuquerque	Patricia A. Roybal-Caballero	
14	Bernalillo Albuquerque	Miguel P. Garcia	
15	Bernalillo Albuquerque	Emily A. Kane	
16	Bernalillo Albuquerque	Antonio "Moe" Maestas	
17	Bernalillo Albuquerque	Edward C. Sandoval	
18	Bernalillo Albuquerque	Gail Chasey	
19	Bernalillo Albuquerque	Sheryl Williams Stapleton	

20	Bernalillo	James P. White	
	Albuquerque		
21	Bernalillo	Mimi Stewart	
	Albuquerque		
22	Bernalillo, Sandoval & Santa Fe	James E. Smith	
	Sandia Park		
23	Bernalillo & Sandoval	Paul A. Pacheco	
	Albuquerque		
24	Bernalillo	Elizabeth L. Thomson	
	Albuquerque		
25	Bernalillo	Christine Trujillo	
	Albuquerque		
26	Bernalillo	Georgene Louis	
	Albuquerque		
27	Bernalillo	Larry A. Larrañaga	
	Albuquerque		
28	Bernalillo	Jimmie C. Hall	
	Albuquerque		
29	Bernalillo	Thomas A. Anderson	
	Albuquerque		
30	Bernalillo	Nathaniel "Nate" Gentry	
	Albuquerque		
31	Bernalillo	William "Bill" R. Rehm	
	Albuquerque		
32	Grant, Hildago & Luna	Dona G. Irwin	
	Deming		
33	Doña Ana	Bill McCamley	Mesilla
	Park		
34	Doña Ana	Mary Helen Garcia	Las
	Cruces		
35	Doña Ana	Jeff Steinborn	Las
	Cruces		
36	Doña Ana	Phillip M. Archuleta	Las
	Cruces		
37	Doña Ana	Terry H. McMillan	Las
	Cruces		
38	Grant, Hidalgo & Sierra	Dianne Miller Hamilton	
	Silver City		
39	Doña Ana, Grant & Sierra	Rodolpho "Rudy" S. Martinez Bayard	
40	Colfax, Mora, Rio Arriba & San Miguel	Nick L. Salazar	
	Ohkay Owingeh		
41	Rio Arriba, Santa Fe & Taos	Debbie A. Rodella	
	Española		
42	Taos	Roberto "Bobby" J. Gonzales Taos	
43	Los Alamos, Rio Arriba, Sandoval	Stephanie Garcia Richard	Los
	Alamos		
	& Santa Fe		
44	Sandoval	Jane E. Powdrell-Culbert	
	Corrales		

45	Santa Fe	Jim R. Trujillo	Santa
46	Santa Fe	Carl P. Trujillo	Santa
47	Santa Fe	Brian F. Egolf, Jr.	Santa
48	Santa Fe	Luciano "Lucky" Varela	
49	Santa Fe Catron, Socorro & Valencia	Don L. Tripp	
50	Socorro Bernalillo, Santa Fe, Torrance & Valencia	Stephen P. Easley	Santa
51	Otero Alamogordo	Yvette Herrell	
52	Doña Ana Cruces	Doreen Y. Gallegos	Las
53	Doña Ana & Otero Cruces	Nate P. Cote	Las
54	Chaves, Eddy & Otero Artesia	William "Bill" J. Gray	
55	Eddy Carlsbad	Cathrynn N. Brown	
56	Lincoln & Otero Ruidoso	Zachary J. Cook	
57	Sandoval Rancho	Jason Carl Harper	Rio
58	Chaves Roswell	Candy Spence Ezzell	
59	Chaves & Lincoln Roswell	Nora Espinoza	
60	Sandoval Rancho	Tim D. Lewis	Rio
61	Lea	David M. Gallegos	Eunice
62	Lea	Donald E. Bratton	Hobbs
63	Curry, DeBaca, Guadalupe, Roosevelt Santa Rosa	George Dodge Jr.	
64	& San Miguel Curry Clovis	Anna M. Crook	
65	Rio Arriba, San Juan & Sandoval Jemez Pueblo	James Roger Madalena	
66	Chaves, Lea & Roosevelt Roswell	Bob R. Wooley	
67	Colfax, Curry, Harding, Quay, Roosevelt, Texico	Dennis J. Roch	
68	San Miguel & Union Bernalillo Albuquerque	Monica Christina Youngblood	
69	Bernalillo, Cibola, McKinley, San Juan Grants	W. Ken Martinez	
	Socorro & Valencia		

70  
Vegas

San Miguel, Santa Fe & Torrance

Tomas E. Salazar

Las